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# 2008 Form 990 – Major Changes

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Form 990 is actually an information return not a tax return – as an exempt organization, you don't pay taxes but the IRS requires information annually. The amount of information depends on the size of the organization.

## The IRS intentions

- Promote Transparency
- Promote Tax Compliance
- Promote good governance and accountability, ensuring safe guards against misuse of assets

Congress is reviewing regulation of tax-exempt organizations: Scandals, Fraud, Embezzlement, Excess compensation of executives

The new form requires each filing organization to provide certain information regarding the composition of its board or governing body, certain of its governance policies and practices, and the means by which it is held accountable to the public by making governance and financial information publicly available. Many of the questions request information on practices or policies that are not required by federal tax law. However, good governance and accountability practices provide safeguards that the organization's assets will be used consistently with its exempt purposes. This is a critical tax compliance consideration, especially for organizations that are subject to private benefit, excess benefit, and private inurement prohibitions. In addition, well-governed and well-managed organizations are more likely to be transparent organizations with regard to their operations, finances, fundraising practices, and use of assets for exempt and unrelated purposes.

The transformation of unscheduled attachments (see [Q & A-9](#)) in the current form to formal schedules in the new form promotes uniform and complete reporting of requested information. Major modifications to reporting of compensation and related organization activities will provide more complete information regarding complicated compensation and financial arrangements that may raise concerns about private inurement, excess benefit, and private benefit. The new schedules for foreign activities, hospitals and tax-exempt bonds will provide new information about how an organization conducts activities consistently with its exempt purpose. The schedule for non-cash contributions will notify the IRS which organizations are receiving various types of non-cash contributions, allowing it to more closely scrutinize particular types of contributions for compliance with valuation and charitable deduction requirements.

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## Form Used Depends on Size of Organization Reporting

- 990 N – annual electronic filing requirement for small tax-exempt organizations
  - 990 EZ – for organizations to file with gross receipts and assets below certain amounts, not re-designed
    - Some new schedules may be required
  - Form 990 – for all other organizations
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Filing Phase In – 2007  
(filed in 2008 or 2009)

Gross Receipts normally $\leq$ \$25,000	990-N
GR $>$ \$25,000 and $<$ \$100,000 and Total Assets $<$ \$250,000	990-EZ or 990
GR $\geq$ \$100,000 and/or Total Assets $\geq$ \$250,000	990

What you will file this year

Filing Phase In – 2008  
(filed in 2009 or 2010)

Gross Receipts normally $\leq$ \$25,000	990-N
GR $>$ \$25,000 and $<$ \$1,000,000 and Total Assets $<$ \$2.5 million	990-EZ or 990
GR $\geq$ \$1,000,000 and/or Total Assets $\geq$ \$2.5 million	990

Filing Phase In – 2009  
(filed in 2010 or 2011)

Gross Receipts normally $\leq$ \$25,000	990-N
GR $>$ \$25,000 and $<$ \$500,000 and Total Assets $<$ \$1.25 million	990-EZ or 990
GR $\geq$ \$500,000 and/or Total Assets $\geq$ \$1.25 million	990

Filing Phase In – 2010  
(filed in 2011 or 2012)

Gross Receipts normally $\leq$ \$50,000	990-N
GR $>$ \$50,000 and $<$ \$200,000 and Total Assets $<$ \$500,000	990-EZ or 990
GR $\geq$ \$200,000 and/or Total Assets $\geq$ \$500,000	990

## Redesigned Form 990

- for years **beginning** in 2008
- 11-pages and
- 11-parts to the Core Form
  
- New Areas include
  - Governance
  - Detailed compensation schedules
  - Multiple schedules for various scenarios

The new form's *summary* page provides a snapshot of key financial and operating information, and displays a two-year comparison of summary financial information of the organization. The reordered core form provides a description of the organization's program service accomplishments immediately after the summary page, to provide context before the user proceeds to sections on tax compliance, governance, compensation, and financial statements. The *Checklist of Required Schedules* also provides a quick view of whether the filing organization is conducting activities that raise tax compliance concerns, such as lobbying or political campaign activities, transactions with interested persons, and major dispositions of assets.

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## Core Form

- Part I, Summary (**new**)
  - Part II, Signature Block (**moved**)
  - Part III, Statement of Program Service Accomplishments (**moved**)
  - Part IV, Checklist of Required Schedules (**new**)
  - Part V, Statements regarding other IRS Filings and Tax Compliance (**new**)
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## Core Form

- Part VI, Governance, Management, Disclosure (**new**)
  - Part VII, Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors (**expanded**)
  - Parts VIII through Part X – financial statements (**moved**)
  - Part XI, Financial Statements and Reporting (**new**)
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## Sixteen (16) Schedules

- A – Public Charity Status and Public Support  
(expanded)
  - B – Schedule of Contributors
  - C – Political Campaign and Lobbying  
Activities (moved)
  - D – Supplemental Financial Statements  
(new)
  - E – Schools (moved)
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## Sixteen (16) Schedules

- F – Statement of Activities outside the US (new)
  - G – Fundraising or Gaming Activities (new)
  - H – Hospitals (new)
  - I – Grants and other assistance to Organizations, Governments and Individuals in the US (new)
  - J – Compensation Information (expanded)
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## Sixteen (16) Schedules

- K – Tax Exempt Bonds (**expanded**)
  - L – Transactions with Interested Persons (**new**)
  - M – Non cash Contributions (**new**)
  - N – Liquidations, Termination, Dissolution or Significant Disposition of Assets (**new**)
  - O – Supplemental Information to the Form 990 (**new**)
  - R – Related Organizations and Unrelated Partnerships (**new**)
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## New Instructions

- Sequencing list to determine order of preparation
  - Glossary of key terms
  - Compensation table to assist where and how to report compensation paid
  - New appendices for reporting requirements
  - Guidance regarding group returns
  - Joint ventures and disregarded entities
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## Public Disclosure Requirements

- Form 1023 or 1024 with all schedules and correspondence
  - Form 990 – for 3 years
  - Form 990EZ – for 3 years
  - New – Form 990T for 3 years
  - Schedule B (Contributors) is required to be disclosed by Sec 527 Organizations
  - Some sections of Sch B may be open to public inspection - see instructions
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## Part I – Summary

- Snapshot of Information for public
  - Last to complete
  - Line 1 – Mission or significant activity
  - Line 6 – Number of Volunteers
  - Lines 8-19 – Prior year and current year summary of results for the year.
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## Examples – Line 1 Mission

### **GENERAL INFORMATION**

#### **Who We Are**

- PROVIDE CULTURAL EDUCATION
  - BALLET PRODUCTION & PROMOTION.
  - MEET NEEDS OF THE HANDICAPPED
  - The Education & Employment Ministry assists in personal and professional development. We specialize in vocational training and personal skills training.
  - Provide summer camp activities and facilities for children in need.
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## Examples – Line 1 Mission

- Through performances and educational programs, the Company annually reaches more than 40,000 individuals, presenting an array of classical ballets, contemporary works and exciting premieres.
- CASA provides services to and for abused and neglected children who are at risk of being placed in foster care. CASA volunteers offer children trust and advocacy during complex legal proceedings.
- HEARTLINE LISTENS, EDUCATES, AND EMPOWERS THE PEOPLE OF OKLAHOMA THROUGH 24-HOUR CRISIS SUPPORT, SUICIDE PREVENTION PROGRAMS & INFORMATION/REFERRAL SVC

Anyone able to tell us their mission statement? Who's done work on that recently?

## Part VI Governance, Management and Disclosure

“Even though governance, management, and disclosure policies and procedures *generally are not required under Internal Revenue Code*, the IRS considers such policies and procedures *generally to improve tax compliance*. The absence of appropriate policies and procedures may lead to opportunities for excess benefit transactions, inurement, operation for non-exempt purposes or other activities inconsistent with exempt status.”

2008 Instructions for Form 990

So, some is required, some is evidence of good practices, which gives the IRS hints on whether you are likely to comply with required sections.

## Key Questions on Part VI

- Number of voting members of governing body
  - Describe any delegation to an executive committee or other similar committee
- Number of Independent voting members
- Relationships among officers with other officers or key employee (family or business)
- Documentation of meetings
- Governing body review of Form 990

### Independent Member of Board:

A **voting member of the governing body**, if all three of the following circumstances applied at all times during the organization's tax year:

1. The member was not compensated as an **officer** or other **employee** of the organization or of a **related organization** (see instructions for Schedule R, Related Organizations and Unrelated Partnerships), except as provided in the religious exception discussed in instructions for Form 990, Part VI. 2. The member did not receive total **compensation** or other payments exceeding \$10,000 during the organization's tax year from the organization or from related organizations as an **independent contractor**, other than reimbursement of expenses under an **accountable plan** or **reasonable compensation** for services provided in the capacity as a **member of the governing body**. For example, a person who receives reasonable expense reimbursements and reasonable compensation as a **director** of the organization does not cease to be independent merely because he or she also receives payments of \$7,500 from the organization for other arrangements.

3. Neither the member, nor any **family member** of the member, was involved in a transaction with the organization (whether directly or indirectly through affiliation with another organization) that is required to be reported in Schedule L, Transactions With Interested Persons, for the organization's tax year, or in a transaction with a related organization of a type and amount that would be reportable on Schedule L if required to be filed by the related organization.

### Key Employee

For purposes of Form 990 reporting, an **employee** of the organization (other than an **officer, director, or trustee**) who meets all three of the following tests:

1. \$150,000 Test. Receives **reportable compensation** from the organization and all **related organizations** in excess of \$150,000 for the **calendar year** ending with or within the organization's **tax year**;

2. Responsibility Test. The employee:

(a) has responsibilities, powers or influence over the organization as a whole that is similar to those of officers, directors, or trustees;

(b) manages a discrete segment or activity of the organization that represents 10% or more of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole; or

(c) has or shares authority to control or determine 10% or more of the organization's capital expenditures, operating budget, or compensation for employees.

3. Top 20 Test. Is one of the 20 employees (that satisfy the \$150,000 Test and Responsibility Test) with the highest reportable compensation from the organization and **related organizations** for the calendar year ending with or

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## Key Questions on Part VI

- Policies
    - Conflict of Interest
    - Annual Disclosure of interests
    - Whistleblower and document retention policies
  - Process for determining compensation
  - Public availability of documents other than Form 990/990T
    - Financial statements/conflict of interest policy/governing documents
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## Summary – the IRS intention

- Promote Transparency
- Promote Tax Compliance
- Promote good governance and accountability, ensuring safe guards against misuse of assets
- More information: [www.irs.gov/eo](http://www.irs.gov/eo)

The form and related background information are available on the IRS Web site, [www.irs.gov/eo](http://www.irs.gov/eo). Available information includes a two-page document titled [Overview of Form 990 Redesign for Tax Year 2008](#), a longer document titled [Form 990 Redesign for Tax Year 2008--Background Paper](#), and separate [Highlights documents](#) that describe each part of the core form and each schedule.