

Hall, Render, Killian, Heath & Lyman is a full service health law firm with offices in Indiana, Kentucky, Michigan and Wisconsin. Since the firm was founded by William S. Hall in 1967, Hall Render has focused its practice primarily in the area of health law and is now recognized as one of the nation's preeminent health law firms serving clients in multiple states. For more information about the firm please visit us at www.hallrender.com.

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IRS Releases Final Form 990

On December 20, 2007, the Internal Revenue Service ("IRS") Exempt Organizations Division ("EO Division"), released the Final Redesigned Form 990, the annual information return charities and other tax-exempt organizations are required to file ("Final Form 990"). The Final Form 990 will be implemented for the 2008 tax year (returns filed in 2009). In addition, the IRS has indicated instructions for the Final Form 990 will be released in early 2008.

Background

On June 14, 2007, the IRS released a draft of a redesigned Form 990 ("Draft Form 990") for public comment. For Hall Render's summary of the Draft Form 990 released June 14, 2007, please [click here](#). The Draft Form 990 represents one of the most significant developments in the tax-exempt sector in the past thirty years. During the public comment period, the IRS received nearly 700 public comment letters, the advice of numerous nonprofit experts and state regulators, and the input from leaders of the nonprofit sector. The IRS ultimately released the Final Form 990 retaining the Draft Form 990's format of a core form and a series of schedules, but the IRS did incorporate many changes based on comments received.

In addition, the IRS has also announced a graduated transition period for smaller organizations whereby organizations with gross receipts under \$1 million or total assets of less than \$2.5 million will be able to file the Form 990-EZ in lieu of the 990 for the 2008 tax year. For the 2009 tax year, organizations with gross receipts under \$500,000 or total assets under \$1.25 million will be able to file the Form 990-EZ in lieu of the 990. Beginning with the 2010 tax year, the filing thresholds for the Final Form 990 will be set at greater than \$200,000 in gross receipts and \$500,000 in total assets and the filing threshold for Form 990-N (the e-postcard) will be increased from \$25,000 to \$50,000.

Summary

The Final Form 990 implements a new core form which allows organizations to describe their exempt accomplishments and mission towards the front of the form and provides more opportunities throughout the form for explanation. In addition, the IRS has decided to retain group return filings for organizations filing under a group exemption ruling. Other changes from the Draft Form 990 to the Final Form 990 include the following:

Summary Page

In lieu of the ratio approach on the first page, the Final Form 990 will eliminate the ratios, percentages, and other metrics from the Draft Form 990 and instead require disclosure of certain limited financial information on a two-year basis. In addition, the description of Program Service Accomplishment will be relocated to page 2 of the Redesigned Form 990.

Checklist of Required Schedules

The core form now includes a checklist of required schedules to aid organizations in determining which schedules they must complete.

Governance

The Final Form 990 increases the Draft Form 990's focus on governance,

However, the IRS's modifications in this section are intended to reduce the burden on filing organizations by revising many questions to a yes/no format. Although the question regarding board review is included in the Final Form 990, the addition of a new Schedule O "Other" will provide an opportunity for filing organizations to provide additional explanation.

Schedule D: Supplemental Financial Statements

Schedule D has been reorganized so that it follows the same order as the core form, and the various asset tables have been streamlined in an effort to reduce the reporting burden for various asset holdings, such as property and financial investments.

Schedule H: Hospitals

Schedule H will be phased in by requiring only certain identifying information for the 2008 tax year with completion of the entire schedule required for the 2009 tax year. In addition, the following are other changes made to Schedule H in the Final Form 990:

- Certain questions in Schedule H have been modified to provide filing organizations the opportunity to describe their role as part of larger systems when responding to community health needs despite required reporting on an EIN-by-EIN basis;
- The definition of "hospital" for purposes of Schedule H is limited to state-licensed hospitals;
- Schedule H has been modified to allow for reporting of Medicare shortfalls and bad debt, and the IRS has implemented a checkbox approach for questions relating to community benefit activities in lieu of a narrative description; and
- Schedule H filers will additionally be required to provide a description of the communities they serve.

Schedule J: Compensation

Although the Schedule J thresholds from the Draft Form 990 have been retained, changes have been made to address the reporting burden and ambiguities associated with disclosing nontaxable fringe benefits, expense arrangements, deferred compensation, equity-based compensation and other compensation arrangements.

Schedule K: Tax-Exempt Bonds

Schedule K will be phased in by requiring only certain identifying information for the 2008 tax year with completion of the entire schedule required for the 2009 tax year. In addition, substantial revisions have been made to clarify Part II proceeds and Part III private use tables, while the third party compensation table has been eliminated and replaced with a table requesting information regarding arbitrage reporting and compliance concerns.

Schedule R: Related Organizations

Changes to Schedule R reduce the required disclosures specifically regarding the reporting of transfers between affiliated organizations. However, Schedule R has been expanded to require disclosures of investments in taxable partnerships not controlled by the filing organization and through which the organization conducts activities constituting at least 5% of its total activities, measured by revenues or assets.

Schedule O: Other

Schedule O will provide filing organizations an opportunity to provide up to an additional two pages of information or explanation.

Conclusion

It appears the IRS has been relatively receptive to incorporating the comments and suggestions it received regarding the Redesigned Form 990. Nonetheless,

the IRS remains committed to implementing the Redesigned Form 990 for the 2008 tax year, even while deciding to delay the effective date of certain schedules. Tax-exempt organizations should carefully review the Final Form 990 (and its Instructions, once released) to determine what actions they will need to take to properly comply with the additional reporting requirements associated with the Final Form 990.



For Hall Render's summary of the Draft Form 990 released June 14, 2007, please [click here](#).

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This publication is intended for general information purposes only and does not and is not intended to constitute legal advice. The reader must consult with legal counsel to determine how laws or decisions discussed herein apply to the reader's specific circumstances.

December 20,

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