



Surviving Form 990

By: Kimberly Stanoff

The IRS began requiring the Form 990 from tax-exempt organizations in the mid-1970s so that federal and state regulators could track the activity of non-profits as well as create at least a minimal third-party review of their financial information. The reasons are myriad and include everything from national security to violations that would alter organizations' tax-exempt status.

Information submitted in Form 990 includes identity and tax status, income and sources, expenses such as , including program management and fundraising; net assets; programs and money spent; board members and key executive compensation; and lobbying activity.

While some organizations - such as churches, certain state-sponsored institutions, and mission societies - are exempt from filing the 990, many growing nonprofits will inadvertently miss a crucial deadline in the filing of this informational return, and once the tax authorities find out, they will have to pay. Here are a few frequently asked questions and answers for those who think they might need to file a 990:

Who is required to file?

Most tax exempt organizations with average revenue of more than \$25,000 per year for the past three years are required to file Form 990, or Form 990-EZ. Private foundations chartered as 501(c)(3) must also file Form 990-PF. Political organizations that perform lobbying, which have IRC 527 status and collect and distribute PAC funds, now must also file. Once a Form 990 is on file with the IRS, the organization must re-file each year.

When must a tax-exempt organization file a 990?

In the year in which you have passed that \$25,000 average revenue threshold, you are required to file Form 990 with the IRS by the 15th day of the fifth month after the end of your fiscal or calendar year.

What are the penalties for failure to file the 990?

Ignorance of the law is no exception in filing Form 990. If your organization collects less than \$1 million per year in revenue, failure to file when you are legally required to do so could cost you \$20 per day, up to \$10,000. If your organization collects more than \$1 million, failure to comply could cost \$100 per day, up to \$50,000, or 5% of gross receipts, whichever is less. There are greater fines for larger organizations. Willful non-compliance carries a penalty of \$5,000 levied on the individual perpetrator.

What are the disclosure requirements?

Organizations must make Form 990 and its related documents available to the general public, either by allowing public inspection, mailing copies to requestors or by making them "widely available" electronically via the World Wide Web. A number of documents must be supplied to anyone who asks for them or who would like to look them up on the Web. Some of these include the organization's applications for exemption; annual and amended returns; all schedules, attachments and supporting documentation filed with the return; and partial disclosure of Schedule B information on contributors. IRC 527 organizations must also file Political Organization Notice of Section 527 Status and Political Organization Report of Contributions and Expenditures. Failure to comply with disclosure requirements subjects violators to significant fines.

Who May File Form 990-EZ?

Small, tax exempt organizations and non-exempt charitable trusts may file Form 990-EZ if gross receipts during the year are less than \$400,000, or if total assets are less than \$250,000. Also, a new organization can receive up to \$37,500 in its first year and can average up to \$30,000 during its first two years and not be required to file. After that, if the organization averages \$25,000 per year for any three-year period, it must file the 990.

If you determine that you are required to file Form 990, you should be aware that the form is relatively complex and that there are special reporting requirements for such things as donations by corporations, contributions of \$250 or more, quid-pro-quo donations of more than \$75, dispositions of donated property, unrelated business income and other requirements. You should also be aware that the IRS, through Guidestar and the National Center for Charitable Statistics, is posting most Form 990s on the Internet after they are filed.

This is one way to meet the disclosure obligation, but be sure your form is actually posted before you consider the job done.

If your nonprofit is growing, you should seriously consider engaging a CPA firm to assist in preparing and filing Form 990. A professional tax strategist can help reduce your organization's risk of non-compliance and help to ensure that your documents are complete, accurate and ready for inspection by the public, from potential donors to watch-dog groups - and to ensure that the tax man stayeth away.

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