

## The New Form 990: Accountability, Transparency & Compliance

Brian Todd, Senior Manager

May 21, 2009

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## Topics

- Importance of Form 990
- Redesigned Form 990
- IRS Implementing Guidelines 2009

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## Form 990

- Form 990 is an “informational return” not a “tax return”
  - ❖ Form 990 must be complete & accurate
  - ❖ Form 990 must be available for public inspection
  - ❖ Form 990 must be filed electronically in many cases
- There are substantial penalties for non-compliance

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## Public Disclosure

- Organizations should maintain a public disclosure copy of Form 990
- *Pension Protection Act* made Form 990-T subject to public disclosure as well
- Think of your 990 as a marketing tool

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## GuideStar

- Program & financial information about more than 1.5 million tax-exempts
- Accessed by more than 7.9 million internet users
- Approximately 3.1 million Form 990 images available
- 120,213 non-profits have voluntarily provided supplemental information

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## Who Is Looking at Form 990?

- Congress
- IRS
- Media
- General public
- Donors
- Vendors
- State Attorneys General
- Other hospitals
- Other watchdog groups

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## Redesigned Form 990

- Form 990 last revised in 1979
- Current Form 990
  - ❖ Illogical form design
  - ❖ Very complex
  - ❖ Nine page core form, Schedules A & B, & 36 possible attachments

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## Redesigned Form 990

- 11-page Core Form
- 16 Potential Supplemental Schedules
- Required for 2008 Form 990s

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## Redesigned Form 990

- Core Form
- Schedule A – Public Charity Status and Public Support
- Schedule B – Schedule of Contributors
- Schedule C – Political Campaign and Lobbying Activities
- Schedule D – Supplemental Financial Statements
- Schedule E - Schools

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## Redesigned Form 990

- Schedule F – Statement of Activities Outside the United States
- Schedule G – Fundraising and Gaming Activities
- Schedule H - Hospitals
- Schedule I – Grants and Other Assistance to Organizations, Governments, and Individuals in the United States
- Schedule J – Compensation Information
- Schedule K – Supplemental Information on Tax Exempt Bonds

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## Redesigned Form 990

- Schedule L – Transactions with Interested Persons
- Schedule M – Non-Cash Contributions
- Schedule N – Liquidation, Termination, Dissolution, or Significant Disposition of Assets
- Schedule O – Supplemental Information
- Schedule R – Related Organizations and Unrelated Partnerships

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## Redesigned Form 990

- Major New or Expanded Reporting Requirements
  - ❖ Governance
  - ❖ Compensation
  - ❖ Hospitals (Transition relief provided)
  - ❖ Tax-Exempt Bonds (Transition relief provided)
  - ❖ Business Dealings with Interested Persons
  - ❖ Related Organizations

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## Governance

- IRS Best Practices, Not Legal Requirements
- Independent Voting Members of the Governing Body
- Family and Business Relationships
- “Reasonable Effort”

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## Governance

- Delegation of Management Duties
- Contemporaneous Documentation of Actions of the Governing Body
- Review of Form 990 by Governing Body

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## Policies

- Written Conflict of Interest Policy
  - ❖ Disclosed annually?
  - ❖ Consistently monitored?
- Written Whistleblower Policy
- Written Document Retention and Destruction Policy

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## Policies

- Process for Determining Compensation
- Joint Venture Policy
- Written Policy Regarding Payment of Certain Benefits
- Gift Acceptance Policy
- Charity Care Policy

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## Compensation – Who is Reported?

- Current Directors and Trustees
- Current Officers
- Current Key Employees (>\$150,000)
- Other Five Highest Compensated Employees (>\$100,000)

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## Compensation – Who is Reported?

- Certain Former Directors and Trustees (>\$10,000)
- Certain Former Officers, Key Employees, or Other Five Highest Compensated Employees (>\$100,000)
- “Current” – any time during tax year
- “Former” – 5 prior years

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## Compensation – What is Reported?

- Reportable Compensation (Box 5 of W-2 and/or Box 7 of 1099-MISC)
- Reportable Compensation from Related Organizations
- Estimated Other Compensation

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## Compensation – Schedule J

- Most generally required if any listed individual receives > \$150,000 compensation
- Required if certain “formers” are listed
- Compensation paid by unrelated organization for services rendered to the organization

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## Compensation – Schedule J

- Do you provide any of the following to an individual listed on Form 990?

First-class or charter travel	Housing allowance
Travel for companions	Payments for business use of personal residence
Tax indemnification or gross-ups	Health or social club dues
Discretionary spending account	Personal services

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## Compensation – Schedule J

- Resources used to establish compensation
- Other types of compensation
- Table with a breakdown of W-2 or 1099, deferred compensation, and nontaxable benefits
- Column for compensation reported in a prior year

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## Hospitals – Schedule H

- Part I – Charity Care and Other Community Benefits at Cost (Optional 2008)
  - ❖ Table to compute charity care at cost
  - ❖ Senator Grassley has proposed a 5% of total expense requirement
- Part II – Community Building Activities (Optional 2008)

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## Hospitals – Schedule H

- Part III – Bad Debt, Medicare, & Collection Practices (Optional 2008)
- Part IV – Management Company and Joint Ventures (Optional 2008)
- Part V – Facility Information (Required 2008)
- Part VI – Supplemental Information (Optional 2008)

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## Transactions With Interested Persons – Schedule L

- Excess Benefit Transactions
- Loans to and/or From Interested Persons
- Grants or Assistance Benefiting Interested Persons
- Business Transactions Involving Interested Persons
- “Reasonable Effort”

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## Related Organizations – Schedule R

- Identify the following
  - ❖ Disregarded entities
  - ❖ Related tax-exempt organizations
  - ❖ Related partnerships
  - ❖ Related corporations or trusts
  - ❖ Unrelated partnerships
- Provide details on transfers between related organizations

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## IRS Implementing Guidelines

- FY 2009 Work Plan
  - ❖ Preparing and helping to file the Form 990
  - ❖ Form 990-N
  - ❖ Guidance
  - ❖ Exempt Organizations Voluntary Compliance Program
  - ❖ Improving IRS.gov/eo

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## IRS Implementing Guidelines

- FY 2009 Work Plan (Cont'd)
  - ❖ Helping to prepare future non-profit leaders
  - ❖ Charitable Spending Initiative
  - ❖ Gifts In-Kind
  - ❖ Governance
  - ❖ Mutual Organizations

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## IRS Implementing Guidelines

- FY 2009 Work Plan (Cont'd)
  - ❖ Student Loan Organizations
  - ❖ Colleges and Universities
  - ❖ Political Activities Compliance Initiative
  - ❖ Hospitals
  - ❖ Community Foundations
  - ❖ Non-Filer Initiatives

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**Questions?**

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**Thank you!**

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