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What to know about your Nonprofit Tax Filings and Compliance

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... What are we Covering Today?

- Reporting obligations
- Types of 990 forms and when to file them
- Purpose of Form 990
- Walkthrough of Form 990
- Reading and reviewing a Form 990
- Board member responsibilities
- SECURE Act 2.0
- Common questions regarding tax filings
- Resources

Reporting Obligations

... Reporting Requirements

- Although your organization may be exempt from Federal income tax, the Internal Revenue Code (IRC) has reporting requirements to ensure that the organization can continue to be tax-exempt.
- The type of form you need to file is determined by the charity's gross receipts and the value of its assets.

Types of 990 Forms and When to File

... Types of 990 Forms

Form 990, Return of Organization Exempt From Income Tax This form is required for all filers whose gross receipts are equal to or greater than \$200,000 **and** total assets at the end of the year are equal to or greater than \$500,000.

Form 990-EZ, Short Form Return of Organization Exempt From Income Tax This form is required if an organization has gross receipts <\$200,000 **and** total assets at the end of the year are <\$500,000.

Form 990-N, ePostcard This form is filed electronically and is for small tax-exempt organizations who generally have gross receipts <\$50,000.

990-PF, Return of Private Foundation This form is for all 501(c)(3) private foundations and 4947(a)(1) non-exempt charitable trusts.

When to File

Ending date of tax year	Initial return due date	Extended due date
December 31	May 15	November 15
November 30	April 15	October 15
October 31	March 15	September 15
September 30	February 15	August 15
August 31	January 15	July 15
July 31	December 15	June 15
June 30	November 15	May 15
May 31	October 15	April 15
April 30	September 15	March 15
March 31	August 15	February 15
February 28/29	July 15	January 15
January 31	June 15	December 15

Purpose of Form 990

... Purpose of Form 990

- Serves as the primary tool for tax-exempt organizations as an information return only
- Source of information primarily for the public, state charity regulators, media, research agencies, and politicians

Form 990 Walkthrough

... Part I: Summary

- Activities and Governance
 - Description of mission or most significant activities
 - Number of board members and volunteers
 - Unrelated business income
- Revenue
- Expenses
- Net assets or fund balances

Part II: Signature Block

Authorized Signatures

- President
- Vice President
- Treasurer or Assistant Treasurer
- Chief Accounting Officer
- Other Corporate Officers
- Paid Preparer – must include Tax ID or PTIN

Check Box “May the IRS discuss this return with the preparer shown above?”

Part II Signature Block				
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.				
Sign Here	Signature of officer			Date
	Type or print name and title			
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	Firm's name		Firm's EIN	
	Firm's address		Phone no.	
	May the IRS discuss this return with the preparer shown above? See instructions <input type="checkbox"/> Yes <input type="checkbox"/> No			
For Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 11282Y Form 990 (2023)				

... Part III: Statement of Program Service Accomplishments

- Mission Statement
- Significant Changes in program services – Utilize Schedule O for explanations
- Explains the organization mission program accomplishments
- Top Three program services – Explain program and accomplishment and the associated program revenue and expenses

... Part IV: Checklist of Required Schedules

- Listing of various questions used to determine if any additional schedules are acquired to be attached to the Form 990
- Important to read through and review all questions for accuracy to ensure any operations do not put the organization at risk of losing exempt status
- Be sure that all applicable schedules are attached to the 990 if a box is checked yes in Part IV

... Part V: Statements Regarding Other IRS Filings and Tax Compliance

- Addresses compliance for other filing requirements
 - Number of W-2s filed
 - Number of 1099s filed
- Unrelated Business Income (UBI greater than \$1,000 requires a 990-T to be filed)
- Foreign bank accounts
- Donor acknowledgement

... Part VI: Governance, Management, and Disclosure

- The IRS uses the responses to these questions to potentially identify noncompliant organizations
- The IRS is using more analytics in identifying audit targets and responding “no” to these questions may trigger further inquiry by the IRS
- Disclosure of policies and procedures, the board should consider implementation of policies if they are not in practice
- Board review of 990, document retention, whistleblower, board minutes, executive compensation, public inspection of Form 990, conflict of interest

... Governing Body and Management

- Distinguishes who is the governing body and who is independent
- Discloses family or business relationship
- Delegation of control to management company or other third-party
- Significant changes to organizational documents
- Significant diversion of assets
- Who elects the board members
- Document meeting and actions

... Independent Board Members

A member of the governing body is considered “independent” only if all four of the following circumstances is applied at all times during the year:

- The member was not compensated as an officer or other employee of the organization or of a related organization;
- The member did not receive compensation exceeding \$10k during the year as an independent contractor;
- Neither the member, nor any family member was involved in a transaction with the organization required to be reported on Schedule L; and
- Neither the member, nor any family member was involved in a transaction with a related organization required to be reported on Schedule L.

... Policies

- Board review of 990
- Document retention and destruction
- Whistleblower
- Determining executive compensation
- Conflict of Interest policy

Section B. Policies *(This Section B requests information about policies not required by the Internal Revenue Code.)*

... Conflict of Interest Policy

- If an organization states that it has a conflict-of-interest policy, but it doesn't monitor conflicts, the IRS might ask questions
- Organization needs to describe their monitoring practices and how it deals with potential conflicts
- The description should include:
 - Which persons are covered under the policy;
 - The level at which determinations are made;
 - The level at which the conflicts are reviewed; and
 - Restrictions imposed on persons with conflicts

Conflict of Interest Policy

- New York Not-for-Profit Corporation law requires a conflict of interest policy and also provides guidance for drafting the policy.
- You should also have legal council look at your policy.

Conflict of Interest and Compensation Policy of [your organization] ("the Corporation")

Adopted by the Board of Directors on [Date]

I. Overview

1. **Purpose**

The purpose of this Conflict of Interest and Compensation Policy (the "policy") is to protect the Corporation's interests when it is considering taking an action or entering into a transaction that might benefit the private interests of a director, officer or **key person**¹, result in the payment of excessive compensation to a director, officer or key person; or otherwise violate state and federal laws governing conflicts of interest applicable to nonprofit, charitable organizations.

2. **Why is a policy necessary?**

As a nonprofit, charitable organization, the Corporation is accountable to both government agencies and members of the public for responsible and proper use of its resources. Directors, officers and employees have a duty to act in the Corporation's best interests and may not use their positions for their own financial or personal benefit.

Conflicts of interest must be taken very seriously since they can damage the Corporation's reputation and expose both the Corporation and affiliated individuals to legal liability if not handled appropriately. Even the appearance of a conflict of interest should be avoided, as it could undermine public support for the Corporation.

3. **To whom does the policy apply?**

This policy applies to all directors, officers and key persons ("you")².

... Disclosure

- Form 990 public inspection compliance
- Public disclosure of additional documents:
 - Governing documents;
 - Policies; and
 - Financials
- Contact information for who maintains books and records

Section C. Disclosure

- 17** List the states with which a copy of this Form 990 is required to be filed _____
- 18** Section 6104 requires an organization to make its Forms 1023 (1024 or 1024-A, if applicable), 990, and 990-T (section 501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.
- ☐ Own website ☐ Another's website ☐ Upon request ☐ Other (*explain on Schedule O*)
- 19** Describe on Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year.
- 20** State the name, address, and telephone number of the person who possesses the organization's books and records.

... Part VII and Schedule J: Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

- Listing of all Officers, Directors and Trustees that were active at any time during the time period covered by the Form 990 filing
- Compensation is reported on the calendar year and should agree with Form W-2 / Form 1099
- Be sure there is not excessive compensation, the IRS is looking out for high gross receipts and low compensation
- Schedule J is required for an individual who receives compensation in excess of \$150,000

... Part VIII: Statement of Revenue

- Revenue is separated between program related revenue and other revenue to differentiate the source of the income
 - Contributions, Gifts, Grants and other similar amounts
 - Program Service Revenue
 - Other Revenue – investment income, rents, sale of assets and inventory, fundraising, etc.
 - Miscellaneous Income
- Program revenue should be compared to total revenue, is there too much unrelated revenue?

... Part IX: Statement of Functional Expenses

Separated into four columns:

- Total Expenses
- Program Service Expenses – activities that further the organizations exempt purposes
- Management and General Expenses – related to the organization's overall operations, i.e.: overhead
- Fundraising Expenses – expenses from soliciting cash, gifts, and grants

... Part X: Balance Sheet

Details the three sections of a Balance Sheet and provides a detailed snapshot of the organization at BOY/EOY

- Assets – Cash, Accounts Receivable, Pledges, Notes and Loans Receivable, Land, Buildings and Equipment (less accumulated depreciation), Prepaid Expenses, Investments
- Liabilities – Accounts Payable, Grants Payable, Deferred Revenue, Tax-Exempt Bond Liabilities, Mortgages, Notes, Loans Payable
- Net Assets/Fund Balances – With/Without Donor Restrictions

... Part XI: Reconciliation of Net Assets

- Reconciliation of BOY and EOY Net Assets
- Differences are due to reporting differences for tax and GAAP
 - Unrealized gain or loss on investments
 - Donated services
- Make sure differences agree to audit report and are reasonable

Part XII: Financial Statements and Reporting

- Accounting method (Cash, Accrual, Other)
- Financial statements (compiled, reviewed, audited)

Part XII Financial Statements and Reporting			
Check if Schedule O contains a response or note to any line in this Part XII		<input type="checkbox"/>	
		Yes	No
1	Accounting method used to prepare the Form 990: <input type="checkbox"/> Cash <input type="checkbox"/> Accrual <input type="checkbox"/> Other _____ If the organization changed its method of accounting from a prior year or checked "Other," explain on Schedule O.		
2a	Were the organization's financial statements compiled or reviewed by an independent accountant? . . . If "Yes," check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both. <input type="checkbox"/> Separate basis <input type="checkbox"/> Consolidated basis <input type="checkbox"/> Both consolidated and separate basis		
2b	Were the organization's financial statements audited by an independent accountant? If "Yes," check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both. <input type="checkbox"/> Separate basis <input type="checkbox"/> Consolidated basis <input type="checkbox"/> Both consolidated and separate basis		
2c	If "Yes" to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant? . . . If the organization changed either its oversight process or selection process during the tax year, explain on Schedule O.		
3a	As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Uniform Guidance, 2 C.F.R. Part 200, Subpart F?		
3b	If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why on Schedule O and describe any steps taken to undergo such audits .		

Form 990 (2023)

... Schedule A: Public Charity Status and Public Support

- Part I: Reason for public charity status – determines if exempt organization qualifies
- Part II: Support Schedule for Section 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi) – organizations receive most revenue from contributions
- Part III: Support Schedule for Section 509(a)(2) – organizations receive most revenue from program
- You are required to maintain 33 ⅓% public support

... Schedule B: Schedule of Contributors

- General rule of all donors who contributed more than \$5,000 during the year need to be listed
- Organizations who met the 33 ⅓% support test, can report the greater of \$5,000 or 2% of total contributions reported on Part VIII
- Names and addresses of contributors are not open for public disclosure. This information should still be kept in the organization's records.

... Schedule D: Supplemental Financial Statements

- A supporting schedule for the balance sheet
- Reconciles the Form 990 to the audited financial statements

SCHEDULE D (Form 990) Department of the Treasury Internal Revenue Service	Supplemental Financial Statements Complete if the organization answered "Yes" on Form 990, Part IV, line 6, 7, 8, 9, 10, 11a, 11b, 11c, 11d, 11e, 11f, 12a, or 12b. Attach to Form 990. Go to www.irs.gov/Form990 for instructions and the latest information.	OMB No. 1545-0047 <div style="background-color: black; color: white; padding: 5px; text-align: center;"> 2023 Open to Public Inspection </div>
Name of the organization		Employer identification number
Part I Organizations Maintaining Donor Advised Funds or Other Similar Funds or Accounts Complete if the organization answered "Yes" on Form 990, Part IV, line 6.		
	(a) Donor advised funds	(b) Funds and other accounts
1 Total number at end of year		
2 Aggregate value of contributions to (during year)		
3 Aggregate value of grants from (during year)		
4 Aggregate value at end of year		
5 Did the organization inform all donors and donor advisors in writing that the assets held in donor advised funds are the organization's property, subject to the organization's exclusive legal control? <input type="checkbox"/> Yes <input type="checkbox"/> No		
6 Did the organization inform all grantees, donors, and donor advisors in writing that grant funds can be used only for charitable purposes and not for the benefit of the donor or donor advisor, or for any other purpose conferring impermissible private benefit? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Part II Conservation Easements Complete if the organization answered "Yes" on Form 990, Part IV, line 7.		
1 Purpose(s) of conservation easements held by the organization (check all that apply). <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"> <input type="checkbox"/> Preservation of land for public use (for example, recreation or education) </div> <div style="width: 50%;"> <input type="checkbox"/> Preservation of a historically important land area </div> <div style="width: 50%;"> <input type="checkbox"/> Protection of natural habitat </div> <div style="width: 50%;"> <input type="checkbox"/> Preservation of a certified historic structure </div> </div>		

... Schedule G: Supplemental Information Regarding Fundraising or Gaming Activities

- Support for fundraising activities – Part I
- Fundraising events – Part II
- Gaming – Part III

... Schedule O: Supplemental Information

- Clarify and expand on anything reported in any section of the Form 990
- Report any additional information the organization would like to provide the IRS or users of the Form 990
- Any changes to the organization's mission, purpose, or any governing documents

... Schedule L: Transaction with Interested Persons

- Transactions with interested persons are reported here
- Individuals with influence or control over the organization
- These types of transactions are not considered best practice

SCHEDULE L
(Form 990)

Department of the Treasury
Internal Revenue Service

Transactions With Interested Persons
Complete if the organization answered "Yes" on Form 990, Part IV, line 25a, 25b, 26, 27, 28a, 28b, or 28c, or Form 990-EZ, Part V, line 38a or 40b.
Attach to Form 990 or Form 990-EZ.
Go to www.irs.gov/Form990 for instructions and the latest information.

OMB No. 1545-0047
2022
Open To Public Inspection

Name of the organization _____ Employer identification number _____

Part I Excess Benefit Transactions (section 501(c)(3), section 501(c)(4), and section 501(c)(29) organizations only).
Complete if the organization answered "Yes" on Form 990, Part IV, line 25a or 25b, or Form 990-EZ, Part V, line 40b.

1	(a) Name of disqualified person	(b) Relationship between disqualified person and organization	(c) Description of transaction	(d) Corrected?	
				Yes	No
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					

2 Enter the amount of tax incurred by the organization managers or disqualified persons during the year under section 4958 \$ _____

3 Enter the amount of tax, if any, on line 2, above, reimbursed by the organization \$ _____

Part II Loans to and/or From Interested Persons.
Complete if the organization answered "Yes" on Form 990-EZ, Part V, line 38a or Form 990, Part IV, line 26; or if the organization reported an amount on Form 990, Part X, line 5, 6, or 22.

Form 990 Filings

... E-Filing IRS forms

Mandatory e-filing:

- Form 990, Return of Organization Exempt from Income Tax
- Form 990-EZ, Short Return of Organization Exempt from Income Tax
- Form 990-PF, Return of Private Foundation
- Form 990-N (e-Postcard)
- Form 990-T, Exempt Organization Business Income Tax Return (and proxy tax under Section 6033(e))
- Form 1120-POL, U.S. Income Tax Return of Political Organizations
- Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code
- Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns (extension form for Form 1120-POL)
- Form 8868, Application for Extension of Time To File an Exempt Organization Return

... Electronic Filing for CHAR500

- Effective September 19, 2022, New York Charities Bureau requires filing online at: https://www.charitiesnys.com/annual_filing.html
- Step-by-step checklist to ensure you have all that you need to complete your online filing
- Returning users can check their filing status online



New online filing user?

Charities must file financial disclosures annually with the Charities Bureau.

[Begin annual filing](#)



Returning user?

If you have already submitted an electronic filing with us, you can check your filing status online.

[Check annual filing status](#)

... Audit Requirements for CHAR500

- An Audit is required for organizations with over \$1,000,000 in total revenue and support
- A Review is required for organizations with revenue greater than \$250,000 and up to \$1,000,000
- For New York State Charities Bureau purposes, the total revenue and support is the amount reported on Form 990 Part I, line 12 or Form 990-EZ Part I, line 9

... IRS Filing Penalties

- Failure to file return due in 2023
 - \$20/day, not to exceed the lesser of \$10,000 or 5% of the annual gross receipts
 - Organizations with annual gross receipts in excess of \$1,000,000 subject to \$100/day, not to exceed \$50,000
- Penalties waived for failure to file return

Information Needed and Reviewing the Form 990

Information to Gather for Preparation of the Form 990

- Listing of officer/directors (active during year and currently)
- Form W-3 and W-2s, officer compensation, and benefits
- Form 1096 and Form 1099s
- Updated mission statement, by-laws, policies, etc.
- Number of volunteers (an estimate is fine)
- Large contributions received (over \$5k or 2% rule)
- Breakdown of fundraising activities income and expenses

... Reviewing the Form 990

- Governing body should review Form 990 before it is filed
 - A more in-depth review can take place by the finance director, treasurer, or finance committee, but the board should at least receive a copy to review
- It's a long form, do not review it all at once – break it into sections
- Compare to the signed financial statements (if applicable)
- Highlight anything not understood and ask your financial professional questions

... Reviewing the Form 990

Some questions to ask while reviewing the Form 990:

- What has changed or hasn't changed from last year? Why? Is it substantial?
- What is debt being used for? Is it decreasing?
- Are net assets increasing or decreasing?
- What are the restrictions on net assets?
- Are there any new sources of revenue?
- Is cash generated or used by operating activities?
- Does the functional expense allocation show a focus on programs?
- Under Part VI, are there any policies that should be put in place?

Board Member Responsibilities

... 7 Core Responsibilities of Nonprofit Boards

1. Ensure effective organizational planning
2. Provide support and resources
3. Make sure the organization fulfills legal obligations
4. Provide proper financial oversight
5. Select and evaluate the executive director
6. Improve the organization's public standing
7. Recruit and orient new board members

... 1. Ensuring Effective Organizational Planning

- The most time-consuming responsibility held by the board. Part of this includes periodically reviewing the progress towards the goals set previously
- The main planning topics are, as follows:
 - Mission statement and organizational purposes
 - Current program services as well as new ones
 - Supporter development and retention
 - Staffing – both current and projected
 - Financial projections

... 2. Provide Support and Resources

- There are 3 primary ways for members to get involved in fundraising include:
 - Reaching out to their networks: should be willing to reach out to their personal and professional networks to help the organization grow financially
 - Attend fundraising events: board members should try their best to attend all the organizations public events, as well as encourage friends and family to do the same
 - Donate to the organization: not always a requirement but does show an increase in commitment from board

... 3. Make Sure the Organization Fulfills Legal Obligations

- Be aware of applicable federal, state and local laws and ensure the nonprofit meets all those requirements
- Failure to follow these laws can lead to penalties - by not filing the IRS Form 990, your organization's exempt status could potentially be revoked
- In addition to tax related penalties, the board should be aware of penalties for overpaying staff, engaging in excessive lobbying, or political activities

... 4. Provide Proper Financial Oversight

- Learn how to read and interpret financial statements
- Review and approve the organization's budget
- Approve major organizational decisions such as programming or other large expenditures



... 5. Select and Evaluate the Executive Director

1. Conduct an organizational assessment
2. Oversee the selection process
3. Conduct an annual evaluation
4. Set compensation

... 6. Improve the Organization's Public Standing

- The board members are the frontline advocates for the organization's mission
- Maintain a positive public standing within the community
- When there are special events held by the organization, it is expected of the board to attend
- Tap into personal networks and public relations to further the organization's mission

7. Recruit and Orient New Board Members

- Oversee the recruitment and selection process
- Actively recruit
- Assist in the onboarding
- Help in the training and mentoring of new staff



SECURE Act 2.0

... SECURE Act 2.0

The SECURE Act 2.0 is an extension of the SECURE act of 2019, this was created to increase retirement involvement. The extension of the Act was created to increase retirement involvement even more and improve its efficiency



... Automatic Enrollment Requirement for 403(b) Plans

- Starting in 2025 new 403(b) will be required to automatically enroll their eligible employees, unless the employee opts out. Existing plans will be grandfathered in under their existing terms.
- Unless you have less than 10 employees, have been in business for less than 3 years, or are a qualifying church or governmental entity, you will be required to ensure that eligible employees are enrolled at a rate of 3%, but no more than 10%.

... Benefits to Employers

- As an employer, having a sound retirement plan will attract more talented candidates to potentially hire
- Increased credit for pension plan start-up costs is a refundable credit. Not-for-profit Organizations are not eligible to receive.
- Beginning in 2023, the credit increased to 100% of start-up costs for the first 3 years, max \$5,000 per year. Additionally, the employer will receive a credit for a percentage of the amount contributed by the employer on behalf of the employee.

... Changes to Established Plans

- Beginning in 2023, 403(b) plans can utilize multiple employer plans and pooled employer plans
- Pooling assets into either a MEP or a PEP, small businesses can leverage their capital and potentially reduce costs related to servicing the plans
- The “one bad apple” rule went into effect and makes sure those compliant participants in these MEPs or PEPs are not affected by those who do not follow the rules

FAQ of Form 990 Filings

... FAQ of Form 990 Filings

Q: How does an organization know which portions of the form or schedules it must complete?

A: Every organization that files a Form 990 must complete all core parts, (Parts I-XIII), Part IV, checklist of required schedules will help in determining what schedules need to be completed along with the return

... FAQ of Form 990 Filings

Q: Which persons must be listed as officer, directors, trustees, key employees, and five highest compensated employees on Part VII?

A: All officers, directors, and trustees for the year must be listed regardless of compensation paid to each individual. Key employees are persons with certain responsibilities and reportable compensation over \$150k, up to 20 must be reported. The five highest compensated employees are employees who received compensation over \$100k.

... FAQ of Form 990 Filings

Q: What if the organization doesn't file the required Form 990?

A: The IRS will automatically revoke an exempt status of an organization if they do not file the proper Form 990 for 3 consecutive years, if the exempt status is revoked, it is no longer exempt from federal income tax and may be required to file other applicable federal income tax returns. You must reapply to have your exempt status reinstated. There is no appeal system for an automatic revocation of exempt status.

Resources

... Nonprofit Resources

National Council of Nonprofits - www.councilofnonprofits.org/

- Valuable resource reporting on current trends and policies

TechSoup - www.techsoup.org

- Offer discounted services to implement and manage your organization's technology, can help reduce computer software expenses (i.e., QuickBooks)

GuideStar - www.guidestar.org

- Provide nonprofit organizations with up-to-date data
- How does your organization compare to those who are similar?

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Delivering **Confidence**

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Circular 230

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