

# Form 990 – Tax Exempt Reporting



# Speaker Introductions



## **Amanda Tremblé, CPA**

Amanda is a Manager with CliftonLarsonAllen and provides assurance and tax compliance services to non-profit organizations. She has over 9 years of public accounting experience and has chosen to focus on serving the needs of non profit organizations.



## **Emily McCann, CPA**

Emily is a Senior Associate with CliftonLarsonAllen and provides assurance and tax compliance services to non-profit organizations. She has over 6 years of public accounting experience and has chosen to focus on serving the needs of non profit organizations.

# Learning Objectives

At the end of this course, you will be able to...

- Learn best practices and tips to assist in meeting tax compliance requirements
- Identify key information to be included in the 990 in order to educate the public on the mission of your Organization
- Understand current IRS initiatives and focus areas

# Agenda

- Accurate Form 990
- What is a tax exempt entity?
- Basic filing requirements
- Form 990
- Schedules
- Current IRS Initiatives and Focus Areas
- Conclude

# The Importance of Accurate Filings

- Statute of limitations begins to run when a complete and accurate 990 is filed
- Public relations
- When e-filed, 990's are searchable and mistakes more readily apparent
- Provides overall data on the nonprofit sector in a prescribed format
- Penalties and potential revocation of exempt status for inaccurate returns

# What is a tax-exempt entity?

- Section 501 – exempt from federal income tax
- Section 501(c) organizations
  - 501(c)(2) – title holding company
  - 501(c)(3) – religious, scientific, literary
  - 501(c)(4) – civic league, social welfare organizations
  - 501(c)(6) – business leagues, chamber of commerce
  - 501(c)(7) – social/recreation clubs
  - 501(c)(12) – rural cooperatives
  - 501(c)(14) – state credit unions
  - 501(c)(19) – veterans organizations

## Section 501(c)(3)

- Organized and operated exclusively for charitable purposes
- No part of the earnings may “inure” to the benefit of any private individual
  - Benefit provided to the individual must be equal or less than the benefit the individual provides to the organization
- No substantial involvement in attempting to influence legislation
- Absolute prohibition in attempting to influence the election of a political candidate or party for office

**Non-profit does NOT mean tax exempt**

# Basic Filing Requirements

- Who is not required to file?
  - Certain religious organizations
  - Certain government organizations
  
- What form to file?
  - Form 990/990EZ/990N
  - Form 990-T
  - Form 990-PF



# Form 990-EZ

- Filing Form 990-EZ:
  - Filing is based on annual gross receipts and end-of-year total assets
    - ◇ 2010 and after: gross receipts less than \$200,000 and total assets less than \$500,000
- May not file Form 990-EZ if:
  - the filing organization controls another organization
  - the filing organization maintains donor-advised funds

# Form 990-N

- Filing Form 990-N:
  - Online filing
  - Only contains identifying information on the organization
    - ◇ Gross receipts less than \$50,000

# Extensions

- Form 8868
  - Extends 990, 990-EZ, 990-PF, 990-T
  - First extension is automatic (3 months)
  - Second extension requires a reason (add'l 3 months) and a signature

NOTE: Form 990-T utilizes Form 8868 – however, extension is automatic 6 months

- Due Date – 15<sup>th</sup> day of 5<sup>th</sup> month following year end
- Penalties for late filing of return \$20 or \$100 per day
  - Abatement is possible, but **NOT** guaranteed

# Electronic Filing

- Organizations filing Form 990 with \$10 million in assets and filing 250 returns must e-file
- Organizations filing Form 990-PF and filing 250 returns must e-file
  - “returns” = W-2’s, 1099’s, 990’s, income tax, employment tax and excise tax returns

# The Parts of Form 990

- Part I – Summary
- Part II – Signature Block
- Part III – Statement of Program Service Accomplishments
- Part IV – Checklist of Required Schedules
- Part V – Statements Regarding Other IRS Filings and Tax Compliance
- Part VI – Governance, Management, and Disclosure

# The Parts of Form 990 - continued

- Part VII – Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors
- Part VIII – Statement of Revenue
- Part IX – Statement of Functional Expenses
- Part X – Balance Sheet
- Part XI – Reconciliation of Net Assets
- Part XII – Financial Statements and Reporting

## Part I – Summary

- Provides a “snapshot” of the organization’s performance and a comparison to the prior year
- Provides key indicators with the organization

## Part III - Program Service Accomplishments

- Provide the organization's mission statement
- Describe significant changes in programs
- Report the three largest programs by expense
  - Additional programs may be reported in Schedule O
  - Statistical data must be included
- The audited financial statements, annual report, and Form 990 must convey the same message



# Part IV – Checklist of Required Schedules

- Used to determine which schedules are required.
- Almost every line has an exception or detail that you should know about
  - Read the instructions to Part IV
- We rely heavily on client-provided information from the tax assistance letter, but the client may not always understand what the IRS is asking

## Part VI – Governance, Management & Disclosure

“Even though governance, management, and disclosure policies and procedures generally are not required under the Internal Revenue Code, the IRS considers such policies and procedures to generally 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.”

# Part VI, Section A - Governance

The general ideas of this section:

- Who really runs the organization?
- Who has the real decision-making power?
- How involved is the board of directors?
- How independent are the board members from the organization and from each other?
- Are board actions documented and are subsidiaries governed by written documents?

## Part VI, Section A – Governance Disclosures

- Board member lack independence.
- Disclosures concerning the board.
- Other required disclosures.
- “The organization need not engage in more than a reasonable effort to obtain the necessary information to determine [the facts related to a specific line] and may rely on information provided by such [persons]. For instance, the organization may rely on information it obtains in response to a questionnaire sent annually to each [person] that includes the name, title, date and signature of each person and containing the pertinent instructions and definitions.”

– IRS, Pages 15 – 18

## Part VI, Section B - Policies

The general idea of this section:

- Does the organization have written policies and procedures to ensure certain actions occur or are avoided?
- Boards are constantly changing. It is more difficult for individuals to deviate from written policies and procedures.
  - Generally, changing a written policy requires a majority vote by the board and/or member(s).
- Organizations should use the policies that are most appropriate for them, despite what the IRS considers best practices.

## Part VI, Section B – Conflict of Interest Policy

- Trying to ensure that the organization's leaders are not benefiting themselves over the organization.
- Does the organization have a written policy?
- Are officers, board members and key employees required to annually disclose conflicts?
- Does the organization regularly and consistently monitor and enforce compliance with the policy?

## Part VI, Section B – Conflict of Interest Policy - continued

- If the organization regularly and consistently monitors and enforces compliance with the policy, disclose:
  - Practices for monitoring transactions for conflicts.
  - Practices for dealing with potential or actual conflicts, whether discovered before or after the transaction occurs.
  - Which persons are covered under the policy?
  - Who determines whether a conflict exists?
  - The level at which conflicts are reviewed.
  - Any restrictions imposed on a person with a conflict.

## Part VI, Section B – Other Policies

- Written whistleblower policy
- Written document destruction & retention policy
- Written policy to protect the organization's exempt status if they are involved in joint ventures with for-profit partners.



# Part VI, Section B – Officer Compensation

- Intermediate sanctions provisions (IRC Section 4958).
- Ensure reasonable compensation:
  - Include review and approval by independent persons.
  - Use of comparability data.
  - Contemporaneously document the process.
- Used for:
  - The top management official.
  - The other officers and key employees.
- The disclosure includes the process of determining the compensation for the two groups above.
  - What if compensation is paid by another organization?
  - When did the process last include all of the above?

## Part VI, Section C - Disclosure

The general idea of this section:

- Certain documents are required to be made available to the public. How is the organization complying?

# Part VI, Section C – Disclosure of IRS Forms

- How does the organization make the following documents available to the public:
  - 990
  - 990-T
    - ◇ Required only for 501(c)(3)'s.
  - Form 1023
    - ◇ Exception: if the organization could not locate its Form 1023 on July 15, 1987, then it is not required to make it available to the public.

## Part VI, Section C – Other Disclosures

- In what states is the 990 *required* to be filed?
  - Activities, including solicitations, in the state may require registration.
- Does the organization make its conflict of interest policy, governing documents or financial statements open to the public? If so, how?
  - “Federal tax law does not require that such documents be made publicly available unless they were included on a form that is publicly available.”
- Who has possession of the books and records?

# Part VII – Compensation

- Section A – Listing of all Officers, Directors, Trustees, Key Employees and Highest Compensated Employees serving in the position during the year
  - Name
  - Position
  - Average hours per week
  - Compensation
- Section B – Independent Contractors

# Part VII, Section A – Definitions

- Director or Trustee
- Officer
- Key employee
- Highest compensated employee
  - Report the five highest paid people that are not otherwise reported.
- Reportable compensation
- Related Organization
- Current
- Former

– IRS, Pages 20 – 23

# Part VII, Section A – Definitions - continued

- Other Compensation:
  - Non-taxable benefits paid by the filing organization.
  - Deferred compensation paid by the filing organization.

– IRS, Pages 24 – 27

## Part VII, Section A – Reporting Compensation

- Once you have determined who should be reported in Part VII, then determine what compensation to report.
  - Reportable compensation from the organization.
  - Reportable compensation from related organizations.
  - Any other compensation.
- Compensation is reported based on the calendar year ended within the filing year.
- States may have different thresholds and/or definitions for determining who and what to report in the area of compensation.



# Schedule J

- Required if the organization reported:
  - Any person with total compensation greater than \$150,000.
  - Any “former” individuals.
  - Any person who received or accrued compensation from an unrelated organization for services rendered to the filing organization.
- More detailed disclosures about compensation.

## Part VII, Section B – Independent Contractors

- Disclose the five highest paid independent contractors that received more than \$100,000 during the year *for providing services*.
  - Includes individuals and businesses.
  - Can include related organizations and management companies.

# Part VIII – Statement of Revenue

Four types of revenue:

1. Contributions
2. Program Revenues (column B)
3. Unrelated Business Revenue (column C)
4. Excluded Revenue (column D)

# Part VIII – Contributions

- Broken down into six categories:
  - Federated campaigns
  - Membership dues
  - Fundraising events
  - Related organizations
  - Government grants
  - All other contributions
- Only report “pure” contributions.
- Do not include donated services or use of facilities.

## Part VIII - Program Service Revenue

- Why is the organization exempt?
- Program services are primarily those that form the basis of an organization's exemption from tax.
- May also be unrelated business taxable income.
- Must report a business (UBIT) code to coincide with each line.

# Part VIII - Unrelated Business Revenue

Gross income derived from:

- A trade or business,
  - That is regularly carried on, AND
  - That is not substantially related to the organization's exempt purpose.
- A.K.A. Unrelated Business Taxable Income.
  - A.K.A. UBIT.
  - Also reported on Form 990-T.

## Part VIII - Potential UBI Activities

- Services to nonpatients (pharmacy/lab)
- Health/wellness centers
- Catering
- Rental of real estate if debt financed
- Investment income if debt financed
- Rental of personal property
- Parking revenue
- Daycare revenue
- Interest/annuities/royalties/rents from controlled orgs.
- Advertising in publications – even if program related
- Sponsorships
- Other

# Part VIII – Excluded Revenue

Excluded by law or regulation:

- Certain interest, rents, and royalties.
- Dividends.
- Sale of assets (non-inventory).
- Revenue from activities run primarily by volunteers.
- Revenue from research activities.
- Qualified sponsorship payments.
- Sale of donated items.
- Services provided for convenience of employees or patients (501(c)(3) organizations only).



# Part VIII – Other Revenues

- Investment income
- Income from investment of tax-exempt bond proceeds.
- Rents.
- Sale of inventory.
- Sale of assets other than inventory.
- Gaming Activities.
  - May also be reported in schedule G, Part III.
- Special Fundraising Events.
- Other Income.
  - Must report a UBIT code.

## Part VIII – Special Fundraising Events

- Not related to the organization's exempt purpose.
- Conducted to raise funds for charitable purpose.
- May generate unrelated business income.
- Often contain a contribution component.
- Line 8b only includes direct expenses.
- May also be reported in Schedule G, Part II.

# Part IX – Statement of Functional Expenses

- 501(c)(3) and 501(c)(4)'s break expenses down into three categories:
  - Program.
  - Management and general.
  - Fundraising.
- Non-501(c)(3)'s and non-501(c)(4)'s only report totals.
- Informs public on how the organization's contributions are spent.
- Higher percentage of expenses as program is desirable.
  - Only if that is the reality of operations.

# Part IX – Compensation Expense

- Line 5: report compensation expense for officers, directors, trustees and key employees.
  - Numbers may not match Part VII.
  - Part IX = fiscal year (Part VII = calendar year).
  - Part IX = which organization reports the expense (Part VII = which organization issues the W-2/1099).
- Line 6: report compensation to other disqualified persons.
- Lines 7 – 10: report compensation, pension, benefits and payroll taxes for regular employees.

## Part IX – Related Schedules

- Grants to governments & organizations in the U.S. - Schedule I, Parts I & II.
- Grants to individuals in the U.S. - Schedule I, Parts I & III.
- Grants outside the U.S. - Schedule F.
- Compensation - Form 990, Part VII and possibly Schedule J.
- Lobbying fees - Schedule C.
- Professional fundraising - Schedule G, Part I.

## Part IX – Other Expenses

- Report in lines 24a – 24e the five largest expenses that don't belong in lines 1 – 23.
- If you report “miscellaneous” or “other” in lines 24a – 24e, the total of that line must be less than 5% of the total expenses.
- Report any remaining expenses in line 24f.

# Part X – Balance Sheet

- Financial Accountability.
- Report the same as in the financial statements.
- Related schedules:
  - Related-party receivables and payables – Schedule L, Part II.
  - Fixed assets – Schedule D, Part VI.
  - Investments (other securities) – Schedule D, Part VII.
  - Investments (program related) – Schedule D, Part VIII.
  - Other assets – Schedule D, Part IX.
  - Escrow account liabilities – Schedule D, Part IV.
  - Other liabilities – Schedule D, Part X.

## Part XII – Financial Statements and Reporting

- Disclose whether the financial statements were compiled, reviewed or audited by an independent accountant.
- If the financial statements were compiled, reviewed or audited on a consolidated basis only, this must be answered NO.
  - Can explain in Schedule O.
- Does the organization have a committee that assumes responsibility for oversight of the activity?
- If the organization should have received a Yellow Book audit or a Single audit, did it?



# Schedules for Form 990

- Schedule A – public charity status
- Schedule B – schedule of contributors
- Schedule C – political campaigns & lobbying activities
- Schedule D – supplemental financial statements
- Schedule E – schools
- Schedule F – foreign activities
- Schedule G – gambling, fundraising & professional fundraisers
- Schedule H – hospitals
- Schedule I – grants in the U.S.
- Schedule J – additional compensation reporting
- Schedule K – tax-exempt bonds
- Schedule L – transactions with interested persons
- Schedule M – non-cash contributions
- Schedule N – terminations & significant disposals
- Schedule O – random disclosures
- Schedule R – related organizations

# Complexity (Difficulty) of Schedules

Simple

- Schedule E – schools
- Schedule C – political campaigns & lobbying activities
- Schedule B – schedule of contributors
- Schedule D – supplemental financial statements
- Schedule O – random disclosures
- Schedule J – additional compensation reporting
- Schedule A – public charity status
- Schedule M – non-cash contributions
- Schedule I – grants in the U.S.
- Schedule F – foreign activities
- Schedule N – terminations & significant disposals
- Schedule G – gambling, fundraising & professional fundraisers
- Schedule R – related organizations
- Schedule L – transactions with interested persons
- Schedule K – tax-exempt bonds
- Schedule H – hospitals

Complex

# Schedule A, Part I – Public Charity Status

- Two part to an organization's exempt status.
  - Tax exempt status – 501(c)(3)
  - Private foundation status – 509(a)
- If a box cannot be checked in Schedule A, then the organization is a private foundation.
- Generally, more advantageous to be a nonprivate foundation (public charity) vs. private foundation.
  - File Form 990-PF.
  - Pay a 1% or 2% excise tax on net investment income.
  - Contributions are only 30% deductible.
  - Greater limitations on who can contribute.

# Schedule A, Part I – Public Charity Status - continued

- Some organizations derive public charity status according to how they generate revenue.
- 509(a)(1) & 170(b)(1)(A)(vi).
  - Normally more than 1/3 of the support is derived from governmental units or the general public.
  - Must prove that fact every year
  - Calculated on the same basis as Form 990 for the current year and four prior years.

# Schedule A, Part I – Public Charity Status - continued

- 509(a)(2).
  - More than 1/3 of the support is derived from contributions, membership fees, and gross receipts from charitable activities.
  - Less than 1/3 of the support is from gross investment income and UBI.
  - Must prove that fact every year
  - Calculated on the same basis as Form 990 for the current year and four prior years.

# Schedule B – Schedule of Contributors

- Prepared on the same basis as Form 990.
- Disclose contributions/grants from corporations, organizations and individuals.
  - Organizations that check boxes 5, 7, 8 or 9 in Schedule A, Part I must include government grants.
- General rule: report contributors greater than \$5,000.
  - 509(a)(1)'s only report contributors greater than the larger of \$5,000 or 2% of total contribution revenue (Form 990, Part VIII, Line 1h).
- Additional reporting is required for non-cash contributions.

# Schedule D, Part V – Endowment Funds

- Coincides with UPMIFA reporting in financial statements.
  - “Net Assets” or “Endowments” note.
- Report basic activities of endowment funds, in aggregate for the current year and four prior years.
- Report percentage of funds held as quasi-endowment, permanent, and temporarily restricted.
  - Quasi-endowment ≈ unrestricted endowment
- Report purpose(s) of endowment funds.

## Schedule D, Part X, Line 2 – FIN 48 Footnote

- Purpose of FIN 48: disclose information regarding the organization's liability for uncertain tax positions.
- Organizations are required to disclose an exact copy of the FIN 48 note from the financial statements.
  - Generally under Note 1 and titled "Income Taxes".
- If a statement applies to multiple organizations (e.g.: consolidated financial statements), the statement can be paraphrased or summarized to apply only to the filing organization.



# Schedule D, Parts XI, XII & XIII - Reconciliations

- Purpose: reconcile revenues, expenses and the change in net assets in the Form 990 with the same amounts in the audited financial statements.
- Required for organizations with audited stand-alone financial statements.
- Optional for organizations with consolidated audited financial statements.

# Schedule M – Non-Cash Contributions

- Required when total non-cash contributions exceed \$25,000.
- Do not include donated use of facilities (rent) or donated services.
- Report contributions by category, including the number of contributions and the total value.
- Be sure information in Schedule M is consistent with Form 990, Part VIII and with Schedule B.
- Report the number of Forms 8283 received from donors.
- Report any donations required to be held for 3+ years.

# Schedule O – Supplemental Information

- Blank pages used to report additional details for the Form 990.

# Public Inspection

- Form 990, 990-EZ, 990-PF related schedules must be made available to the public.
  - Schedule B, Contributor Listing is only made available to the public by private foundations and political organizations.
  - Be careful with copies sent to state agencies.
- Form 990-T filed for 501(c)(3) organizations must be made available for public inspection
- Section 527 political organizations that file Form 990/990-EZ must make Form 8871, 8872, 1120POL, 990 or 990-EZ open for public inspection.

# Federal Events in 2013 – Interactive Form 1023

- Organizations requesting tax-exempt status under 501(c)(3) do so by filing Form 1023.
  - Many users complain about its complexity and length.
- 09/30/2013 – the IRS released an interactive version of Form 1023
  - [www.stayexempt.irs.gov/StartingOut/InteractiveForm1023Application.aspx](http://www.stayexempt.irs.gov/StartingOut/InteractiveForm1023Application.aspx)
  - Similar to TurboTax® and similar software.
- Practical impact:
  - Provides an easier method of completing Form 1023.

# Changes to the 2013 Form 990

- Almost all changes made the existing rules more clear.
  - Short-period returns must be paper filed.
  - Can't change year-end by filing Form 990-N.
    - ◇ Form 990-EZ, 990, 1128 or a letter to the IRS.
  - Name changes, dissolutions, mergers, etc., must accompanied by appropriate documentation.
  - Public inspection requirements apply to both original and amended returns.
  - Receivables/payables with interested persons should be reported in Schedule L.
  - Board & officer Compensation:
    - ◇ All compensation to officers, board members, etc., should be disclosed, even if for non-leadership services.
    - ◇ Compensation from a management company is not disclosed.
  - Discounts on services are not contribution revenue.

**Questions?**