

# New reporting requirements for nonprofit organizations

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**T**ax-exempt organizations, including county medical societies and not-for-profit hospitals, will be facing many changes when they file tax returns for 2008 due to a redesigned Form 990. Last month, the Internal Revenue Service (IRS) released revised instructions to Form 990, the informational tax return required for tax-exempt organizations. The form was redesigned following draft releases and comment periods that began more than a year ago. Previous to this redesign, Form 990 had not been rewritten since 1979. A final revision of the instructions for the new Form 990 will be released later this year, but the IRS has indicated there will not be significant changes at this point.

The new Form 990 consists of an 11-page core form and 16 schedules to be completed by the organizations that meet the applicable requirements for the schedules. According to the IRS Web site, the changes to the form are intended to enhance transparency, promote tax compliance, and minimize the burden on the organization filing the form. The previous Form 990 failed to adequately report changes in the law for the increasing size, diversity, and complexity of the tax-exempt organization. There are now more than 1.4 million charities, and individual and corporate donations topped \$250 billion in 2006.

Some of the major changes in the new form that are of interest to the medical community deal with areas of governance, enhanced reporting of compensation, and policies regarding relationships with insiders and other related organizations, and as such physicians serving as CMS officers or as directors for other non-profit organizations should familiarize themselves with the new requirements. *Part VI—Governance, Management, and Disclosure* requests information about policies not required by the Internal Revenue Code. And while reporting has changed, it should be noted that there has been no significant change in the tax law covering 501(c)(3)-charitable organizations or 501(c)(6)-trade and professional organizations.

Tax-exempt organizations should review the new form and instructions prior to year-end to assess whether current policies and procedures are adequate to demonstrate good governance and transparency. Each organization should have the following policies or procedures in place:

- Written conflict of interest policy
- Annual disclosure of interests
- Whistleblower protection policy
- Document retention and destruction policy
- Process for determining compensation for officers, directors, trustees, or key employees
- Written policies and proce-

dures governing the activities of chapters, branches, and affiliates to ensure consistency with the activities of the organization

- Documentation of meetings and actions of its governing bodies and committees
- Policy for review of the Form 990 prior to filing

The new form includes a schedule (Schedule O) that requires explanations and narratives for specified questions in the core form and related schedules. It also allows organizations to supplement information reported on the Form 990, even if there is not a specific instruction requiring the organization to do so.

An additional new schedule of interest to the medical community is Schedule H, Hospitals. This must be completed by organizations that operate 1 or more facilities that are recognized as a hospital according to state law. The previous Form 990 did not provide for the reporting of community benefits activities or demonstrate how nonprofit hospitals serve the public in a manner that justifies their tax exempt status. The form is entirely new and very extensive, which will increase the reporting burden for those required to file the schedule. The IRS has granted some transition relief in delaying the effective date for some of the parts to allow organizations time to modify reporting systems to meet the new reporting requirements.

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Schedule H consists of 6 parts:

- *Part I, Charity Care and Certain Other Community Benefits at Cost.* Seven separate categories of community benefit are reportable. This is optional for 2008.
- *Part II, Community Building Activities.* Reports the cost of community building activities. This is optional for 2008.
- *Part III, Bad Debt, Medicare, and Collection Practices.* Requires reporting of bad debt and Medicare shortfalls at cost and requests information regarding the organization's debt collection practices. This is optional for 2008.
- *Part IV, Management Companies and Joint Ventures.* Requires information regarding management companies and joint ventures in which the organization's officers, directors, trustees, key employees, medical staff, or employed physicians who have an aggregate ownership percentage exceeding 10% of the entity. This is optional for 2008.
- *Part V, Facility Information.* Requires a list of each facility that is licensed, registered, or similarly registered as a health care facility. This is required for 2008.
- *Part VI, Supplemental Information.* Provides information demonstrating how the entity is serving its communities, including needs assessments, education of patients about eligibility for charity care, and government assistance programs. This part also asks for information on relationships with others in an affiliated system and information to supplement responses in

other parts of Schedule H. This is optional for 2008.

There are other new schedules with various triggers or thresholds to determine if they are applicable. Part IV of the new Form 990, "Checklist of Required Schedule," will help an organization determine the schedules it must complete to avoid incomplete filings and potential penalties.

Each organization should review its bylaws and policies to assure that they are in a position to fully complete the form and required schedules. There is still time in the current year to take action to make the necessary changes. Board members and staff should consult with the organization's tax preparer or advisor to determine their level of preparedness. The forms and instruction are available from the IRS at [www.irs.gov](http://www.irs.gov).

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