Form 990: Highlights of the Schedules
Maryland Association of Nonprofit Organizations
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Introduction to the Schedules
Julian H. Spirer, Esq.

1. Introduction to the Schedules

   a. Fourteen new schedules

      i. In place of the two schedules that accompanied the 2007 Form 990, the 2008 Form has 16 schedules. These are designed to require reporting of information only from filers that conduct particular activities.

      ii. In many instances, the IRS has simply established a formal mechanism for reporting what previously had to be disclosed on an unstructured attachment. In this regard, the IRS believes that the schedules serve the purpose of minimizing the burdens on filing organizations. Thus the old form requires that detailed attachments list items on an asset by asset basis for certain items on an organization's balance sheet, notably investments in securities and in land, buildings, and equipment. The IRS claims that many filers omitted these attachments and that putting them on a schedule, in this instance Schedule D, will ease and encourage compliance.

      iii. In numerous instances, however, the items to be disclosed have been expanded and made far more explicit for the purpose of enhancing transparency and promoting tax compliance. Thus the same Schedule D incorporates new reporting requirements for donor advised funds, conservation easements, escrow accounts, endowment funds, certain art and museum collections, and financial statement reconciliations. Other examples of areas of broadly expanded disclosure include on Schedule F for activities conducted outside the United States, Schedule G regarding professional fundraising, special fundraising events, and gaming activities., Schedule M for non-cash contributions, and Form R with respect to joint ventures or investments in for-profit organizations that are not controlled by the organization

b. Aids to completion and disclosure

i. The complexity of the schedules and the great detail that they are intended to elicit was recognized by the IRS after the Discussion Draft was released to the public for comment on June 14, 2007. Thus the final form released on December 20, 2007, added to the core form a new checklist of schedules in order to help organizations identify which schedules the filing organization must complete. The final form also incorporated a new schedule (Schedule O) in response to public comments requesting more opportunity to provide explanations and narrative responses to questions on the core form and in the schedules.

ii. The IRS has also had to provide some transition relief. Not only is the entire form being phased in over a three-year period. Filers of two of the schedules, those for for hospitals (Schedule H) and for tax-exempt bonds (Schedule K) are also getting transition help. Only the portion of the hospital and bonds schedules that provide certain identifying information regarding hospital facilities and bond issues must be completed for 2008. The other portions are optional for 2008 and will not be mandatory until 2009.

2. Schedule A(Public Charity Status and Public Support): Change public support testing period from four years to five years

   a. Motivation for change

      i. Statute requires that 509(a)(1) organizations (publicly supported (general public and governmental units) without consideration of receipts from performing exempt function activities and 509(a)(2) organizations (publicly supported with consideration of receipts from performing exempt functions) be "normally" supported in the prescribed manner, but statute does not define "normally"

      ii. Previous regulations and Schedule A had defined normally as reflecting a rolling four-year computational period with two exceptions: new organizations and organizations that experience "substantial and material changes" in their sources of support for the old year could use a five-year computational period.

      iii. The regulations have now been changed however to mandate a five-year computational period for everyone.

      iv. Permits elimination of the five year advance ruling process since new organizations can show their eligibility for permanent public charity status on Schedule A.

v. The computation rules do not apply to new public charities or to those that were in their advanced ruling period prior to June 9, 2008. All of these are guaranteed public charity status for their first five years of existence.

b. Effect of change

i. This should make retention of public charity status easier because a bad year can be averaged over four others and not only three others. An organization will still forfeit its public charity status only if it fails the test for two consecutive years, but, as in the past, if it fails in the second year, its status is deemed forfeited and its becomes a private foundation as of the beginning of the second year.

ii. The change to five years has been made, however, by adding the taxable year under review to the computation. Thus, for 2008 returns, the relevant years are 2004 through 2008. This change puts a premium on identifying an organization's support early in the tax year. Thus, if the previous rules were in place for 2008, the computational years would have been 2004-2007. By 2009, when the return was being prepared, the organization would know its public support results for 2007 and would presumably have been able to make changes in 2008 to correct for any bad results from the four-year averaging that might have led to a a bad result for the 2008 tax year. Under the old rules, however, the 2008 public support will also figure in the computation for taxable year 2008 and the 2008 public support results might not be known until well into 2009, reducing the time, in the event of a bad result, for taking corrective action for the 2009 tax year.

iii. Moreover, an organization might not know definitively that it had become a private foundation as of the beginning of the previous year until well into the old year.

c. Limited amelioration of effects

i. In order to ameliorate these results to a limited extent, the IRS has indicated that it will not assert private foundation excise taxes and/or penalties for all or part of the first taxable year in which an organization is reclassified as a private foundation due to a failure to satisfy a public support test in cases where "the imposition of such taxes would lead to unfair or inequitable results, such as where the change in the organization's public support was unforeseeable or due to circumstances beyond the organization's control." Such organizations are invited to provide all of the relevant facts and circumstances to the Exempt Organizations Rulings and Agreements section in DC.

ii. The rules also provide a transition rule so that an organization that cannot meet the public support test for its first taxable year beginning on or after January 1, 2008, using the five-year computational period will continue to qualify as a public charity for that year if it satisfied a public support test for its 2007 taxable year, based on public support received over the four-year period 2003 through 2006.

3. Schedule A: Use of accrual method by accrual organizations

    a. Modification of public support test to require that organization use the method of accounting that it uses in keeping its books under section 446 and that it otherwise uses to prepare the rest of Form 990

    b. IRS felt that this would promote uniform and consistent reporting and also reduce the burden that accrual basis taxpayers bore in converting support to a cash basis for the purpose of completing the public support test.

    c. This applies not only to the 2008 support figures but for the support for the entire computation period.

4. Schedule A: Some relief for Form 990-EZ filers.

    a. Completion by Form 990-EZ filers will be made some easier because the form now addresses only public support and public support status. Information previously required by the Schedule has been moved elsewhere

    b. Thus, information about the compensation of independent contractors and highly compensated employees, a private school's non-discrimination policies and practices, lobbying, and transactions or relationships with non-charitable exempt organizations are elicited now in other schedules

    c. Another arguable improvement in the form is the complete bifurcation of the public support tests for 509(a)(1) and 509(a)(2) organizations.

5. Schedule B (Schedule of Contributors): No changes from old form which the IRS must collect under section 6033(b)(5)

    a. Some commentators on the draft form sought an increase in the $5,000 and

$1,000 thresholds which are established by regulation and not by law..

b. IRS has indicated that it is considering increasing the thresholds but they have not been increased on Schedule B.

c. Some commentators on the draft also felt that Schedule B and a new Schedule M, Noncash Contributions, were redundant and should be combined. The new Schedule M collects information soley on non-cash contributions and is intended to amass information on the types and aggregate amounts of non-cash contributions received by an organization and so addresses different compliance concerns.

6. Schedule C (Political Campaign and Lobbying Activities): Limited changes from old form.

a. The form is essentially a consolidation of the information oldly provided in response to Line 89a of the old form and Parts VI-A and VI-B of Schedule A.

b. The principal change is to extend the reporting of political campaign activities and lobbying expenditure reporting to organizations other than 501(c)(3) organizations.

c. The new form asks in Part 1-A for information about volunteer hours. The instructions recite that any reasonable method may be used to estimate this amount.

7. Schedule D (Supplemental Financial Statements): Numerous changes

a. The old form 990 requires numerous unstructured financial statement attachments that are not displayed in the form itself or in a schedule, including from lines 54, 55, and 57, a list of securities and investments on an asset-by-asset basis.

b. The IRS has found that many filers have not been providing the requested information and received comments that, indeed, current bookkeeping and recordkeeping practices do not provide this information.

c. Schedule D retains the need to provide this information but to ease compliance allows reporting by asset types rather than for each specific asset. It also eliminates the need in the old form to provide a detailed schedule of other notes and loan receivables and mortgages and other notes payable.

d. In addition, Schedule D adds new reporting requirements for donor advised funds, conservation easements, escrow accounts, endowment funds, certain art and museum collections, and financial statement reconciliations.

8. Schedule E (Schools): Questions remain the same as on old Schedule A

9. Schedule F (Activities outside the United States): Broadened disclosure

   a. The old firm limited its questions about foreign activity to the inquiry in line 91 regarding foreign bank accounts and offices located outside the country and in Part II, line 22, where organizations were required to check a box if foreign grants were included in the grant totals provided.

   b. Schedule F now elicits information about fundraising, grant making, conduct of a trade or business, exempt activities, or presence of accounts, offices, employees, or other agents outside the United States.

10. Schedule G (Fundraising or Gaming Activities)

   a. The old form required the attachment of a schedule to detail amounts entered on line 9 for special events and gaming and had no threshold for amount of activity that mandated..

b. The new Schedule G incorporates this information with a new section on professional fundraising and expanded questions as to special events and gaming.

c. Some of the burden has been reduced , however, by setting a $15,000 threshold for the reporting of any special events and gaming revenue.

11. Schedule H (Hospitals): Vastly expands disclosure required as to community benefit activities and other service to the public, including charity care and Medicare revenues and costs.

12. Schedule I (Grants and other Assistance in the US)

a. The old form in lines 22 and 23 required attachments to report grants made and assistance provided to individuals and organizations.

b. The new form requires this information for activities in the US. The foreign information is provided on Schedule F).

c. The form also however poses questions regarding an organization's grant-making procedures.

13. Schedule J (Compensation Information): Extensive new reporting requirements.

14. Schedule K (Tax-Exempt Bonds): Expands upon current schedule required

a. In addition to the information previously requested on a schedule by line 64a, the new form seeks information about the investment of the proceeds to confirm no circumvention of existing arbitrage rules, private use in an unrelated trade or business, and compensation to third parties.

b. A new $100,000 bond issue threshold should help smaller issuers.

15. Schedule L (Transactions with Interested Persons): Add new disclosure categories

    a. The old Form 990 required information about loan to and form disqualified persons (insiders), about business transaction involving interested persons, and about excess benefit transactions.

    b. A new part, however, adds disclosure requirements for grants or assistance benefiting interested persons.

16. Schedule M (Non-Cash Contributions): New disclosure

    a. The old form elicited only the contributions information generated by Schedule B.

    b. Because the IRS feels that significant tax compliance problems exist with respect to noncash charitable contributions, the new form imposes new reporting requirements on aggregate noncash contributions received by an organization in 24 specific categories

    c. Organizations must also indicate whether they have a non-standard gift acceptance policy, meaning they evaluate whether certain gifts, e.g., real estate, might be a net financial burden to the organization.

    d. To ease the burden, a $25,000 reporting threshold was established.

17. Schedule N (Disposition of Assets): Expanded disclosure

    a. The old form required a statement to be attached if an organization answered yes to question 79, "Was there a liquidation, dissolution, termination, or substantial contraction during the year?"

    b. The new Schedule requests expanded information so that the IRS can assure thta an organization's assets are used for exempt purposes following a termination, a conversion into a for-profit organization, a significant disposition of assets where the organization continues to exist, and similar transactions.

18. Schedule O (Supplemental Information): Added to meet need for additional space for complete responses to various questions.

19. Schedule R (Related Organizations and Unrelated Partnerships): Expanded disclosures

    a. The old form elicited information about disregarded entities and taxable entities more than 50% owned by the organization and, for charities, about transfers to and transactions and relationships with noncharitable exempt organizations.

    b. The current schedule requires detailed information for reporting relationships with various types of tax entities, notably disregarded entities, exempt organizations, taxable partnerships, taxable corporations, and trusts.