

## Column

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### **IRS Reporting Requirements for Nonprofits Seek Greater Transparency, Accountability**

*The new IRS Form 990 will provide the public, donors, critics, and government with a wealth of additional information about your nonprofit that they have a right to know. As a director or trustee, are you prepared for this enhanced disclosure?*

**By John Moscatelli**

Public perceptions about nonprofit organizations are about to be challenged as expanded data required by the revised IRS Form 990 enters the public domain. Some nonprofits will find themselves fighting challenges to their tax-exempt status — based in part on the very data they reported.

The IRS now requires more detailed reporting on executive compensation (990J) and governance processes (990, Part VI). Directors are well advised to focus on the governance issues the form addresses or assumes.

Some argue the IRS overreaches, without foundation in the tax code to question governance policies. Nothing in law requires organizations to adhere to many of the policies raised by the form's questions. So why raise them?

#### **A Matter of Proof**

The IRS justifies its governance focus through 'implicit jurisdiction.' Well-governed organizations are likely to be in compliance; the less well-governed may find the IRS, and others, taking a harder look at their tax-exempt status. The goal for more explicit reporting is simple: Make nonprofits prove they deserve their tax-exempt status.

Aside from taxpayers' need for transparency in reporting, government entities at all levels seek new tax revenue sources. Challenges are being mounted around the nation, and some nonprofits face real threats of having their tax-exempt status voided.

Directors are the first line of defense. Through proper governance (and documentation), you ensure policies and procedures exist to prevent the organization from slipping into murky, uncharted waters. Through regular reviews, you ensure the organization stays on course. And by carefully checking the Form 990, you present a public-facing document accurately and effectively demonstrating adequate controls, that everything (to continue the nautical metaphor) is shipshape.

## Protective Steps

We haven't the space here to detail all the implications the changes hold for your organization. That's something you need to determine. For some help, click here [http://www.irs.gov/pub/irs-tege/partvi\\_faqs\\_tips\\_05\\_2009.pdf](http://www.irs.gov/pub/irs-tege/partvi_faqs_tips_05_2009.pdf) for IRS FAQs and tips.

To protect your nonprofit's tax-exempt status:

- Have your accountants brief directors on IRS Form 990 changes and their implications for your organization.
- Review copies of 990s for the past several fiscal years. Compare earlier data with that being provided now. Reporting requirements have changed, definitions have changed. Comparing data year-to-year may not be so easy. And if you can't compare data easily, imagine what someone with an ax to grind can do with such data disconnects.
- View the report through an outsider's eyes. Can you understand the data? Does the data reflect well on the organization? Are there "red flags" you ought to address now to show you are alert and self-identified the issue?
- Anticipate potential media interest, especially for open issues. Work with your management and communications teams to be prepared to respond appropriately, at the appropriate level, with the appropriate depth of concern.
- And if you sit on a hospital board, check out the new 990H which takes a deeper dive into detailing the community benefit underlying the hospital's tax-exempt status.

The new IRS Form 990 will provide the public, donors, critics and government with a wealth of additional information about your nonprofit. They have a right to know, and you can win tremendous support and build strong relationships by being prepared, accessible, transparent and accountable.

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