

Tax News & Views Health Care Edition

2015 Form 990 instructions and schedules released

The Internal Revenue Service (IRS) has released the 2015 Form 990, Return of Organization Exempt From Income Tax, and instructions. The Form 990 is used by tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations to provide the IRS with information regarding the organization's activities for the tax year. Significant changes to the 2015 Form 990 and schedules include the following:

Form 990, Return of Organization Exempt From Income Tax

1. The general instructions in Section H, "Failure-to-File Penalties," have been expanded to note that the amounts under Internal Revenue Code (IRC) Section 6652(c)(1) (A) are adjusted for inflation annually. Organizations with annual gross receipts exceeding \$1,015,000 are subject to a penalty of \$100 for each day failure continues (with a maximum penalty for any one return of \$50,500). The amounts noted reflect the inflation adjustment for 2015.
2. The instructions for Part IV, "Checklist of Required Schedules," Line 11 have been expanded to include leasehold improvements as an item to include with other fixed assets in determining whether a Schedule D disclosure is required.
3. The Form 990, Part X, "Balance Sheet," Line 10a has been expanded to include leasehold improvements.
4. The instructions for Part VIII, "Statement of Revenue," have been updated to indicate that the Business Activity Codes should correspond to the 6-digit codes listed on the NAICS website in the NAICS 2012 Census chart.

Schedule A, Public Charity Status and Public Support

1. The instructions for Part IV indicate that the Regulations under section 1.509(a)-4 have been finalized.
2. The instructions for Part V, Section C clarify the first tax year distribution requirement for Type III nonfunctionally integrated supporting organizations. "For purposes of determining whether the organization has an excess of distributions in its tax year that can be carried over to future years, the distributable amount as ordinarily determined applies to every nonfunctionally integrated Type III supporting organization (including an organization that checked the box on line 7 for the current year). The distributable amount as ordinarily determined is reported in Sections C and E."

Schedule D, Supplemental Financial Statements

1. Part II, "Conservation easements," Lines 6 and 7 have been updated to add "handling of violations" to the list of staff and volunteer activities.

Schedule F, Foreign Activities

1. Part IV, "Foreign forms," Lines 2 and 6 have been updated to clarify that the Form 3520 "Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts" and Form 5713 "International Boycott Report" should be filed separately from the Form 990.

Schedule H, Hospitals

1. The instructions note the following under "What's New": "Rev. Proc. 2015-21, 2015-13 I.R.B. 817, provides guidance regarding correction and disclosure procedures for hospital organizations to follow so that failures to meet the requirements of section 501(r) will be excused for purposes of sections 501(r)(1) and 501(r)(2)(B). Section 7 of Rev. Proc. 2015-21 states that certain information must be disclosed in an organization's Form 990. Provide this information in Part VI of Schedule H (Form 990)."
2. The instructions clarify that for purposes of Part I, "Financial Assistance and Certain Other Community Benefits at Cost," Line 7 column (e) should not include any negative numbers. If the net community benefit expense is less than \$0, enter "0." Similarly, do not report a negative percentage in column (f), but enter "0."
3. The instructions for Part I clarify that for group return filers, the "total expense" denominator for purposes of determining the percent of total expense for column (f) is the amount reported on Form 990, Part IX, line 25, column (A) of the group return.
4. The instructions for Part V, "Facility Information," Line 5 were modified to state that this question should be answered "yes" if the hospital facility took into account input from persons who represent the broad interests of the community served by the hospital facility, including at least one state, local tribal, or regional governmental public health department (or equivalent department or agency) or a State Office of Rural Health. This definition now aligns with the requirement as stated in the final regulations under IRC section 501(r).



Find it Fast

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IRS and Treasury issue proposed regulations for supporting organizations

Notification requirement for new and certain existing section 501(c)(4) organizations

Did you know?

5. The instructions for Part V, "Facility Information," Lines 15c and 15d, were updated to indicate that this question should be answered "yes" if the hospital provided contact information of hospital facility staff or a nonprofit organization or government agency "that the hospital facility has identified as an available source of assistance with FAP applications."
6. The instructions for Part V, "Facility Information," Line 17, have been expanded to describe what must be disclosed in the billing and collections policy regarding extraordinary collection activities. This definition now aligns with the requirement as stated in the final regulations under IRC section 501(r).
7. The instructions for Part V, "Facility Information," Lines 18a through 18e and Lines 19a through 19e (regarding extraordinary collection activities), include new guidance to describe when the organization can mark these answers as "yes." These definitions now align with the requirements as stated in the final regulations under IRC section 501(r).
8. The instructions for Part V, "Facility Information," Line 21, have been expanded to explain that a hospital facility may not check "Yes" unless the hospital facility's emergency medical care policy prohibits the facility from engaging in actions that discourage individuals from seeking emergency medical care (e.g., demanding that emergency department patients pay before receiving treatment or permitting debt collection activities that interfere with the provision of emergency medical care). This definition now aligns with the requirement as stated in the final regulations under IRC section 501(r).
9. The instructions for Part V, "Facility Information," Line 23, have been expanded to explain the circumstances in which an FAP-eligible individual must receive a refund of prior payments (if in excess of \$5).
10. The instructions for Part V, "Facility Information," Line 24, have been expanded to clarify that the hospital facility may check "No" if it charged more than the amounts generally billed (AGB) if: the charge in excess of AGB was not made or requested as a precondition of providing medically necessary care to the FAP-eligible individual, the individual had not submitted a complete FAP application, and if the individual subsequently submits a complete application, the hospital refunds any amount that exceeds the amount he or she is determined to be personally responsible for paying.

Schedule K, Supplemental Information on Tax-Exempt Bonds

1. The instructions for Part I, "Bond Issues," have been updated to indicate that if a bond issue was not publicly offered and there is no assigned CUSIP number, then enter zeros in place of the CUSIP number in column (c).

Schedule L, Transactions with Interested Persons

1. The instructions for Schedule L include a new note which states, "the organization should answer "Yes" to Form 990, Part IV, Lines 28a, 28b, or 28c, only if the party to the transaction was an "interested person" as defined in these instructions, and the threshold amounts described in the specific instructions to Schedule L, Part IV (later) are met."

Form 990-T, Exempt Organization Business Income Tax Return

1. The instructions include the following update: "Section 179D deductions. The energy efficient commercial buildings deduction under section 179D has been extended for property placed in service after December 31, 2014. You can claim a deduction for energy-efficient buildings in Part II, Line 28."
2. The instructions include the following update: "Qualified specified payments. The exclusion from unrelated business taxable income for qualified specified payments under section 512(b)(13)(E)(iv) has been extended and shall apply to payments received or accrued after December 31, 2014."
3. The instructions include the following update: "America Samoa economic development credit. The American Samoa economic development credit has been extended and shall apply to taxable years beginning after December 31, 2014, and before January 1, 2017."
4. The instructions on page 1 were updated to include the following reminder: "For tax years beginning after 2013, the following changes apply. The maximum credit for small employer health insurance premiums claimed on Line 44f increases to 35% of premiums paid for tax-exempt eligible small employers. To be eligible for the credit, an eligible small employer generally must pay premiums on behalf of employees enrolled in a qualified health plan offered through a Small Business Health Options Program Marketplace. The credit is available to eligible small employers for a 2 consecutive tax year credit period. For more information, see the Instructions for Form 9941, Credit for Small Employer Health Insurance Premiums."

IRS and Treasury issue proposed regulations for supporting organizations

On February 19, 2016, the IRS and the Department of Treasury ("Treasury") issued proposed regulations [Reg-118867-10] for Type I and Type III supporting organizations.

Background

The Pension Protection Act of 2006 (PPA) imposed new requirements on supporting organizations, which are organizations described in section 509(a)(3).

In 2009, Treasury issued proposed regulations setting forth the requirements to qualify as a Type III supporting organization under the PPA. On December 28, 2012, Treasury issued final and temporary regulations (T.D. 9605) regarding the requirements of a Type III supporting organization.

Proposed regulations

The newly released proposed regulations set forth additional rules on the requirements for Type III supporting organizations, including additional requirements to meet the responsiveness test for all Type III supporting organizations; additional rules regarding the qualification of an organization as a functionally integrated Type III supporting organization under section 1.509(a)-4(i)(4), including provisions for supporting organizations that support governmental entities; and additional rules regarding the required annual distributions under section 1.509(a)-4(i)(5) by a non-functionally integrated Type III supporting organizations. The proposed regulations also define the term "control" for purposes of section 509(f)(2), which prohibits a Type I supporting organization or a Type III supporting organization from accepting contributions from persons who control the governing body of its supported organization(s).

The IRS and Treasury are accepting written or electronic comments on these proposed regulations through May 19, 2016.

Notification requirement for new and certain existing section 501(c)(4) organizations

The IRS issued Notice 2016-09 which provides interim guidance to social welfare organizations which are subject to new notification requirements resulting from the Protecting Americans from Tax Hikes Act of 2015 (the "PATH Act"), enacted on December 18, 2015. The Notice addresses the due date of notifications required to be submitted under new IRC section 506 by social welfare organizations described under section 501(c)(4) and the separate process by which an organization may, at its option, request a determination that it qualifies for section 501(c)(4) tax-exempt status.

The section 506 notification requirement applies to social welfare organizations described in section 501(c)(4) that are established after December 18, 2015, and to certain organizations existing on that date. Treasury and the IRS intend to issue temporary regulations under section 506 describing the manner in which organizations described in section 501(c)(4) must notify the IRS of their intent to operate under section 501(c)(4).

Background

IRC section 501(c)(4) describes organizations "operated exclusively for the promotion of social welfare." Although an organization may apply to the IRS for recognition that the organization qualifies for section 501(c)(4) tax-exempt status, there is no requirement to do so.

Notification requirement

The PATH Act added new IRC section 506, requiring an organization to notify the IRS of its intent to operate as an organization described in section 501(c)(4), and amended sections 6033(f) and 6652(c), relating to required annual information returns by tax-exempt organizations and penalties for failures to file such returns, respectively. Section 506 requires an organization described in section 501(c)(4), no later than 60 days after the organization is established, to notify the Secretary (in the manner prescribed by regulations) that it is operating as a section 501(c)(4) organization.

The notification must include information regarding the section 501(c)(4) organization including its name, address, and tax identification number; the date on which it was organized; the state law under which it was organized; and a statement of purpose of the organization. The IRS must send the organization an acknowledgement of the receipt of its notification within 60 days. A reasonable user fee for submission of the notification may be imposed. There will be a penalty imposed for failure to file such notification.

The notification requirement generally applies to organizations described in section 501(c)(4) that are organized after December 18, 2015. The notification requirement also applies to any other section 501(c)(4) organization that had not, on or before December 18, 2015, 1) applied for a written determination letter using Form 1024, or 2) filed at least one annual information return (such as Form 990, 990-EZ or 990-N). Existing organizations such as these have until June 15, 2016, 180 days after the date of enactment of the PATH Act, to submit the notification to the IRS.

Extension of time to submit notification

Until the IRS and Treasury issue temporary regulations regarding the notification process, the IRS is extending the due date for submissions. The extended due date for the notification will be until at least 60 days from the date the temporary regulations are issued.

Additionally, until further guidance is issued, organizations requesting IRS recognition of exempt status under section 501(c)(4) should continue to use the Form 1024.

Did you know?

Form 990-N submission website changed as of February 29

Beginning February 29, 2016, the Form 990-N (*Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or Form 990-EZ*) electronic submissions will be accepted through IRS.gov instead of Urban Institute's website. Form 990-N is used by small, tax-exempt organizations for annual reporting and can only be submitted electronically. Organizations may use Form 990-N if their annual gross receipts are normally \$50,000 or less. Form 990-N filers will be required to complete a short, one-time registration before submitting their electronic form to IRS.gov

Limited penalty relief for filers of Form 1098-T, Tuition Statement

IRS Announcement 2016-03 provides notice that the IRS will not impose penalties under IRC section 6721 or 6722 on eligible educational institutions required to file Forms 1098-T, *Tuition Statement*, for the 2015 calendar year, solely because they fail to include a student's correct taxpayer identification number on Form 1098-T. This announcement is limited to 2015 Forms 1098-T required to be filed by eligible educational institutions by February 29, 2016, or March 31, 2016 (if filed electronically).

Changes to IRS Advisory Committee on Tax-Exempt and Government Entities

The IRS recently announced changes to its Advisory Committee on Tax-Exempt and Government Entities (ACT). Historically, the ACT has operated as a group of external stakeholders who advise the IRS on operational policy, programs, and procedural improvements with respect to each of the five TE/GE functions (employee plans; tax-exempt organizations; tax-exempt bonds; federal, state, and local governments; and Indian Tribal governments). Recent changes to the ACT include a reduction in the number of people on the committee and a revision to its focus. Going forward, the ACT's focus will be on tax administration issues in general encountered TE/GE-wide, rather than a compartmentalized focus on the five TE/GE functions. The number of ACT committee members will be reduced from 21 down to 15 beginning in June 2016.

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State income taxation of pass-through entities: Navigating the complexities March 1 2:00 PM ET

Today's corporate organizational structures often include pass-through entities. What should tax executives know about the increasingly complex state tax treatment of partnerships and limited liability companies? Keep up to date on this important and complex area of state taxation.

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Business Strategy & Tax

Global business expansion: Tax considerations for finance executives March 7 2:00 PM ET

With increasing confidence in the economy, companies are looking to grow revenues and increase profitability by expanding sales and operations into new geographies. What should financial executives know about tax implications associated with global expansion? Learn about the important role that tax planning may play in your company's growth.

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Federal Tax

Subchapter C update: Recent developments and opportunities March 8 2:00 PM ET

The Subchapter C area of tax focuses on the taxation of corporate transactions, including acquisitions, incorporations, domestic and international reorganizations, liquidations, distributions, redemptions, and dispositions. What are some of the recent technical developments, opportunities, and marketplace trends in the Subchapter C area that can impact your company? Learn about the latest developments in the Subchapter C area and the potential implications for your company's corporate tax transactions.

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Health Sciences

New approaches to chronic disease management March 15 1:00 PM ET

Health care providers and health plans have promoted disease management programs for decades. However, the changing health care environment has provided incentives for more stakeholders to get involved in chronic disease management (CDM). Explore the incentives, trends, and potential of CDM programs and how CDM offers the opportunity to improve health and reduce costs to the health care system.

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Tax Controversy

Equitable considerations in tax controversies: Remedies beyond the Internal Revenue Code March 16 2:00 PM ET

Both taxpayers and the IRS can find themselves in situations where application of the Internal Revenue Code and Treasury Regulations can create unintended results or inequitable outcomes. Over the years, courts have developed equitable doctrines to remedy some inequitable outcomes. It is helpful for taxpayers and tax practitioners to have a basic understanding of the elements of these doctrines and potential areas where they could be applicable. Gain a better understanding of equitable principles and considerations.

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HR Executives

Leadership development: Unleashing your organization's potential March 16 2:00 PM ET

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Developing insightful management information: Opportunities and challenges for CFOs March 23 3:00 PM ET

Finance's ability to provide insights for decision-making is fast becoming a competitive advantage. What role do CFOs play in developing management information, a vital element of finance's ability to provide those insights? Learn results of a recent Deloitte survey of over 600 senior finance executives from around the world and how they are producing actionable management information.

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Financial accounting and reporting for income taxes: Current developments and interim reporting complexities March 28 2:00 PM ET

The financial accounting rules applicable to accounting for income taxes in interim and annual periods are different. Tax legislation and standard-setting developments can potentially impact a company's financial accounting and reporting of income taxes in both periods. What are the latest changes that may be important to consider, and what do you need to know to prepare for the complexities of interim financial reporting? Gain valuable insights on the latest developments and areas of complexity related to interim financial reporting for taxes.

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Tax Operations

Tax operations planning for business combinations and carve-outs: Expect the unexpected March 31 2:00 PM ET

Tax departments often underestimate the amount of incremental work associated with preparing for and operationalizing M&A and carve-out transactions. What common issues create this level of incremental demands for tax departments? Learn valuable ways to prepare for the burdens these specific business transactions can place on tax departments.

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