Deloitte.

Vol. 12 No. 2
February 2014

Tax News & Views
Health Care Edition

Form 990: 2013 significant changes

The Internal Revenue Service (IRS) has released the 2013 Form 990, Return of Organization Exempt from Income Tax, and instructions. The IRS made a number of changes to the Form 990 and instructions to modify and clarify certain reporting requirements. Significant changes include:

General Instructions:

- Clarify that a short period return cannot be filed electronically unless it is an initial or final return for which the "Initial return" or "Terminated" box is checked in Item B of the Form 990 Heading.
- Explain that if a Form 990-N filer changes its accounting period, it must report this change either on Form 990/990-EZ or Form 1128, or by sending a letter to the IRS.
- Clarify that organizations that change their accounting period must report any adjustment required by section 481(a) in Parts VIII through XI of Form 990 and in Schedule D (Form 990), Parts XI and XII, as applicable.

Instructions for Heading. Items A-M:

- Clarify what documentation must be attached to Form 990 to support an organization's name change.
- Clarify what documentation must be attached to Form 990 by an organization that has terminated, dissolved, merged, or had its exemption revoked by the IRS.

Part IV, Checklist of Required schedules:

- Line 2 instructions clarify when a public charity can exclude from Schedule B contributors that fall below the greater-than-$5,000/2% threshold.
  - ***Observation:*** *For 2013, an organization filing Schedule B can limit the contributions it reports on Schedule B using the greater-than-$5,000/2% threshold only if it checks the box on Schedule A, Part II, Line 13, 16a or 16b. Therefore, an organization reporting Schedule B using such threshold must complete Schedule A, Part II to demonstrate that it meets the public support test.*
- Line 25b instructions clarify when an organization needs to answer "Yes" to report that it became aware of an excess benefit transaction with a disqualified person in a prior year.
- Line 26 clarifies that the organization must file Schedule L, Part II if it reported any amounts on Part X, line 5, 6, or 22 for receivables from or payables to interested persons.

Part VI, Governance, Management, and Disclosure:

- Line 3 instructions clarify what compensation from a management company to interested persons should be reported in Schedule O.

Part VII, Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors:

- Clarify that directors' compensation for non-director independent contractor services to the organization and related organizations must be reported in Section A.
- Clarify that compensation from a management company to an officer, director, trustee, key employee, or highest compensated employee is generally not reportable in Section A.

Part VIII, Statement of Revenue:

- Line 1 instructions clarify that discounts on services cannot be reported as contributions.
- Line 10b instructions clarify the costs of goods sold to be reported on this line.

Part IX, Statement of Functional Expenses:

- Line 11 instructions clarify how to report expense payments and reimbursements to contractors.

The Glossary:

- Clarifies that "contributions" include neither donations of services nor discounts provided on sales of goods in the ordinary course of business.
- Includes a new definition of "domestic individual."
- Clarifies when a VEBA is reported as a "related organization" by its contributing employers and sponsoring organizations that file Form 990.

Appendix D, Public Inspection of Returns:

- Clarifies that public inspection and disclosure requirements apply to both original and amended returns.

Appendix E, Group Returns:

- Clarifies how to determine, for purposes of a group return, whether a diversion of a subordinate's assets meets the 5%/$250,000 threshold for Part VI, line 5.
- Clarifies when to report business transactions between subordinates and their interested persons in Schedule L, Part IV.

Find it Fast

Appendix F, Disregarded Entities and Joint Ventures:

- Clarifies when to treat a single-member LLC as a disregarded entity of its sole member/owner.

Schedule A, Public Charity Status and Public Support:

- Clarifies the requirements for functionally integrated and non-functionally integrated Type III supporting organizations, including the transition rules for how those organizations can meet the integral part test for tax year 2013.
  - ***Observation:*** *On December 28, 2012, new final and temporary regulations were issued regarding the rules governing qualification for Type III supporting organization status. Type III supporting organizations must meet a notification requirement, responsiveness test, and integral part test. In order to comply with the annual notification requirement, notice must be submitted to each supported organization by the last day of the fifth month after the end of the tax year (May 31 for calendar-year filers).*
- Cautions Type III non-functionally integrated supporting organizations to value their non-exempt-use assets for the 2013 tax year.

Schedule D, Supplemental Financial Statements:

- Part IV instructions clarify that filers should explain in Part XIII any credit counseling, debt management, credit repair, or debt negotiation services the organization provided.
- Part VIII is revised to require a description of each program-related investment on a separate line of the Part VIII table.

Schedule F, Statement of Activities Outside the United States:

- Provides that a filer does not need to report in Part I its investments in entities domiciled overseas but traded on a U.S. stock exchange.
- Renames the region formerly known as "Russia and the Newly Independent States" as "Russia and Neighboring States."
- No longer requires that filers explain how they estimate the number of recipients reported in Part III, column (c).
- Clarifies that Forms 3520, 3520-A, and 5713 should not be attached to Form 990.

Schedule H, Hospitals:

- Part I, line 7 community benefit table instructions now require that restricted grants received by the hospital to be used for community benefit must be reported as direct offsetting revenue in Part I, line 7, column (d).
  - ***Observation:*** *Previously, the IRS allowed both restricted and unrestricted grants used to provide a community benefit to be excluded from direct offsetting revenue. For 2013, only unrestricted grants are excluded from direct offsetting revenue. Restricted grants from an unrelated organization, such as those to provide financial assistance or fund research, must now be reported as direct offsetting revenue.*
- Instructions for Part I, line 7i and Worksheet 8 are revised to allow reporting of contributions for community benefit funded in whole or in part by a restricted grant from a related organization.
- Part I instructions clarify that financial assistance does not include self-pay or prompt pay discounts.
  - ***Observation:*** *Financial assistance includes free or discounted health services provided to persons who meet the organization's criteria for financial assistance and are unable to pay for all or a portion of the services. However, for 2013 the IRS clarifies that this does not include any self-pay or prompt pay discounts.*
- Part V, Section A provides that an organization must list the state license number for each of its hospital facilities.
- Provides that a hospital organization that completes Part V, Section B for one or more hospital facilities must complete a separate Part V, Section C for each of those facilities.
  - ***Observation:*** *Part V, Section C is a new addition to Schedule H and is used to report certain information that was previously reported on Part VI*.
- Part V, Section B includes a new line 12, which needs to be checked if the hospital facility considered "residency" as a factor in calculating amounts charged to patients during the year.

Schedule I, Grants and Other Assistance to Organizations, Governments, and Individuals in the United States:

- Instructions provide new definitions of domestic organizations, domestic governments, and domestic individuals.

Schedule J, Compensation Information:

- Clarifies that the organization may check a box in line 3 if it relied on a compensation consultant that used a method described in that box.
- Clarifies that a severance payment reportable on Part I, line 4a includes a payment pursuant to a separation agreement entered into by the parties.
  - ***Observation:*** *A severance payment includes a payment either upon an involuntary separation from service or pursuant to a separation agreement voluntarily entered into by the parties.*
- Explains what information must be reported for unrelated organizations that provided compensation to officers, directors, trustees, key employees, and highest compensated employees.

Schedule K, Supplemental Information on Tax-Exempt Bonds:

- Part III, line 7 instructions explain when a qualified 501(c)(3) bond issue will meet the private security or payment test.
- Includes new instructions for Part III, lines 8a, 8b, and 8c regarding the sale or disposition of bond-financed property.

Schedule L, Transactions With Interested Persons:

- Clarifies that for purposes of Part III, 35% controlled entities may be controlled by family members of officers, directors, trustees or key employees.
- Explains when a foreign organization may be treated as a 501(c)(3) charity for purposes of Part IV reporting exceptions.

- Clarifies that investment management or service fees, but not the value of investments, are reportable as business transaction amounts in Part IV.

Schedule N, Liquidation, Termination, Dissolution, or Significant Disposition of Net Assets:
- Instructions clarify what documentation must be attached to Form 990 upon liquidation, termination, dissolution, or merger.

Schedule R, Related Organizations:
- Clarifies when a VEBA is reported as a "related organization" by its contributing employers and sponsoring organizations that file Form 990.
- Provides that Part IV, column (e) does not have to be completed for 4947(a)(2) split-interest trusts.

Charitable hospitals may rely on proposed regulations pending further guidance

The IRS recently released Notice 2014-2 addressing tax-exempt hospitals' reliance on proposed regulations under Section 501(r). Hospitals that are exempt under Section 501(c)(3) must comply with the requirements under Section 501(r) that were enacted as part of the Patient Protection and Affordable Care Act in 2010. Section 501(r) established requirements regarding a hospital's community health needs assessment, financial assistance, and billing and collections. Proposed regulations under Section 501(r) were published on June 26, 2012 and April 5, 2013.

A hospital organization must comply with the statutory requirements of Section 501(r), which are already in effect for tax years beginning after March 23, 2010. The 2012 and 2013 proposed regulations represent, in the view of the Treasury Department and the IRS, a reasonable interpretation of the statute. Hospital organizations are not required to comply with proposed regulations; however, Notice 2014-2 confirms that hospitals may rely on the proposed regulations pending the publication of final or temporary regulations. For additional information regarding Section 501(r) and compliance with the proposed regulations, contact a Deloitte Tax LLP professional.

IRS issues proposed correction procedures for failures to meet new requirements for charitable hospitals

IRS Notice 2014-3 contains a proposed revenue procedure that provides correction and disclosure procedures for certain failures to meet the requirements of Section 501(r). Section 501(r) imposes additional requirements on charitable hospitals. To provide an incentive for hospitals to take steps not only to avoid failures, but to remedy and disclose them when they occur, the 2013 proposed regulations under Section 501(r) specify that certain failures will be excused if the hospital corrects and discloses the failure in accordance with IRS guidance. Notice 2014-3 provides the IRS' proposed guidance. The IRS is requesting comments on the proposed revenue procedure through March 14, 2014.

Under the proposed guidance, a hospital organization would correct a failure under Section 501(r) by restoring affected persons to the position they would have been in had the failure not occurred. In addition, the hospital would implement or modify practices and procedures to achieve compliance with the requirements of Section 501(r). The proposed guidance includes various examples of corrective action, such as "a hospital that failed to adopt a CHNA report that contains all of the elements required by [Section 501(r)] may correct the failure by preparing and adopting a CHNA report containing all of the required elements and making the corrected CHNA report widely available on a Web site."

The proposed guidance would also require a hospital to disclose any failures on Schedule H, Hospitals, of its Form 990 for the tax year in which the failure is discovered. Disclosure would include a description of the type of failure, the hospital facility where the failure occurred, the date(s) of the failure, the number of occurrences, the number of persons affected, and the dollar amounts involved. In addition, the hospital would describe the corrective action taken and any practices and procedures that were revised or newly established to minimize future failures.

Automatically revoked organizations have new options to apply for reinstatement

Organizations that have had their tax-exempt status automatically revoked for failure to file required annual returns or notices for three consecutive tax years may follow one of four new procedures to apply for reinstatement of their tax-exempt status:

1) Streamlined retroactive reinstatement for small organizations within 15 months of revocation (for organizations eligible to file either Form 990-EZ or 990-N)
2) Retroactive reinstatement of tax-exempt status within 15 months of revocation (for organizations other than small organizations)
3) Retroactive reinstatement more than 15 months after revocation
4) Reinstatement of tax-exempt status from post-mark date

In general, organizations seeking reinstatement must file an application for exemption (Form 1023) and demonstrate reasonable cause by attesting that the organization's failure to file was not intentional and that it has put in place procedures to file in the future. For specific procedures related to each of the four options, refer to Revenue Procedure 2014-11.

Revenue Procedure 2014-11 is effective for applications submitted after January 2, 2014. To the extent the rules in the revenue procedure benefit an organization's ability to have its tax-exempt status retroactively reinstated, the IRS will apply the new revenue procedure to applications that it has already received and are pending.

Interim guidance for Type III supporting organizations of a governmental entity

Notice 2014-4 provides interim guidance for Section 509(a)(3) Type III supporting organizations seeking to qualify as functionally integrated by supporting a governmental entity. The notice also modifies Notice 2006-109 by providing interim guidance to certain grantors in determining whether a potential grantee is a Type I, Type II, or functionally integrated Type III supporting organization for excise tax purposes.

On December 28, 2012, the Treasury Department and the IRS issued final and temporary regulations that set forth the requirements to qualify as a functionally integrated Type III supporting organization. One way to qualify as functionally integrated is to support a governmental entity. When the regulations were issued, the section on supporting a governmental entity was marked as "reserved," pending future final regulations. In the interim, organizations may now follow the transitional rules in Notice 2014-4. A Type III supporting organization will be treated as functionally integrated and supporting a governmental entity if it:

1) Supports at least one supported organization that is a governmental entity to which the supporting organization is responsive, and
2) Engages in activities for or on behalf of the governmental supported organization that, but for the involvement of the supporting organization, would normally be engaged in by the governmental entity itself.

The transitional rule is applicable until final regulations are published.

Did you know?

Current guidance on user fees for employee plans and exempt organizations

On January 2, 2014, the IRS issued Revenue Procedure 2014-8, which provides guidance on user fees for employee plans and exempt organizations and is a general update to Revenue Procedure 2013-8. Exempt organization user fees apply to requests for letter rulings, determination letters, group exemptions, and other requests.

IRS issues revenue procedures for 2014

The IRS has issued various revenue procedures for 2014 regarding procedures for letter ruling requests (Rev. Proc. 2014-4), procedures for technical advice requests (Rev. Proc. 2014-5), procedures for issuing determination letters on exempt status (Rev. Proc. 2014-9), and procedures for issuing determination letters on private foundation status (Rev. Proc. 2014-10).

Cafeteria plan guidance for same-sex couples

Notice 2014-1 provides guidance on the application of the rules under Section 125 (regarding cafeteria plans, including health and dependent care flexible spending arrangements) and Section 223 (relating to health savings accounts), as those two provisions relate to the participation by same-sex couples in certain employee benefit plans.

2014 standard mileage rates announced

Beginning on January 1, 2014, the standard mileage rates for the use of a car, van, or truck are:

- 56 cents per mile for business miles driving,
- 23.5 cents per mile driven for medical or moving purposes, and
- 14 cents per mile driven in service of charitable organizations.

Notice 2013-80 provides additional information on using the standard mileage rates.

Deloitte Thoughtware

Health Reform. The health reform bills (HR3590 and HR4872) are now law and will trigger sweeping changes and disruptions — some rather quickly and some over many years. The industry is asking, "What now?" At Deloitte, we continue to explore and debate the specific questions facing the industry, and we look forward to helping our clients find and implement the appropriate answers for their organizations. To learn more, visit Health Care Solutions on the Deloitte website.

Health Care Regulation. With quality in the spotlight on a national level, hospitals across the country are renewing their commitment to confirming that their services meet the core measures for quality set by the government and that internal controls are in place to help determine that the collection and reporting of quality data is accurate, complete, and compliant with government reporting requirements. The financial and operational impacts of regulation and legislative oversight in the life sciences and health care industries are pervasive and constantly changing. @Regulatory is a monthly publication that apprises readers of the latest regulatory, legislative, and other public policy developments affecting life sciences and health care organizations. Visit @Regulatory on the Deloitte website.

Deloitte Dbriefs

Deloitte Dbriefs are live webcasts that give you valuable insights on important developments affecting your business. Register for the following webcasts or view archived recordings by clicking on the respective hyperlinked button below.

Financial Executives

Charting a New Course: How Procurement Will Be Transformed by 2020 *February 19, 3:00 PM ET*

Procurement in 2020 could look very different than it does today, changing how financial executives look at procurement as a corporate function and competence. How can organizations that embrace new procurement models gain significant advantage over the competition? We'll discuss:

- How tomorrow's procurement function can be integral in supporting growth and driving bottom line performance.
- Ways that the procurement function can help identify and mitigate supplier and company risk.
- Talent implications of this evolution and the need for stronger alignment between finance, procurement, and the broader business.

Learn about the procurement renaissance taking place and how your company can take advantage of these changes.

Register or View Archive

Supply Chain Forensics: Identify Fraud, Waste, and Abuse in Your Organization *February 26, 2:00 PM ET*

For many companies, the supply chain represents both the largest source of cash outflows and interaction with outside business entities, so it can harbor many fraud, waste, and abuse-related risks. How can you leverage data analytics and forensic accounting to combat these risks? We'll discuss:

- Developing tailored criteria-based processes to help evaluate the relative risk value of your vendor relationships.
- Detecting and mitigating potentially costly risks, while also identifying opportunities to boost the organization's bottom line.
- Identifying and eliminating fraud, waste, and abuse perpetrated by your employees or your company's vendors.

Learn how leading companies employ supply chain forensics to mitigate risk and increase shareholder value.

Register or View Archive

The Real Deal with Big Data: What Are the Right Analytics? *February 27, 2:00 PM ET*

Executive teams face myriad opportunities and risks surrounding big data. Boards and financial executives should understand what big data is, why it matters, and where high-value applications of analytics may be found. Are our board and management team making the most out of big data? We'll discuss:

- A practical and useful definition of big data and associated opportunities and challenges.
- A process to help management focus on strategic analytics for risk management purposes.
- Considerations for leveraging analytics to help guide management toward high-return activities.

Learn how strategic analytics, applied to big data, can help detect opportunities and risks for your business.

Register or View Archive

Analytics Trends: What Does the Future Hold for CFOs? *March 19, 3:00 PM ET*

With analytics already an important tool for many companies, what's next? How can CFOs use analytics to create new competitive advantage and enterprise value? We'll discuss:

- Current power users of analytics, including finance, marketing, and sales functions, and how CFOs can leverage the results.
- Emerging opportunities for analytics, including accessing new data sources, more advanced technology, and ways CFOs can influence and support decision-making across the business.
- Common barriers to widespread adoption, including data quality, IT infrastructure, alignment between initiatives, and skill sets.

Hear results of the Deloitte Analytics Advantage survey to learn about analytics trends and valuable insights to help guide CFOs next year.

Register or View Archive

Getting Smart About Smartphone Technology *March 26, 2:00 PM ET*

With the growing popularity of bring your own device policies, smartphones now provide millions of employees with real-time access to both business and personal information. To mitigate risk and facilitate digital compliance, organizations should know what type of business information resides on employee smartphones and ways to preserve smartphone data for litigation, regulatory, or investigation matters. We'll discuss:

- Differences between data preservation on smartphones and computers and the impact this can have on organizations.
- Applications that may pose a data security risk to your organization.
- Potential challenges of smartphone data preservation.

Gain insights on how to protect your organization better in a world of changing technology.

Register or View Archive

Fee-for-Service, Now Leaving the Station – Next Stop, Value-Based Care February 11, 1:00 PM ET

The transformation of the health care system through health care reform has fast-tracked the transition from fee-for-service to quality-based reimbursement. What are some recent developments that health system stakeholders should consider? We'll discuss:

- New and emerging frameworks for thinking about innovations required to begin paying for outcomes.
- Approaches current innovators are using to identify technologies and capabilities to manage the transition to quality-based reimbursement.
- How non-traditional players, such as retailers, employers, and financial institutions, will begin to shape the industry in new ways.

Explore potential implications these rapidly evolving models of reimbursement and care can have on consumers, new entrants, and the health care industry as a whole.

Register or View Archive

Visualizing Resilience: Embracing Today's Technologies to Enable Real-Time Decision Making February 19, 2:00 PM ET

Despite technology advances, organizations still don't fully leverage new capabilities as they prepare for, respond to, and recover from crises. How can organizations use visualization applications and the enormous amounts of data available to them for real-time decision-making? We'll discuss:

- Ways that situational awareness can support proactive management of crises and enable real-time decision making.
- Understanding and visualizing risks and challenges across the resilience life cycle.
- Integrating various data sources for a broad view of readiness levels, key indicators, crisis response, and status of recovery efforts before, during, and after a crisis.

Explore the art of the possible for resilience data visualization.

Register or View Archive

Health Care Technology Trends: Welcome to the Future March 11, 1:00 PM ET

The health care industry is likely to be in a state of flux responding to the democratization of medical knowledge, the consumerization of health care, and big data's impacts. What do these changes mean for health care stakeholders?
We'll discuss:

- Emerging technology trends changing how the health care system operates and delivers care, including mHealth, analytics, and new care settings.
- Implications for the industry, including security and privacy, mobile device management, and new solutions to old problems.
- How the health care industry can capitalize on these emerging trends.

Explore technology innovations from Deloitte's annual Technology Trends report that could transform health care and ultimately improve consumers' health.

Register or View Archive

Succession Management: Building Your Organization's Bench Strength March 18, 2:00 PM ET

By 2016 an estimated one-third of the federal workforce, including many in the Senior Executive Service, will be eligible for retirement. With similar estimates for state and local governments, the public sector faces a looming talent challenge. Are you ready? We'll discuss:

- Key elements and guiding principles of succession management.
- A six-step process that can help build your agency's bench strength.
- How immersive learning techniques can help develop the next generation of leaders, and how some agencies have begun to reap rewards from their cohesive pipeline-development strategies.

Learn about pitfalls that can limit the potential of your talent development program and drivers that can improve it.

Register or View Archive

HR Executives

Unlocking the Explorer's Passion: Develop Talent Your Company Can't Live Without *February 12, 2:00 PM ET*

Facing today's rapid change, companies need workers who embrace challenges, connect with others to find solutions, and are committed to making an impact in their domain. So why do only 11 percent of U.S. workers possess these critical attributes? We'll discuss:

- Hiring for dispositions rather than skills to help weather challenges and discover opportunities.
- Developing talent through meaningful and challenging on-the-job learning opportunities rather than traditional training programs and employee engagement efforts.
- How legacy institutional practices designed to maximize predictability may actually squelch passion.

Based on results of a recent Deloitte survey, learn how to identify passionate workers in your organization and cultivate these behaviors throughout your workforce.

Register or View Archive

High-Impact HR: What's Holding Organizations Back? *March 12, 2:00 PM ET*

Organizations have transformed their HR functions for years to be more strategic partners to business units. So why haven't more HR organizations achieved true, high-impact HR? We'll discuss:

- Drivers of high-impact HR, including globalization, diversification of business strategies, and the war for top talent.
- Considerations for effective HR transformation, including HR's role as business partner, the value of analytics and internal and external data, and establishing the case for change.
- HR structures that help drive and maintain business alignment.
- Five emerging trends that may constitute the next wave of HR transformation.

Hear results of research from Bersin by Deloitte to learn how companies are achieving high-impact HR.

Register or View Archive

Contacts

Please contact your local Deloitte Tax LLP provider for more information on our services.

Fran Bedard — Nashville
fbedard@deloitte.com
+1 615 259 1811

Lori Boyce — Detroit
lboyce@deloitte.com
+1 313 396 3324

Jeff Frank — Indianapolis
jdfrank@deloitte.com
+1 317 656 6921

Margaret Grinnell — Chicago
mgrinnell@deloitte.com
+1 312 486 9025

William Homer — Philadelphia
whomer@deloitte.com
+1 215 299 4642

Christine Kawecki — Jericho
ckawecki@deloitte.com
+1 516 918 7138

Tom Kromer — Columbus
tkromer@deloitte.com
+1 614 229 4705

Frank Neczypor — Boston
fneczypor@deloitte.com
+1 617 437 2728

Diana McCutchen — Costa Mesa
djmccutchen@deloitte.com
+1 714 436 7702

Mary Rauschenberg — Chicago and Washington National Tax
mrauschenberg@deloitte.com
+1 312 486 9544

Steve Rovner — Tampa
srovner@deloitte.com
+1 813 273 8355

John W. Sadoff, Jr. — Atlanta
jsadoff@deloitte.com
+1 404 220 1352

Jim Sowar — Cincinnati
jsowar@deloitte.com
+1 513 784 7242

Mike Walton — San Francisco
mwalton@deloitte.com
+1 415 783 6424

Yvette Woods — McLean
ywoods@deloitte.com
+1 703 251 1420

Sharon Zorbach — San Jose
szorbach@deloitte.com
+1 408 704 2063