

**CLIENT ADVISORY**

**IRS PROPOSES REVISIONS TO FORM 990**

On June 14, 2007, the United States Internal Revenue Service (“IRS”) released for public comment a revised Form 990 that could have a significant impact upon tax-exempt organizations, particularly those that provide medical or hospital care. The revised Form 990 represents the most significant changes to the Form 990 since 1979. The current Form 990 consists of a 9-page core and Schedule A and B (with 36 possible attachments). The revised Form 990 contains a core form of 10 pages and 15 potential schedules. According to the IRS, the development of the revised Form 990 was based on three guiding principles: enhancing transparency to provide the IRS and the public with a realistic picture of the organization; promoting compliance by accurately reflecting the organization’s operations so the IRS may effectively assess the risks of non-compliance; and minimizing the burden on filing organizations. This Client Advisory<sup>1</sup> provides an overview of the highlights of the revised Form 990.

**SUMMARY PAGE**

The revised Form 990 includes a “Summary Page”, which sets forth an organization’s identifying information and an overview of the organization’s key financial, compensation, governance and operational information. The Summary Page will provide a breakdown of an organization’s revenues, expenses, assets, liabilities and net assets. All of the items reported in the Summary Page will be derived from information provided elsewhere in the revised Form 990.

**CORE FORM**

Similar to the current Form 990, the revised Form 990 requires an organization to list on its core form each officer, director, trustee or key employee of the organization. As to compensation information, however, the core form of the revised Form 990 only requires the reporting of basic compensation drawn from W-2 reporting (for employees) and Form 1099

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<sup>1</sup> IRS Circular 230 Disclosure:

To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any U.S. federal tax advice contained within this communication (including any attachments) was not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

reporting (for directors and other independent contractors). The core form of the revised Form 990 also requires each organization to provide certain information regarding the composition of its governing body, certain of its governance and financial statement practices and the means by which the organization is accountable to the public by making certain governance information available to the public.

### **COMPENSATION DISCLOSURES**

Despite the simplification of compensation reporting on the core form of the revised Form 990, Schedule “J” of the revised Form 990 will require more detailed reporting of total compensation for the following:

- (1) Former (based on the organization’s prior five annual returns) officers, directors, key employees and highly compensated employees whose reportable compensation from the organization and all related organizations exceeds \$100,000;
- (2) Current or former officers, directors, key employees and highly compensated employees whose reportable compensation from the organization and related organizations exceeds \$150,000;
- (3) Current or former officers, directors, key employees and highly compensated employees who have received more than \$250,000 in the aggregate of reportable compensation, plus deferred compensation and other benefits and expense reimbursements not reported on Forms W-2 and 1099; and
- (4) Current or former officers, directors, key employees and highly compensated employees who received compensation for services rendered to the organization from any source other than the organization and related organizations.

Schedule “J” also requests specific information regarding travel and entertainment expenses.

### **SCHEDULE “H” - HOSPITALS**

Perhaps the most important change to the revised Form 990, from the perspective of a hospital, is the addition of a new Schedule which must be completed by organizations that operate a facility that provides hospital or medical care. Schedule “H” of the revised Form 990 seeks to address what the IRS perceives as a lack of transparency surrounding the activities of tax-exempt organizations that provide hospital or medical care. (Certainly each Member Hospital of Caritas Christi will be required to complete a Schedule “H”. It is yet unclear as to whether Caritas Christi, by reason of its position as the member of each Caritas Christi Member Hospital, will be required to complete a Schedule “H”.) Schedule “H” requires information on community benefits, billing and collection practices and an organization’s participation in

management companies and joint ventures. Interestingly enough, in an attempt to quantify the community benefit standard applicable to tax-exempt hospitals, the IRS chose to utilize the Catholic Health Association's Community Benefit Reporting Model. The model includes utilizing worksheets designed to calculate the net cost of charity care.

### **SCHEDULE "K" – TAX-EXEMPT BOND PROCEEDS**

Schedule "K" of the revised Form 990 includes specific questions regarding the use of tax-exempt bond proceeds. Specifically, the IRS is seeking to determine post-issuance compliance with the tax-exempt bond private use requirements. The Internal Revenue Code requires that at least 95 percent of the net proceeds of a tax-exempt bond be used for the tax-exempt activities of the organization. Therefore, no more than 5 percent of the net proceeds of the bond issuance may be used for private business use.

### **CONCLUSION**

The revised Form 990 can be found at: [www.irs.gov/charities/article/o,,id=171213,00.html](http://www.irs.gov/charities/article/o,,id=171213,00.html). The IRS is accepting public comments on the revised Form 990 through September 14, 2007, and anticipates using the revised Form 990 for the 2008 tax year (returns filed in 2009).

The Rogers Law Firm will continue to monitor any new developments with respect to the revised Form 990 and will provide updates accordingly. In the meantime if you have any questions regarding the revised Form 990, please don't hesitate to contact any of the attorneys at The Rogers Law Firm.