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**2008 IRS Form 990**  
**Lessons learned**

**HFMA - Tyler**  
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Nancy Evetts  
Deloitte Tax LLP  
Director – Tax  
713 982 2291  
[nevetts@deloitte.com](mailto:nevetts@deloitte.com)

Sriram "Ram" Srinivasan  
Deloitte Tax LLP  
Manager – Tax  
214 840 1058  
[srsrinivasan@deloitte.com](mailto:srsrinivasan@deloitte.com)

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## Agenda

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- Overview and Background
- Core Form
- Schedules
- Concluding comments

## Overview

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- Background
- Implications of electronic filing
- Potential users of the information
- Disclosures could cause public embarrassment as well

## IRS initiatives

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Consider Form 990 disclosures in light of these current IRS initiatives

- International
- Employment
- Spending Indicator Project Commensurate Test
- Fundraising compliance checks
- Is good governance good compliance?
- Colleges/Universities
- “Data Mining” for audits
- Failure to answer questions grounds for deeming return “incomplete”

## Form considerations

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- Did the IRS get the Form right the first time?
  - There are many areas that are not clear.
  - The return is very complex and includes many nuances that are not intuitive just by looking at the form itself
  - Several FAQ's were issued, right up to the 11/15 filing deadline to “clarify” many of the schedules
- 2009 instructions – many important changes, including:
  - Significant changes in PSAs/organizing docs, termination of activities – report on form, not in letter to EO Determinations
  - New option to indicate inclusion in consolidated financial statements
  - Leave Questions 1c, 7g, and 7h blank if N/A
  - New business codes appendix for PSR and misc. revenue
  - Clarification on reporting related org., leased employee, and common paymaster comp.
  - Schedules H and K– ALL parts must be completed
  - If single publicly traded stock > 5% of total assets, list as “other security”
  - Foreign activity/investment reporting
  - Glossary updated definitions including “control”, “escrow and custodial accounts”, “related organization”, and “reportable compensation”

## Approach to the return

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- In light of the 990 disclosures, does the organization want to adopt or change their policies/procedures?
- Involve subject matter experts
- Spread out the work effort/involve PR
- Consider board involvement/education/timing/distribution.
- Consider order of completion — see instructions.
- Use the instructions and read carefully.
- Be clear, concise and accurate
- Consider how a reader might interpret your responses (public lay person/IRS)
- START EARLY!

## Core Form 990, Part I

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### Summary

Line 1

#### Mission statement

- This was important enough for the IRS to move it to the front page, line 1.
- Don't miss out on the opportunity here to succinctly describe what your organization does.
- There's not much space, but still important to use it wisely.
- Don't want to start the return off with just a half sentence or "See Schedule O."

Line 6

#### Volunteers

- Don't overlook the opportunity to highlight your volunteers
- At least include non-compensated board members.
- Remember that estimates are allowed.

## Core Form 990, Part III

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### Statement of program service accomplishments

Line 1	<b>Board approved mission statement</b> <ul style="list-style-type: none"><li>• Be careful here. If the organization doesn't have a mission adopted by the board, then instruction indicate state "none."</li><li>• Practical considerations.</li></ul>
Line 4	<b>Description of 3 largest program services</b> <ul style="list-style-type: none"><li>• <b>CAUTION</b> – if significant changes from PY, must report here, not in letter to EO determinations</li><li>• Consider the important program services that you want to highlight and what makes your organization unique.</li><li>• Categories might include health care, research, charity care, community benefit, medical education, etc. It is ok if there is no associated revenue as this section is reported based on the magnitude of the expenses.</li><li>• Promote the organization the best you can here!</li><li>• Reference Schedule O or community benefit report so the reader can easily find the details.</li></ul>

## Core Form 990, Part IV

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### Checklist of required schedules

Line 12	<b>The audited financial statement question</b> <ul style="list-style-type: none"><li>• Do not answer "yes" if the organization was included in a consolidated audited financial statement and did not receive a separate company audited financial statement.</li><li>• <b>NEW FOR 09</b> – Question 12a – if included in consolidated statement</li><li>• Should describe in Schedule O that the entity was included in a consolidated audited financial statement.</li><li>• See Part XI, line 2 for a similar question.</li></ul>
Line 24	<b>Tax exempt bonds and obligated group reporting</b> <ul style="list-style-type: none"><li>• Did the organization have a post-2003 bond issue?</li><li>• The return may be flexible on where to report the bonds for an obligated group as long as you do not double count the bond proceeds.</li><li>• Ramifications of choice to be discussed at Schedule K.</li></ul>

## Core Form 990, Part IV

### Checklist of required schedules

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Line 33	<b>Disregarded entities</b> <ul style="list-style-type: none"><li>• Does the organization own 100% of a disregarded entity?</li><li>• Report disregarded entities of the filing organization only — not disregarded entities of related entities.</li><li>• Constructive ownership and indirect control does not apply.</li></ul>
Line 35	<b>Related controlled entities</b> <ul style="list-style-type: none"><li>• Is any related organization a controlled entity?</li><li>• Determining how many related organizations are controlled by the filing organization is broader than you might think.</li><li>• Constructive ownership and indirect control under Section 318 applies.</li></ul>
Line 36	<b>Exempt non-charitable related organization transfers</b> <ul style="list-style-type: none"><li>• Is there even one of these entities in your group of related entities?</li></ul>
General	<b>Double check your answers</b> <ul style="list-style-type: none"><li>• If an answer is originally checked YES/NO, and then the related Schedule is either completed or information deleted, make sure the Part IV answer is updated.</li><li>• The 990 software will not automatically update answer simply because a Schedule is completed/not completed.</li></ul>

## Core Form 990, Part V

### Other IRS filings and tax compliance

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Lines 7g and 7h	<b>Contributions of intellectual property or vehicles</b> <ul style="list-style-type: none"><li>• Did the organization file appropriate forms for contributions of intellectual property or vehicles?</li><li>• A "N/A" answer is likely for most organizations, however, a "YES" or "NO" answer must be entered.</li><li>• <b>NEW FOR 2009</b> – instructions specify to leave blank if N/A</li></ul>
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## Core Form 990, Part VI

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### Governance, management, and disclosure

Line 1	<b>Voting members of the governing body and independent members</b> <ul style="list-style-type: none"><li>• Make sure to count only voting members. Ex-officios may not be allowed to vote.</li><li>• How to determine independence under the 990 definition</li></ul>
Line 2	<b>Family and business relationships among executives</b> <ul style="list-style-type: none"><li>• Technically should disclose board overlap even if the entities are related.</li><li>• Also, should disclose individuals who are employees of related organizations. Instructions do not provide exceptions.</li><li>• <b>CLARIFICATION FOR 09</b> – not a reportable relationship if two trustees/officers/directors/key employees serve in similar positions with other TE org.</li></ul>
Lines 6 & 7	<b>Members or stockholders</b> <ul style="list-style-type: none"><li>• “Member” per Form 990 is not what you would typically think of as member, such as owners of an LLC.</li><li>• Exempt organizations are usually incorporated as either a membership organization or a directorship organization. Check your articles of incorporation.</li></ul>

## Core Form 990, Part VI

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### Governance, management, and disclosure

Line 10	<b>Was a copy of the 990 provided to the governing body before it was filed?</b> <ul style="list-style-type: none"><li>• To answer yes, keep in mind that <b>each</b> voting member of the board must receive a copy.</li><li>• <b>NEW FOR 09</b> – additional conditions if 990 e-mailed to board members.</li></ul>
Line 15	<b>Process for determining executive compensation</b> <ul style="list-style-type: none"><li>• What if you are an entity that has executive director/CEO, other officers and/or key employees paid by another related entity?</li></ul>
Lines 18	<b>Forms available on another’s website</b> <ul style="list-style-type: none"><li>• Only check this box if the organization provided the return directly to the other organization for posting on another’s website.</li></ul>

## Core Form 990, Part VI

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### Governance, management, and disclosure

Line 19

#### Documents available to the public

- Governing documents, conflict of interest policy, and financial statements.
- Assuming information is not required to be made available to the public, what is the ramification of answering "XYZ aren't made available because they don't have to be"?

## Core Form 990, Part VII

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### Compensation of officers, directors, trustees, etc.

Section A

#### Reporting Related Organization Compensation

- Where an executive receives compensation from a related organization, but not from the filing organization, all compensation received from related organizations must still be reported.
- **CLARIFICATION FOR 09** – must report ENTIRE CALENDAR YEAR comp even if related for only part of year.

Section A

#### Reporting Related Organization Hours Worked

- Consider how to report total hours worked for both the related and filing organization.

Section A

#### Best practice:

- Use a customized spreadsheet in order to capture the various components of compensation for each column of Part VII and Schedule J. Spreadsheet should reconcile to W-2.

#### Cautions:

- Use care in where items are reported
- Must report ENTIRE CALENDAR YEAR comp even if key employee for only part of year.

#### Exceptions for reporting related party and per item amounts for Part VII

- Whether to use the exceptions in reporting

## Core Form 990, Part VII

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### Compensation of officers, directors, trustees, etc.

#### IRS FAQ

#### Key employees

3 Tests:

- \$150,000 test — receives compensation in excess of \$150,000
- Responsibility Test — has responsibilities or influence similar to officers, directors, and trustees, or manages 10% or more of the activities, assets, income, or expenses, or has or shares authority to control or determine 10% or more of the organizations expenditures, budget, or compensation, AND
- Top 20 Test — Is one of the top 20 employees with the highest reportable compensation.

**FAQ:** *The IRS pointed out in FAQ that the organization must list up to 20 current employees who satisfy the definition of key employees.*

**Caution:** All positions should be listed but if a key employee, can't by definition be another role too.

## Core Form 990, Part VIII

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### Statement of revenue

#### Line 2

#### Program service revenue

- Consider consistent categories aligned with Part III line 4 where your program service accomplishments are described
- Don't forget business codes – **NEW APPENDIX FOR 2009**

## Core Form 990, Part IX

### Statement of functional expenses

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<b>Line 5</b>	<b>Current Officer, Director, Trustee, Key Employee Compensation</b> Amount of compensation reported here for current officers, directors, trustees and key employees for the tax year may not agree to Part VII or to Schedule J.  For fiscal year filers, additional differences due to Part IX being reported on a fiscal year basis while Part VII and Schedule J are reported on a calendar year basis.  Other differences arise since Line 5 is required to report compensation "paid" including all forms of income and other benefits earned or received in return for services. Includes pension plan contributions.
<b>Line 6</b>	<b>Other Disqualified Person Compensation</b> Consider need to disclose compensation paid to former officers or key employees.
<b>Line 7</b>	<b>Salaries and Wages</b> This is a catchall for compensation to all other employees, including severance payments. But unlike compensation reported on lines 5 and 6, line 7 does not include retirement plan or other benefits payments which appear elsewhere.

## Core Form 990, Part IX

### Statement of functional expenses

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<b>Line 11</b>	<b>Fees for services (non-employees)</b> <ul style="list-style-type: none"><li>• ALL independent contractor payments should be listed on this line. Includes health care professionals that are not employees. Can include management fees paid to affiliates.</li></ul>
<b>Line 13</b>	<b>Office Expenses</b> <ul style="list-style-type: none"><li>• The instructions for line 13 include medical supplies, which can be a huge number for hospitals. The medical supplies that they are probably referring to are first aid.</li><li>• For Hospitals consider including medical supplies on line 24, Other Expenses, instead.</li></ul>
<b>Line 24</b>	<b>Other Expenses — UBI Tax</b> <ul style="list-style-type: none"><li>• List the 5 largest dollar amounts here, unless you have UBI Tax.</li><li>• Must separately report UBI Tax on line 24 regardless of whether it is one of the 5 largest expense items.</li></ul>

## Core Form 990, Part X

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### Balance sheet

Line 11	<b>Investments – Publicly Traded Securities</b> <ul style="list-style-type: none"><li>• <b>NEW FOR 09</b> - if &gt; 5% of total assets – must list on Line 12 (other securities)</li></ul>
Line 13	<b>Investments – Program Related</b> <ul style="list-style-type: none"><li>• Consider including joint ventures where the underlying activities further the organization's exempt purpose and where no UBI is reported.</li><li>• Joint ventures are a focus area of the IRS and consistent reporting could be important.</li></ul>
Line 21	<b>Escrow account liability</b> <ul style="list-style-type: none"><li>• Medical Resident FICA Refunds: Escrow and other custodial accounts recorded for book purposes should be reported here (if the organization has bona fide escrow account set up).</li><li>• Additional disclosure will be required on Schedule D.</li><li>• If only have funds set aside (not in separate account), then include in other liabilities.</li></ul>

## Schedule A

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### Public support test

Parts II and III	<p>Previously support test calculated on a cash basis. Now, required to use the method of reporting for financial statement purposes. If discount for book purposes, need to discount for Schedule A purposes INCLUDING for purposes of determining excess contributions.</p> <p>Non-cash contributions are also reported on Schedule A. Consider valuation method.</p>
Part I line 3, FAQ	<p>A hospital for Form 990 purposes may be different than a hospital for Schedule H purposes.</p>
Part I line 11 and FAQ	<p>Proper supporting organization ("SO") classification is very important as the rules applicable to each type of SO differ. Further, if the organization is a type III supporting organization, there may be adverse consequences for a private foundation donor.</p> <p>Consider: If the organization is a Type III supporting organization, whether organizational changes could be made to qualify as a Type I or Type II organization or, even better, whether the organization could meet the tests of either IRC section 509(a)(1) or (2).</p> <p><b>Caution:</b> proposed supporting organization regulations were recently issued.</p> <p><b>REMEMBER</b> – for supported orgs detail, Schedule A paragraph numbers are now different! (i.e. hospital is now 3 not 7)</p>

## Schedule C Lobbying Activities

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<b>Parts II-B</b>	The portion of dues related to lobbying should be listed on line (i) and description on Part IV can be:  Lobbying expenses represent the portion of dues paid to national and state hospital associations that is specifically allocable to lobbying.
<b>General</b>	Interestingly, 501(c)(4) organizations that do not have members for which dues are collected are not required to complete Schedule C with respect to their lobbying activities.

## Schedule D Supplemental financial statements

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<b>General</b>	An understanding of several accounting pronouncements are required to properly complete Schedule D. Financial statement presentation impacts Form 990 reporting for items such as endowments, conservation easements, collections, escrow accounts, etc.
<b>Part IV: escrow and custodial accounts</b>	The amount of information will vary depending on how the accounts are reported for financial statement purposes. If on the balance sheet, then less information is required to be reported on the Form 990. Don't forget about any medical resident FICA refunds that have been received and are pending distribution.
<b>Part V</b>	<b>Caution:</b> Organizations with endowment or custodial funds that require the disclosure of activity should consider whether amounts distributed are "sufficient" given Senator Grassley's focus on college endowments in particular.
<b>Reconcile to AFS</b>	Parts XI-XIII are not required for organizations that do not have a separate audited financial statement. Some organizations choose to voluntarily Part XI if there are significant items that are run through equity for financial statement purposes. <ul style="list-style-type: none"><li>• Beware use of "other"</li><li>• Should it be included in revenue or expense?</li></ul>

## Schedule F Foreign activities

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<b>General</b>	<b>Threshold for reporting foreign activities:</b> 1. Aggregate revenues OR expense of more than \$10,000 from grantmaking, fundraising, business (including investments) and program service activities outside the US 1. Foreign financial accounts – not required for 08, required for 09 2. More than \$5,000 of grants or assistance to any one foreign organization (including foreign government) 3. More than \$5,000 of grants or assistance, in aggregate, to foreign individuals
<b>IRS FAQ Part I</b>	<b>Does the cost of sending board members to meeting(s) (including offshore captives), or to attend and/or speak at seminars and conferences count toward the \$10,000 in expenses?</b> Yes but board members are not counted as agents in the foreign country provided that they serve on a volunteer basis.  <b>How are expenses to be accounted for?</b> Expense reporting will likely be different and organizations can report based on how they keep books and records for 2008 and 2009 tax years. Indirect expenses that are not separately tracked by an organization are not reportable for these years.

## Schedule F Foreign activities

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<b>IRS FAQ Part II</b>	<b>How are expenses to be accounted for?</b> Yes if more than \$5,000 (based on method of accounting used for books and records)
<b>IRS FAQ Part III</b>	<b>Are payments to US citizens who are living abroad reportable?</b> Yes if more than \$5,000 in aggregate (based on method of accounting used to keep books and records), not compensatory and transferred to the person(s) after the time they left the U.S.

**Schedule F**  
Foreign activities



<b>IRS FAQ Part I</b>	<p><b>Are foreign investments disclosed?</b></p> <p>Yes if revenue or expense meets the threshold.</p> <p>Foreign corporation : report if revenue received from the corporation meets the threshold (assume organization will not incur "expense" related to offshore corporation)</p> <p>Foreign partnership : report if organization's share of partnership's foreign activities exceeds the threshold</p> <p>Domestic partnership: no reporting even if it reports offshore activities on the K-1</p> <p>Foreign investments must disclose the region of the investment (and not the underlying — even for foreign partnerships) and the activity description is "investments"</p> <p>Foreign investments should be disclosed separate and apart from other activities in the region</p> <p style="text-align: center;">ONLY region and activity are required to be disclosed</p>
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**Schedule F**  
Foreign activities



<b>IRS FAQ Part I</b>	<p><b>Are foreign program related investments disclosed?</b></p> <p>Yes if revenue or expense meets the threshold.</p> <p>Must provide all required information and may also require disclosure on Schedule R if control tests are met</p>
	<p><b>IRS FAQ 990-EZ</b></p> <p>Form 990EZ does not have a Schedule F requirement, but does require disclosure of foreign financial accounts</p>
<b>Foreign financial accounts</b>	<p>TDF 90-22.1 — due annually on or before June 30 by holders of foreign financial accounts if aggregate value is \$10,000 or more (including filing by persons with signature or similar authority over such accounts)</p> <p>Current IRS focus on foreign reporting — voluntary compliance program closed October 15</p> <p><b>Much discussion as to what constitutes a commingled fund/foreign financial account:</b></p> <ul style="list-style-type: none"> <li>•Foreign hedge fund?</li> <li>•Foreign private equity fund?</li> </ul> <p><b>More guidance to come — no penalties for failure to file until after June 30, 2010 for:</b></p> <ul style="list-style-type: none"> <li>•Entities with a financial interest in commingled funds</li> <li>•Persons with signature authority but no financial interest in foreign financial accounts</li> </ul>

## Schedule G: fundraising Schedule I: grants/assistance in the U.S.

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Sch. G, Part III	Don't forget that raffles are considered gaming and require disclosure if the gross receipts from all gaming exceeds \$15,000.
Sch. I, Part II	<p><b>Caution:</b> Don't forget about stipends to medical residents and research fellows; internal employees helping other employees programs, scholarships, etc.</p> <p>Include grants to US persons on Schedule F if mailed to a non-US address.</p> <p>Need to disclose grantmaking process</p> <p>Don't forget to report the total number of grants to (c)(3) entities</p>

## Schedule H Hospital

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General	<p><b>Hospital</b> Includes entities that are (or are required to be) licensed, registered, or similarly recognized by the state as a "hospital"</p> <p><b>Includes:</b> •Proportionate share of hospital joint ventures treated as partnerships (no minimum threshold)</p> <p><b>Doesn't include:</b> •Separately incorporated entities that provide health care, charity care, community benefit, etc.</p>
Charity care	<p>Uncompensated care write offs at full established rates <u>x cost to charge ratio (or more accurate cost accounting method)</u> Estimated Cost + Medicaid provider taxes (QAAP) Charity care at cost</p> <p>Doesn't include: bad debts, "community benefit" type services required under statute (e.g. interpreter) How to handle settlements? Audit adjustments? Payments to third party social workers?</p>

## Schedule H

### Hospital

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<b>Total charity care</b>	<b>Charity care at cost</b> <ul style="list-style-type: none"><li>• Unreimbursed Medicaid</li><li>• Unreimbursed costs from other means-tested programs</li></ul>
<b>Charity care source data</b>	Adequacy of available data: Up front identification Ongoing reclassification Write-offs and adjustments Reserves for changes "in process" Service bureaus process for write-offs and adjustments
<b>Other benefits</b>	<b>Community health improvement services</b> <ul style="list-style-type: none"><li>• Health professions education</li><li>• Subsidized health services</li><li>• Research</li><li>• Cash and in-kind contributions</li></ul> Medical resident education costs = per DME/IME data Nursing education costs = much more difficult to determine

## Schedule H

### Hospital

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<b>Offsetting revenue</b>	Doesn't include unrestricted grants even though presumably they are provided to assist hospital in providing exactly these types of programs (i.e. research) or uncompensated care
<b>Community building</b>	<b>Physical improvements</b> <ul style="list-style-type: none"><li>• Economic development</li><li>• Community support</li><li>• Environmental improvements</li><li>• Leadership development and training community members</li><li>• Coalition building</li><li>• Community health improvement advocacy</li><li>• Workforce development</li><li>• Other</li></ul>

## Schedule H

### Hospital

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#### Narratives

##### Another Schedule O?

- Needs assessment (professional, internal, joint activity with competitors?)
- Patient education and eligibility for assistance
- Community information (general population data?)
- Community building — support for every number reported previously and why it's important to the hospital's exempt purpose
- Description of the roles of the entity in the health care system — including those not part of this return

Is there a direct link between the activity conducted and an improvement in the health of the community? Was it measured and documented?

## Schedule H

### Hospital

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#### Bad debts

There is no right answer for bad debt related to charity care eligible patients.

#### Medicare bad debts

Narrative to support why they should "count" as providing a community benefit

#### Collection of bad debts

Yes or no is NOT the answer

##### Good answers:

"Yes and the policy instructs not to collect ..."

"No and we do not attempt to collect ..."

##### Bad answers:

"Yes and the policy instructs to collect ..."

"No and we attempt to collect ..."

## Schedule H

### Hospital

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Joint ventures	Be prepared to disclose relationships with outsiders in providing health care and consider whether this matches the answer regarding joint venture investments and policies from the governance section. <b>CLARIFICATIONS ISSUED IN 09 INSTRUCTIONS.</b>
Facility information	How much information is too much information? <b>Sources of data:</b> Insurance records Property tax records
Automation	How have you automated the process for collecting this data? Community benefit can be anywhere

## Schedule J

### Compensation information

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Part II, column B IRS FAQ	<b>Breakdown of W-2 compensation</b> <ul style="list-style-type: none"><li>• Amounts in Columns B(i) to B(iii) should agree to the employee's W-2. Issues arise when certain amounts could be included in base pay and other columns.</li><li>• <b>Can an organization reduce base pay in column B(i) for amounts that should be reported in column B(iii) such as employee deferrals 401(k) and 403(b) plans?</b></li><li>• <b>Answer:</b> Yes.</li></ul>
Part II, column F IRS FAQ	<b>2008 calendar year compensation reported on prior year's 990</b> <ul style="list-style-type: none"><li>• Amounts reported on Part VII and Schedule J must be on a calendar year basis even if the organization is a fiscal year end, yet the amount on Part IX is on a fiscal year and needs to be computed using same methodology.</li><li>• Duplication can occur if compensation was deferred in 2007 and paid in 2008, or a fiscal year entity that reported compensation on a fiscal year basis in 2007, but a calendar year basis in 2008.</li><li>• <b>Answer:</b> Can't back out any amounts on the 2008 return. However, use Schedule J, Part II, column F to report the amounts included in the prior year return.</li></ul>

## Schedule J

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### Compensation information

<b>Determining who to report</b>	<p><b>If centralized payroll and no common paymaster arrangement in place</b></p> <ul style="list-style-type: none"><li>• Unclear. For common paymaster arrangements, report compensation on the Form 990 for which the individual's pay is allocated.</li><li>• <b>CLARIFICATION FOR 2009</b> – treat common paymaster payments as if paid directly by the org or related org itself.</li></ul> <p><b>Key employee</b></p> <ul style="list-style-type: none"><li>• <b>Caution:</b> who is in a position to determine whether the responsibilities of the individual rise to the level of a key employee? Remember, the 10% test is cut a lot of different ways.</li></ul>
<b>Unrelated party</b>	<p><b>Caution:</b> Identifying when and how to report compensation from an unrelated party can be a challenge. Compensation from unrelated parties could arise under management agreements or executive loan situations, for example.</p> <p>Obtaining compensation amounts from an unrelated party can be a challenge – ask early.</p>
<b>Severance</b>	<p><b>Caution:</b> Many severance arrangements are confidential – may need to negotiate with severed party in order to be able to legally disclose on Form 990. Going forward, severance arrangements should not be confidential at least as to the items required to be disclosed on the Form 990.</p>

## Schedule K

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### Tax-exempt bonds

<b>General</b>	<p><b>Reportable bonds:</b> Issued on or after January 1, 2003 and reports an outstanding principal amount of more than \$100,000 as of the end of the reporting year.</p> <p><b>Limited reporting of issuances refunding pre-2003 debt:</b> All parts of Schedule K EXCEPT private business use (but keep in mind that outstanding pre-2003 bonds – including refunded bonds – can still be audited by the IRS)</p>
<b>Unrelated party</b>	<p><b>Where did the money go:</b></p> <ul style="list-style-type: none"><li>• Held in reserve</li><li>• Refunding or defeasance escrows</li><li>• Issuance costs</li><li>• Working capital expenditures</li><li>• Capital expenditures</li><li>• Other</li></ul>
<b>Compliance</b>	<p>Final allocation? Maintain adequate books and records to support final allocation? Did records inadvertently get destroyed?</p>

## Schedule K Tax-exempt bonds

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Private business use	<p>First: exactly what space is bond-financed?</p> <p>Everything except the east wing? Everything except the first floor? Everything except the lab?</p> <p>Can you change the bond allocation? What if bond-financed property was sold?</p>
What is it	<p><b>Where did the money go:</b></p> <ul style="list-style-type: none"> <li>• Bond financed property held by partnership</li> <li>• Leases to non-(c)(3) and non-governmental entities</li> <li>• Management or service contracts</li> <li>• Research agreements (how do you know question – “routinely” engage bond counsel)</li> <li>• Use in an unrelated activity even if operating at a loss</li> </ul>
Percentage	<p><b>Actual percent of private business use by:</b></p> <ul style="list-style-type: none"> <li>• Other organizations using bond-financed property</li> <li>• The reporting organization</li> </ul>
Obligated group	<p><b>How to report:</b></p> <p>At the “parent” level only — required reclass of balance sheet As reflected on each member’s balance sheet — may report misleading private use percentage</p>

## Schedule L Transactions with interested persons

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General	<p><b>Interested persons</b></p> <p>Generally includes disqualified persons and others depending on what part of the form you are filing such as officers, directors, trustees, key employees, and family members. For some purposes, scholarship committee members as well. Definition varies depending on disclosure to be made. <b>CLARIFICATION FOR 09</b> – does not include governmental units and instrumentalities.</p> <p><b>Schedule L is used to report the following:</b></p> <p>Excess benefit transactions, loans, grants, other assistance (including from educational institutions), and business transactions with interested persons. Definitions can be complex, particularly for business transactions.</p> <p>Best practice: Use of questionnaire to meet reasonable efforts exception plus to obtain information to assist with other disclosures. (Loans do not have a reasonable efforts exception.) Process to be described in the Form 990.</p> <p><b>Caution:</b> Definitions of interested person vary depending on type of disclosure – always refer back to the appropriate definition in the I - instructions for the item being disclosed, as well as to determine who should receive a questionnaire.</p>
IRS FAQ Part II	<p><b>Should the organization’s board member’s purchase of tax-exempt bonds that were issued on the open market be reported as a loan in Schedule L?</b></p> <p>No, so long as the board member purchases the bonds on the same terms as are offered to the general public.</p>

## Schedule L



### Transactions with interested persons

<b>General</b>	<p><b>What if a board member is the president of a bank in which the organization has an account? Are interest earned on the deposits and fees paid to the bank reportable on Schedule L?</b></p> <ul style="list-style-type: none"><li>•The bank is an interested person because the board member is an officer of the bank.</li><li>•For now, the IRS is saying that the deposits at a bank are not loans, so no Part II reporting.</li><li>•However, must report any payments of fees and interest on Part IV if it exceeded the lesser of (1) \$100,000, or (2) the greater of \$10,000 or 1% of the organization's total revenue.</li></ul>
<b>Cautions</b>	<p>Since transactions reportable on Schedule L cause the involved board member to no longer be considered, care should be exercised in determining whether a transaction is in fact reportable on Schedule L. Conservative reporting on Schedule L could have other ramifications.</p> <p>Reasonable efforts requires the questionnaire to include "pertinent instructions and definitions". Such definitions and instructions are complex and include many nuances. It is not easy to develop a questionnaire that meets the reasonable efforts requirements AND is easy for the responders to understand. Consider appropriate education as well.</p>

## Schedule R



### Related organizations and unrelated partnerships

<b>General</b>	<p><b>Identifying related organizations impacts disclosures throughout the Form 990</b></p> <p><b>Includes:</b></p> <ul style="list-style-type: none"><li>•Disregarded entities</li><li>•Controlled entities (more than 50%) – <b>revised definition of control in 09 instr.</b></li><li>•Partnerships if managing partner, member or general partner and there are 3 or fewer such parties.</li><li>•Unrelated organizations if the filing organization conducted 5% or more of its activities through such partnership or LLC that is taxed as a partnership.</li><li>•<b>CLARIFICATION FOR 09:</b> may include government entities</li></ul> <p><b>Indirect control uses IRC section 318 attribution rules. This is not new but many organizations did not understand these rules.</b></p> <p><b>Best practice:</b> obtain and maintain copies of organizing documents of entities organization has an ownership interest in.</p>
<b>Part I</b>	Generally disclose disregarded entities only on the "owners" return and not on the other related party organization's returns.
<b>Part II</b>	Public charity status is the box number that is checked on Schedule A.

## Schedule R

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### Related organizations and unrelated partnerships

Part III	Total income of a partnership is not the net amount reported on the K-1 – instead a sum of income items as reported on the K-1 lines 1 through 11 plus tax-exempt interest
	Share of end of year assets is the capital interest in the partnership PLUS share of partnership liabilities.
%	Percentages used for total income and for share of end of year assets may differ.
Part V	Transactions and transfers with related parties are disclosed. Replaces the old Part XI.  \$50,000 threshold for item reporting except for transactions that come under IRC section 512(b)(13).  Transfers is a catch all term that includes any conveyance of funds or property not otherwise listed (e.g., mergers).
Best practice	Complete all but Part V early as this Schedule impacts disclosures throughout the return.  For Part V — don't rely solely on memory — consider what kind of system queries could be run in order to capture the necessary information. For large, multi-entity systems, the Schedule R can be quite lengthy.

## Conclusion

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- There are many nuances in the return and several instances where a taxpayer may inadvertently provide conflicting data, particularly if more than one filing organization is involved – exercise care in completing the return.
- Will be evidence from the face of return if extra time and attention was provided
- Be consistent between related party returns in how questions are answered.
- Involve others – at least the first time around as it is a lot of work.
- Start early on Schedule H and K — there is good reason why the IRS delayed these forms. Much more effort on taxpayer part than on the CPA.
- Remember the Form 990 is a public document and will likely be reviewed by persons that are scrutinizing the filing organization

# Questions?

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