



January 11, 2021

Kinna Brewington  
Internal Revenue Service  
Room 6526  
1111 Constitution Avenue NW  
Washington, DC 20224

**Re: Comments on Exempt Organization Forms:**  
**Form 990, *Return of Organization Exempt from Income Tax, and Related Instructions***  
**Form 990-N E-postcard**

Dear Ms. Brewington:

PKF O'Connor Davies is pleased to have this opportunity to provide comments to the Internal Revenue Service on Form 990, Return of Organization Exempt from Income Tax, and the related instructions and Form 990-N E-postcard.

Our supplementary schedules include comments and recommendations and indicate the priority level for each recommendation. The comments are focused on the core Form 990, Schedule A, Schedule D, Schedule E, Schedule F, Schedule I, Schedule J, Schedule M, Schedule R; and Form 990-N E-postcard.

The comments were drafted by the below duly signed tax practitioners of PKF O'Connor Davies who exclusively service the tax-exempt and not-for-profit industry. These experts have over 20 years of experience assisting clients with their tax compliance and tax consulting needs and are highly knowledgeable with the preparation and review of the Form 990 and the challenges faced by the tax-exempt and not-for-profit industry.

PKF O'Connor Davies has specialized in serving not-for-profit and tax-exempt organizations since its founding in 1891, continually and purposely expanding our client roster over the years. Today, we work with more than 3,000 charitable organizations, religious entities, educational and cultural institutions and social services agencies.

We thank you for your consideration and if you have any questions, please feel free to call me at (914) 421-5655.

Very truly yours,

**PKF O'Connor Davies, LLP**

A handwritten signature in black ink that reads "Garrett M. Higgins".

Garrett M. Higgins, CPA  
Partner

A handwritten signature in black ink that reads "Eva Mruk".

Eva Mruk, CPA, EA  
Director

## FORM 990

Section of the Form	Importance Level	Comment	Recommendation
1 Part I, Lines 4 and 5	Medium	Line 4 and 5 asks for the number of voting members and independent voting members, respectively, as of the end of the year. Part VII requires organizations to report all board members who served at any time during the year. While not required by the IRS, many tax practitioners/organizations indicate on Part VII in column (A) if a board member's term has expired and indicate the month/year for transparency.	Part VII should have a check box feature to indicate whether a board member did not serve as of the end of the year. This will provide transparency and reduce the burden of disclosing the term date.
2 Part I	Low	Organizations can, but aren't required to, provide an explanation on Schedule O (Form 990 or 990-EZ) of how this number was determined, the number of hours those volunteers served during the tax year, and the types of services or benefits provided by the organization's volunteers.	Certain parts of the Form 990 have a check the box to indicate Schedule O contains a response or note (eg. Part III, Part V, Part VI, Part VIII) - Part I does not.
3 Part V, Line 1c	Medium	Line 1c asks if the organization complied with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners.	Recommend a N/A option for those organizations who did not make payments to vendors or engage in gaming activities. A positive affirmation of a response is preferable as leaving any question blank may be due to an oversight.
4 Part V, Line 2a	High	Line 2a asks for the number of employees reported on Form W-3. As Professional Employer Organizations (PEOs) are becoming increasingly popular and used in the nonprofit industry, this question is often zero as Form W-2/W-3s are issued by the PEO using its respective employer identification number. Salaries and related payroll expenses are reported on Part IX. This raises questions as to whether the organization is in compliance with its payroll tax obligations.	Recommend a subquestion to be added below Line 2a inquiring whether the organization utilized the services of a PEO, and provide an explanation on a voluntary basis on Schedule O
5 Part V, Line 2a	Medium	Line 2a asks for the number of employees reported on Form W-3. This question relates to domestic employees within the U.S. Often, persons are employed internationally. Salaries and related payroll expenses are reported on Part IX.	Recommend a subquestion or check box feature to indicate if any persons are employed in foreign jurisdictions. Schedule O may be used to provide an explanation on a voluntary basis.
6 Part V, Line 2b	High	Note reads that if the sum of lines 1a and 2a is greater than 250, you may be required to e-file.	This note should be eliminated in its entirety due to the passage of the e-filing mandate for all nonprofit organization under Taxpayer First Act.
7 Part V, Line 4b	High	Line 4a asks if the organization had an interest in or signature authority over a financial account in a foreign country, and if yes, Line 4b asks for the name of the foreign country.	Recommend the use of regions for purposes of this question. At present, this question overrides reporting on Schedule F and may raise privacy concerns.
8 Part VI, Section B, Lines 15a & 15b	High	Lines 15a & 15b require a yes/no response. If the organization does not compensate any officers or key employees, a no response is entered. This may be misleading to the users of the Form 990.	Recommend these questions to be left blank or an entry of not applicable in such circumstances.
9 Part VI, Section C, Line 18	High	Line 18 reads that an organization is required to make its Form 1023, 990, 990-T available for public inspection and provides for several options as to the methods used. It is unclear to the reader as to what documents are made available and by what method. Commonly, Form 990 is posted on an organization's own website but not the Form 1023.	Recommend a revision to this question to provide the methods to each document or to simplify without necessitating a narrative on Schedule O.
10 Part VI, Section C, Line 20	Low	Line 20 asks for the name, address, and telephone of the person who possesses the organization's books and records. In this digital age, persons should also be given the option to be contacted via email.	Recommend an optional entry for an email address for those persons who wish to be contacted via this method.
11 Part VII	High	Grid provides for 14 entries on page 7 and 11 entries on page 8 (total 25 entries).	From a user friendly perspective, those organizations with very large boards may benefit if the grid flow was redesigned.
12 Part VII, Section B	Medium	Reporting of independent contractors is set at \$100,000 irrespective to the organization's size. Large organizations are subject to more reporting and disclosure of their top five independent contractors, whilst smaller organizations may avoid the reporting of independent contractors altogether.	Recommend a threshold scale for reporting independent contractors, idealistically based on total expenditures.

<b>13</b> Part XIII, Line 2c	High	Lines 1 and 2 reports cash -non-interest bearing and savings/temporary cash investments. Restricted cash and escrow accounts are generally not short term in nature nor liquidity and may or may not be interest bearing.	Recommend the IRS provide clarification in its instructions.
<b>14</b> Part IX	High	Current instructions are unclear as to the proper reporting of foster care payments on Part IX Statement of Functional Expenses; should such payments be reported on Part IX, Line 2 as grants/assistance to domestic individuals which would require additional disclosures on Schedule I or is it adequate to report on Line 24 as Other Expenses.	Recommend the IRS provide clarification in its Instructions.

**SCHEDULE A**

Section of the Form	Importance Level	Comment	Recommendation
1 Part II, Section B, Line 9	High	Special events/fundraising events are not considered exempt function income as evidenced by Part VIII col (B) which is greyed out. It is our understanding that special fundraising events are reportable on Schedule A, Part II, Section B, Line 9 (or Part III, Section B, Line 11) as net income from unrelated business activities, <i>whether or not the business is regularly carried on</i> . If a loss is reported on Part VIII, Line 8c, zero should be entered and not a negative amount. Practitioners are unclear as to how to properly report and report special event income in an inconsistent manner across the nonprofit industry (gross/net/difference in line reporting).	Recommend the IRS provide clear instructions on the reporting of special events.
2 Part II/Part III	High	Organizations can reclassify from/to an IRC 509(a)(1) to/from IRC 509(a)(2) in any given year if the requirements are met. If an organization chooses to reclassify from one designation to another, it is unclear as to the impact on a retroactive basis. For example, do disqualified persons need to be examined retroactively and does the public support percentage for the previous tax year needs to be recomputed under the new designation.	Recommend the IRS provide clarification in its instructions.
3 Part II, Line 15; Part III Line 16 & 18	Medium	These lines report the prior year public support and investment income percentages. If an organization filed a Form 990-N postcard in a prior year and is now subject to a Form 990/990-EZ filing, is the organization required to complete these lines? Instructions speak to the Form 990 and Form 990-EZ only.	Recommend the IRS provide clarification in its instructions.
4 Part II and Part III	Medium	Instructions prescribe organizations who operated on a short year to explain in Part VI. This disclosure is often overlooked.	Recommend a check box feature to indicate if any respective tax year is a short year.

**SCHEDULE D**

Section of the Form	Importance Level	Comment	Recommendation
1 Part VI column (a)	Low	Column (a) asks for the cost or other basis of property for investment purposes. This column is not too widely used.	Recommend the IRS provide examples of circumstances when this column would be applicable (eg. property used for rental purposes not for exempt function purposes).

**SCHEDULE E**

<b>Section of the Form</b>	<b>Importance Level</b>	<b>Comment</b>	<b>Recommendation</b>
1 Part I, Line 3	Medium	Line 3 applies to private schools and is not applicable to public charter schools as prescribed in Rev. Proc. 2019-22, 2019-22 I.R.B. 1260. Charter schools are forced to response to this question as no and provide an explanation.	Recommend a check box feature to indicate that the school is a public charter school and not subject to the requirement.

**SCHEDULE F**

Section of the Form	Importance Level	Comment	Recommendation
1 Parts II and Part III	Medium	Reporting of foreign grants for organizations is \$5,000 for any recipient \$5,000 in the aggregate for individuals, Irrespect to the organization's size. Large organizations are subject to more reporting and disclosure, whilst smaller organizations may avoid the reporting of grants altogether.	Recommend a threshold scale for reporting of grants, ideally based on total expenditures, or a fixed higher threshold.

**SCHEDULE I**

<b>Section of the Form</b>	<b>Importance Level</b>	<b>Comment</b>	<b>Recommendation</b>
<b>1 Parts II and Part III</b>	Medium	Reporting of domestic grants for organizations is \$5,000 for any recipient \$5,000 in the aggregate for individuals, irrespective of the organization's size. Large organizations are subject to more reporting and disclosure, whilst smaller organizations may avoid the reporting of grants altogether.	Recommend a threshold scale for reporting of grants, ideally based on total expenditures, or a fixed higher threshold.

**SCHEDULE J**

Section of the Form	Importance Level	Comment	Recommendation
<b>1</b> Line 3	Medium	Question provides for methods used to establish the compensation of the CEO/Executive Director, such as independent compensation consultant and compensation study/survey. An organization may engage the services of an independent compensation consultant and rely on a compensation study in establishing compensation for several years. It is our understanding that these questions should be checked if the organization "relied" on the method in establishing compensation albeit the services of an independent consultant and compensation study/survey were rendered in prior years.	Recommend the IRS provide clarification in its instructions.

## SCHEDULE M

Section of the Form	Importance Level	Comment	Recommendation
1 Part I, column (d)	Medium	Column (d) asks for the method of determining noncash contribution amounts. Instructions provide examples of the methods and reference Pub. 561. Organizations still widely and improperly use "fair market value" as the method.	Clarification to instructions is necessary
2 Part I, Line 31	Low	Line 31 asks if the organization has a gift acceptance policy that requires the review of any nonstandard contributions. This question applies to organizations that meet the threshold to file Schedule M.	Consideration should be given as to whether this question should be shifted to another section of the form, for example to Part VI Section B: Policies.
3 Part I, column (b)	Low	For each type of property received, this column requires an entry of the number of contributions or the number of items contributed. An explanation in Part II is prescribed in the instructions to indicate whether the organization is reporting the number of contributions or the number of items, or a combination of both methods. This disclosure is often overlooked.	Recommend a check box feature or two rows to enter the value of the property as opposed to a narrative disclosure.
4 Part I, column (b)	High	For each type of property received, this column requires an entry of the number of contributions or the number of items contributed. It is not too clear as to the distinction between number of contributions versus number of items contributed. Does number of contributions mean count each separate gift by any one recipient. Some practitioners report the number of contributors (donors).	Recommend the IRS provide clarification in its instructions.

**SCHEDULE R**

Section of the Form	Importance Level	Comment	Recommendation
1 Part V, Lines n/o	Medium	In general, transaction types reported in this section have a reciprocal relationship. Line n is used to report the sharing of facilities, equipment, mailing lists, or other assets with related organization(s) and Line o is used to report the sharing of paid employees with related organizations. Sharing is generally defined as a two-way nonmonetary exchange between two parties, receiver and giver. Is our understanding accurate that the receiver and the giver both respond to this question consistently on their respective Form 990 Schedule R and, if yes, Is it clear to the reader which organization is the receiver/giver.	Recommend the IRS provide clarification in its instructions.

**FORM 990-N**

Section of the Form	Importance Level	Comment	Recommendation
1 General	Medium	The 990-N epostcard is filed by small organization with gross receipts of \$50,000 or less. Organizations are required to meet the operational test as a public charity despite filing the epostcard.	Recommend a question to be added to affirm whether the organization in fact has met the qualifications of the public support test under IRC sections 509(a)(1) or 509(a)(2) and/or if recordkeeping is maintained.