



November 23, 2021

Mr. Jon Callahan  
Internal Revenue Service  
Room 6526  
1111 Constitution Avenue NW  
Washington, DC 20224

**Re: Comments on Exempt Organization Form 990 Series**

Dear Mr. Callahan:

PKF O'Connor Davies LLP 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-EZ 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 G, Schedule I, Schedule J, Schedule M, Schedule R; Form 990-EZ and Form 990-N E-postcard.

The comments were drafted by the below duly signed tax practitioner of PKF O'Connor Davies LLP who exclusively services the tax-exempt and not-for-profit industry and possesses 25 years of experience assisting clients with their tax compliance and tax consulting needs. The practitioner is 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 LLP 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 dark ink, appearing to read "Eva Mruk". The signature is fluid and cursive.

Eva Mruk, CPA, EA  
Partner

FORM 990

Section of the Form	Importance Level	Comment	Recommendation
1 Item J	Medium	Item J is used to enter the organization's current address for its primary website as of the date of filing the Return. If the organization does not maintain a website, the instructions state to enter N/A. Many times, a report a website address in those situations where the website is that parent organization maintains a primary website and maintains a webpage or multiple webpages for one or of the parent organizations but has one or more webpages specific to more of its related organizations. Quite often the missions are closely interrelated and intertwined. Entering the filing organization. Recommend either more spacing to be allowed N/A does a disservice to many filing organizations and the public at large who may not be able to see the entire and/or to indicate that the website address entered is that of its spectrum of the nonprofit organization. Further, often times the space permitted in this sections is limited and parent organization. Unfortunately does not allow the filing organization to enter the complete website address.	Recommend consideration to be given by the IRS as to how or if to return.
2 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 member did not serve as of the end of the year. This will provide year. While not required by the IRS, many tax practitioners/organizations indicate on Part VII in column (A) if a transparency and reduce the burden of disclosing the term date. 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 year. While not required by the IRS, many tax practitioners/organizations indicate on Part VII in column (A) if a transparency and reduce the burden of disclosing the term date.
3 Part I	Low	Organizations can, but aren't required to, provide an explanation on Schedule O (Form 990 or 990-EZ) of how Certain parts of the Form 990 have a check the box to indicate 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.	Schedule O contains a response or note (eg. Part III, Part V, Part VI, Part VIII) -Part I does not.
4 Part IV, Line 12b	Medium	Part IV, Line 12b states to indicate Yes if the organization is reporting for a "short year" that is included in, but not identical to, the period for which the audited financial statements were obtained.	Recommend clarification that the term "short year" does not mean short year in the context of a "change in accounting period", instead it means a fiscal year end that is not the same year the consolidated financial statements are reporting on.
5 Part IV, Line 12b	Medium	The question asks whether the filing organization was included in consolidated, independent audited financial statements for the tax year. The Form 990 instructions are silent on how organizations should answer line 12a if this question if the audited financial statements that report on the the audited financial statements report on the filing organization and a disregarded entity. An example would be a single-member limited liability company (SMLLC). SMLLCs are ignored for IRS tax filing purposes and all activity of the disregarded entity is reported on the filing organization's Form 990.	Recommend clarification as to how an organization should respond to statements for the tax year. The Form 990 instructions are silent on how organizations should answer line 12a if this question if the audited financial statements that report on the the audited financial statements report on the filing organization and a disregarded entity. An example would be a single-member limited liability company (SMLLC). SMLLCs are ignored for IRS tax filing purposes and all activity of the disregarded entity is reported on the filing organization's Form 990.
6 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.
7 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. The 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. Cross matching has raised questions and audits by the IRS in the past as to whether the organization is in compliance with its payroll tax obligations.	Highly recommend a sub question 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
8 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 sub question 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.
9 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.
10 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 which uses regions and this disclosure may raise privacy concerns.
11 Part VI, Section A, Line 1a	High	Line 1a asks to describe material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, and if yes, to explain on Schedule O.	Recommend the use of a checkbox feature or yes/no response to indicate to the reader that there a Schedule O disclosure is contained for clearer transparency as this narrative may be easily overlooked.

12	Part VI, Section A, Line 1a	High	Line 1a asks whether the governing body delegated broad authority to an executive committee or similar committee, and if yes, to explain on Schedule O.	While this question is predicated under State law, recommend that the IRS provide guidance and/or clear or common examples of what is meant by "broad" versus "limited" authority to make the determination as to whether this question may be applicable.
13	Part VI, Section A, Line 3	High	Line 3 asks if the organization delegated control over management duties customarily performed by or under the direct supervisors of officers, directors, trustees, or key employees to a management company or <b>other person</b> ?	Recommend the IRS provide clarification, guidance, and/or examples as to what is meant by "other person". Clarification is needed as to whether a Professional Employer Organization (PEO) who are co-employers and generally have the "right" to hire and fire (although not always exercised) fall under the purview of this question.
14	Part VI, Section A, Line 3	High	Line 3 asks if the organization delegated control over management duties customarily performed by or under the direct supervisors of officers, directors, trustees, or key employees to a management company or other person? At times, an organization may delegate control over management function to its single member LLC management company which is formed for this purpose. As a disregarded entity, its activities are treated as its parent organization.	Recommend the IRS provide clarification and/or guidance as to whether this question is applicable in such circumstances when the management company is its single-member LLC.
15	Part VI, Section B, Lines 15a & 15b	High	Lines 15a & 15b require a yes/no response. If the organization does not compensation any officers or key employees, a no response is entered. This may be misleading to the users of the Form 990.	Highly recommend these questions to be left blank or an entry of not applicable in such circumstances.
16	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.
17	Part VI, Section C, Line 18	Low	Line 18 asks how the organization makes its Form 1023, 990 and 990-T available for public inspection. Several boxes are available: own website, another's website, upon request, other.	Recommend this question to be revised to be more user friendly and the reader cannot tell what document is posted based on the check box method, unless the nonprofit further elaborates on Schedule O.
18	Part VI, Section C, Line 18	Low	Instructions to Line 18 state to explain on Schedule O if the organization didn't make publicly available upon request and of Form 1023, 1023-EZ, 1024, 1024-A, 990, or 990-T that are subject to public inspection requirements.	Recommend that this question be more transparently asked and more visible in a direct question - yes or no response - versus indicating that it was not in compliance with the public inspection requirements in a narrative format.
19	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.
20	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.
21	Part VII	High	Board members are at times compensated for services provided to the organization (as independent contractors) and not in the capacity of serving as a board member.	Recommend a check box to indicate that the compensation is in a capacity other than as serving as a board member and/ or disclosure on Schedule O for clarity to the reader.
22	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.
23	Part VII, Section B	High	Section B requires the reporting of independent contractors, some of which may be foreign contractors either performing services within the United States or outside of the United States. The address of such independent contractors is requested.	Recommend privacy and confidentiality consideration to be given with respect to the reporting of foreign addresses for independent contractors and connection to Schedule F, Part I, column (c) which uses discrete reporting by regions.
24	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.
25	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.

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26	Part IX, Line 11d	High	Line 11d states to enter amounts for activities intended to influence foreign, national, state and local legislation, Recommend the IRS provide clarification and/or confirmation with including direct lobbying and grassroots lobbying. Schedule I is used to report grants made to organizations. If respect to whether lobbying conducted by domestic grantees through the grantee uses the earmarked grant funds for lobbying purposes, the grantor must treat that part of the grant grants funds provided by the filing organization is correctly reportable as a lobbying expenditure. The lobbying expenditures are reported on Form 990, Schedule C. Question arises on Line 11d or more appropriately to be disclosed on Part IX, Line 1. as to how to treat grants made and used towards lobbying activities on Part IX, Line 11d or Line 1.
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**SCHEDULE A**

Section of the Form	Importance Level	Comment	Recommendation
<b>1</b> 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.
<b>2</b> 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 impact on retroactivity, if any. support percentage for the previous tax year needs to be recomputed under the new designation.	Recommend the IRS provide clarification in its instructions as to public support reclassifications and retroactivity, if any.
<b>3</b> 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 epostcard 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 as to whether former Form 990-N filers are required to compute/enter its public support and investment income percentages.
<b>4</b> Part II and Part III	High	Instructions prescribe organizations who operated on a short year to explain in Part VI. This disclosure is often overlooked and the financial data may appear distorted to the public reader in situations where there has been a change in its tax year.	Recommend a check box feature to indicate if any respective tax year is a short year. This check box can be placed at the top or in near proximity of the tax 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>
<b>1</b> 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.
<b>2</b> Part I, Line 3	Medium	Line 3 asks if the organization publicized its racially nondiscriminatory policy on its primary publicly accessible internet homepage or through newspaper or broadcast media. The narrative format does not always clearly indicate the methods used.	Recommend a check box feature for the organization to indicate the method or methods used to publicize its racially nondiscriminatory policy as this format is more user friendly. Consideration should be given as to whether the narrative is even necessary and if this should be abolished, or may remain on a voluntary basis for any additional pertinent information. In addition, if the nondiscriminatory policy is made available on its internet homepage, should private schools provide the weblink to the public as validation.

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 ideally based on total expenditures, or a fixed higher may avoid the reporting of grants altogether.	Recommend a threshold scale for reporting of grants, threshold.
2 Parts IV	High	This section reports on certain foreign forms, such as Form 926, 3520/3520-A, 5471, 8621, 8865, and 5713. It does not include Form 8858 to report on foreign disregarded entities and foreign branches.	Recommend the addition of Form 8858.

SCHEDULE G

Section of the Form	Importance Level	Comment	Recommendation
1 Part I, Line 2b(vi)	Medium	Column (vi) states to subtract column (v) gross receipts from the activity from (vi) amounts paid to (or retained by) the fundraising professional. If zero gross receipts were generated from the activity, tax practitioners generally enter a negative amount in column (v) based on the formula prescribed by the IRS instructions.	Recommend clarification in the instructions as to whether a negative entry is the proper entry or whether this amount should be capped at zero.



SCHEDULE I

Section of the Form	Importance Level	Comment	Recommendation
1 Parts II and Part III	Medium	Reporting of domestic grants for organizations is \$5,000 for any recipient \$5,000 in the aggregate for individuals, irrespective 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 J**

Section of the Form	Importance Level	Comment	Recommendation
1 Part I, 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 expand and/or clarify on the term "relied" or guide the reader to the Regulations under section IRC 4958.
2 Part I, Line 7	High	Line 7 asks if the filing organization provided any persons listed on Form 990, Part VII, Section A, Line 1a any nonfixed payments. Part VII reports compensation on the calendar year basis. Persons to be reported on Part VII are whether the terminology "provided" a nonfixed payment denotes determined either on the calendar year or fiscal year basis, depending whether the person is an Officer, Key employee, or a Highly Compensated Person.	Recommend the IRS provide clarification in its instructions as to cash or accrual basis, and terminology used "received" and "accrued" on this schedule.

**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.
5 Part I, column (a)	High	Cryptocurrency donations are becoming increasingly popular and are treated as noncash property.	Recommend the IRS add a separate line item to the current list of property for cyptocurrency donations.

**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, a receiver and a 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 guidance in its instructions with respect to this transaction which is reciprocal in nature and ask that the IRS give consideration as to whether the question should be split to indicate whether the organization is the receiver or the giver.
2 Part IV (generally), column (b)	High	Part IV, column (b) asks for the primary activity to be entered for related organizations taxable as corporations. There are circumstances when a corporation is inactive and defunct but has not officially dissolved nor has any official plans of dissolving on the state level. Tax practitioners generally enter "inactive" as the primary activity. In such circumstances where the organization is defunct or has been abandoned, but not officially dissolved, for how long or is inoperative. the filing organization required to report the organization as a related organization.	Recommend the IRS provide guidance as to the reporting of inactive, defunct, and abandonment related organizations that are not officially dissolved under its state law but are clearly inoperative.

FORM 990-EZ

Section of the Form	Importance Level	Comment	Recommendation
1 Part VI column (a)	Medium	Form 990 Item C allows for a "doing business as" (D/B/A) to be entered, however, Form 990-EZ does not.	Recommend the IRS to allow for a D/B/A to be entered for Form 990-EZ filers.

FORM 990-N

Section of the Form	Importance Level	Comment	Recommendation
#### 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 meet the qualifications of the public support test under IRC sections 509(a)(1) or 509(a)(2) and/or if recordkeeping is maintained.