



THE ASPEN INSTITUTE
Philanthropy & Social Innovation

September 10, 2015

Christie Preston, IRS Reports Clearance Officer
Internal Revenue Service, Room 6129
1111 Constitution Avenue N.W.
Washington, DC 20224

Re: Comments on Form 990 and Related Schedules

Dear Ms. Preston:

Enclosed are comments submitted to the Internal Revenue Service regarding the Form 990, Return of Organization Exempt From Income Tax.

These comments are submitted on behalf of the Nonprofit Data Project, an effort of the Program on Philanthropy and Social Innovation of the Aspen Institute, and its partners, including: Foundation Center, Center on Nonprofits and Philanthropy at the Urban Institute, GuideStar, Indiana University Lilly Family School of Philanthropy, and the Center for Civil Society Studies at Johns Hopkins University.

We appreciate the opportunity to submit these recommendations. If you have any questions, please feel free to contact Cinthia Schuman Ottinger at cschuman@aspeninst.org.

Sincerely,



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Comments Submitted to the Internal Revenue Service:

Return of Organization Exempt From Income Tax

Under Section 501(c), 527, 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation) (Form 990), Organization Exempt Under Section 501(c)(3) (Except Private Foundation), and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) Nonexempt Charitable Trust (Schedule A), and Schedule of Contributors (Schedule B).

By the Following Organizations:

The Aspen Institute's Nonprofit Data Project
Foundation Center
GuideStar

The Center for Civil Society Studies at Johns Hopkins University
The Center on Nonprofits and Philanthropy at the Urban Institute
Indiana University Lilly Family School of Philanthropy

The Nonprofit Data Project of the Program on Philanthropy and Social Innovation of The Aspen Institute brings together the major nonprofit research and data providers in the United States, including Foundation Center, GuideStar, Center on Nonprofits and Philanthropy at the Urban Institute, Indiana University Lilly Family School of Philanthropy, and the Center for Civil Society Studies at Johns Hopkins University. Together we work to increase understanding of the nonprofit sector in the United States through improved data, and improved access to such data.

The nonprofit sector employs ten percent of the nation's workforce and comprises at least five percent of the Gross Domestic Product (GDP). Information on this important sector of our economy and society is critical to sound policy-making and practice, as well as informed decision-making by citizens throughout the country.

One of the greatest sources of information on the nonprofit sector is the Form 990, the information return which nonprofit organizations are required to file annually with the Internal Revenue Service (IRS) and with many states. Information from the Form 990 is regularly used by nonprofit leaders, donors, charity officials, policymakers and the general public.

We appreciate this opportunity to increase the availability, quality, utility and clarity of information in the Form 990, including Schedules A and B, with the following recommendations:

- 1. Release Electronically Filed Forms 990 As Planned and Take Steps to Encourage Expanded Electronic Filing of the Form 990**
- 2. Improve the Reporting of Government Revenue Through Modifications to Parts I and VIII of the Form 990**
 - a. Summarize Government Revenue in Part I
 - b. Create a Dedicated Line for Government Reimbursements (e.g. Medicare/Medicaid) and Contracts in Part VIII, line 2(a)
- 3. Clarify the Distinction Between Contributions and Program Service Revenue**
- 4. Require Use of Activity Codes for Reporting Nonprofit Program Activity**

We believe that these recommendations and sub-recommendations are essential in providing useful information about nonprofits to the Internal Revenue Service, state charity regulators and the public. The sections below will expand upon each of these recommendations.

1. **Recommendation: Release Electronically Filed Forms 990 as Planned and Take Steps to Encourage Expanded Electronic Filing of the Form 990**

Recently, the IRS announced that it is actively working towards releasing electronically filed Forms 990 to the public in a machine-readable format in early 2016. This would enable the public to easily search and analyze a good portion of tax forms for helpful information on nonprofit activities.

We applaud these efforts, and urge the IRS to release electronically filed forms as soon as possible, both prospectively and historically, so that the public may benefit from the valuable information gleaned from future and past electronically filed tax forms.

As noted in the Aspen Institute report, [*Information for Impact: Liberating Nonprofit Sector Data*](#), electronic filing of the Form 990 by all nonprofits organizations would yield many additional benefits. Until Congress acts to amend the Internal Revenue Code to require electronic filing of the Form 990, however, we support the recommendations of the Advisory Committee on Tax Exempt and Government Entities (ACT): the IRS should take interim steps to encourage electronic filing, such as promoting the availability of electronic filing to those not required to do so, and considering other appropriate incentives for e-filing.¹ In addition, the IRS should encourage the Department of Treasury to eliminate the minimum \$10 million asset threshold on mandatory electronic filing, phasing out this limitation over a two- to three-year period, thus increasing the number of nonprofits subject to the mandatory e-filing requirement.

The benefits of universal Form 990 electronic filing include:

- **Increased Transparency** of nonprofits, helping regulators, nonprofit leaders, donors, businesses, policymakers and the public to make better decisions, understand trends in the field and gauge where nonprofits stand in comparison to their peers.
- **Reduction of Fraud** by making it easier for government officials to detect and locate potential problems, which are more easily identified through computer analysis. More timely and accessible data will not only help the IRS and state charity officials address compliance concerns, but it will also boost the public's ability to monitor charities. Furthermore, as recently noted by the ACT, the IRS is currently utilizing less than half of the information from the Form 990 for data analytics functions, due to the constraints of manually entering data from paper forms. Electronic filing by all nonprofits will result in more information being available for electronic review, and thus higher utilization of 990 data for tax compliance and analytical purposes.
- **Improved Accuracy/ Reduced Errors** since e-filed returns, as opposed to paper-filed returns, reduce inaccurate calculations, and cut down on mistakes, such as the unintentional disclosure of private information. *This is particularly important with respect to confidential donor lists in Schedule B.* Fewer errors and better front-end identification of such errors also reduce taxpayer burden in the filing process.

¹Advisory Committee on Tax Exempt and Government Entities (ACT). (2015). 2015 Report of Recommendations. Washington, DC: Internal Revenue Service publish.no.irs.gov.

- **Improved Efficiency/ Cost-Reductions** associated with electronic filing are important, given the limited funding available to the Exempt Organizations division of the IRS. Electronic filing lowers the cost of processing returns (for example, electronic filing involves less training and staffing than is required for processing paper returns) saving the IRS and taxpayer money and enabling the agency to use resources more efficiently.
- **More Innovation/ Business Opportunities** by entrepreneurs and innovators who will have the data available to develop new, useful “apps” that can help solve problems in our communities.
- **Improved Information for the Public** through the development of web tools that use and aggregate Form 990 data to provide information on topics such as philanthropy and how the nonprofit sector impacts employment and the economy.

2. Recommendation: Improve the Reporting of Government Revenue Through Modifications to Parts I and VIII of the Form 990

Government has emerged as perhaps the largest single funder of nonprofit activity in the United States, outdistancing philanthropy by a factor of approximately 3:1. It is therefore vitally important to have a full picture of the overall scope of government funding of the nonprofit sector, how this support has varied over the years, and what types of nonprofits and areas of the country are experiencing changes in government funding of nonprofits.

Unfortunately, the Form 990, Part VIII Statement of Revenue lacks sufficient clarity with respect to the reporting of government revenue, confusing users of the form, and likely resulting in inaccurate reporting. In particular, two of the largest sources of government support to the nonprofit sector—voucher-type reimbursements such as Medicare and Medicaid, and government contracts—are buried in the “program service revenue” line along with private payments for services

For example, since 2008, when the Form 990 was modified, the Service has not asked nonprofits to report separately their revenue from Medicare, Medicaid and other reimbursement payments. These payments, which reach a broad array of nonprofits beyond hospitals, are now generally aggregated with other “program service revenue,” obscuring the largest form of government support to the nonprofit sector.

(We understand that Medicare and Medicaid are captured for hospitals on Schedule H, Part III, but this schedule is only for hospitals. As Congress considers prospective changes in government programs, such as Medicare and Medicaid, transparent and proper reporting of how these funds are being distributed and utilized across the nonprofit sector becomes more important.)

Similarly, despite the fact that government contracts are a major and common source of nonprofit revenue, they are not separated on the Form 990, leading to additional confusion, particularly because contracts may fall either under Part VIII, line 1(e) (government grants), if they benefit the public as whole, or within Part VIII, section 2 (program service revenue), if the contract primarily benefits a government agency.

Nowhere on the form is the totality of government support reported. Nor can this be computed from elements of it that are reported since some of the most sizable elements are buried.

To avoid these problems, government revenue should be more clearly labeled and distinguished in the Form 990, as noted in the following proposed changes to the form:

2a. Summarize Government Revenue in Part I: Government revenue information, whether by grants, contracts, reimbursements for services or other payments for goods and services, is so critical that we believe it is worthy of Part I summary reporting, in addition to explicit Part VIII revenue reporting. We therefore recommend the following modifications:

Preferred Recommendation 2a. The revenue section on Part I currently uses only five lines. We recommend that Part I lines 8, 9 and 10 be revised as follows:

- add a new line 8 “Government payments (grants, contracts and reimbursements);
- current line 8 would be modified as follows “Private grants and contributions” and will become line 9;
- current line 9 will be modified as follows “Private program service revenue” and will become line 10;
- all subsequent lines will be renumbered accordingly.

In other words, the new line 8 would be the sum of Part VIII, 1e (Government Grants) plus the portion of program service revenue from government in Part VIII, line 2, which we would break out separately.

We appreciate that Part I space is limited. If the IRS is unable to add a separate line to Part I in which revenue from all government funding (including from grants, contracts, and reimbursements) is reported, then we recommend that reporting by parenthetical be added to Part I, lines 8 and 9. Thus, the portion of government revenue included in those respective line amounts in the Current Year column could be reported separately in parentheticals on those lines. Users would draw this information from Part VIII, lines 1(e) and 2(a), which would represent the totality of government revenue for the current year.

Fallback Recommendation 2a. Part I, lines 8 and 9 would be revised to as follows:

8. "Contributions and grants (Part VIII, line 1h), (Of which government portion: \$ _____)."

9. "Program Service Revenue (Part VIII, line 2g), (Of which government portion: \$ _____)."

Proposed changes are underlined.

The automated tax preparation systems used by most organizations and preparers would be able to automatically calculate these new numbers for either the preferred or fallback revisions to Part I based on the minor changes that we recommend in Part VIII (Statement of Revenue) below.

2b. Medicare/Medicaid/Contracts: Part VIII, Line 2 – Form 990. As noted above, Medicare and Medicaid payments, and other government reimbursements represent the largest source of government revenue to the nonprofit sector, but the extent of these payments is now obscured due to changes to the Form 990 in 2008.

Recommendation 2b. Insert “Government Reimbursements (e.g. Medicare/Medicaid/) and Contracts)” on existing line 2(a) of Part VIII of the current Form 990. This change could be made without adding any further lines to the form since five (5) blank lines are already included on the

existing form for organizations to list their “program service revenue.” The first sentence of the Form 990 Instructions, Part VIII, line 2, could be replaced with the following sentences:

Recommendation: If applicable, on line 2a enter any revenue received from government reimbursement programs such as Medicare or Medicaid, fees and contracts from government agencies that primarily benefit the agencies, and any other similar government payments. On lines 2b through 2e, enter the organization’s four other largest sources of program service revenue.

3. **Recommendation: Clarify the Distinction Between Contributions and Program Service Revenue**

Many in the nonprofit sector have difficulty distinguishing between grants and contracts that benefit the public versus those payments that serve the needs of a governmental unit. The 2015 ACT report highlighted this problem, finding that it can result in “inconsistent reporting among seemingly comparable organizations” as well as errors in the computation of some organizations’ public support test on Schedule A. Given the significance of government revenue to the nonprofit sector, it is important that the IRS take steps to address this.

Recommendation: Clear up confusion regarding what constitutes government grants/contracts that are treated as contributions in line 1e by providing additional useful examples (beyond those listed in the current instructions to lines 1 and 2) drawn from nonprofit experiences. The Nonprofit Data Project is happy to confer with organizations that work with nonprofits (such as Independent Sector, the National Council on Nonprofits and state level nonprofit associations), as well as accountants, to determine typical use cases that would be most helpful to add to the instructions.

In the meantime, *possible examples* might include:

- **Example 1:** A state department of social services enters into a contract with a child welfare agency to provide a variety of services to children in need within the state. Since the contract benefits the general public, not the government agency, it is considered a contribution and is reported on line 1e.
- **Example 2:** A government housing agency enters into a contract with a nonprofit community development organization to construct moderate-income housing. The housing is for local residents, not government employees, so the funding should be noted as a contribution in line 1e.
- **Example 3:** A city council contracts with a nonprofit organization for services related to proper waste water management at a city office building. Since the direct benefit of the funding is for the local government, not the general public, it does not count as a contribution.
- **Example 4:** In a city, there are thousands of government-held, vacant lots. The government provides a grant to a nonprofit to transform several of the vacant lots into community gardens. The grant should be considered a contribution on line 1e because the beneficiaries are community members who will use the garden.

4. **Recommendation: Require Use of Activity Codes for Reporting Nonprofit Program Activity**

Part III, lines 4a-c of the Form 990 provide spaces for the reporting of activity codes to characterize program service activities. However, the instructions ask filers to leave these spaces blank, severely limiting the public's understanding of nonprofit program activities.

We strongly recommend that the IRS fully implement the coding of exempt organizations' program activities in Part III of the Form 990. Activity codes provide a window into the basic functioning of the nonprofit sector, allowing the public to quickly and easily understand what nonprofit organizations do and the ways in which they achieve their tax-exempt purposes. Organizations are extraordinarily inconsistent in their descriptions of their activities limiting the usefulness of the descriptive information. In contrast, an easy-to-use and uniform system of coding provides a simple tool for helping:

- the IRS and state regulators to categorize organizations for regulatory purposes;
- donors and volunteers to quickly find services they would be interested in supporting and compare organizations in the same fields;
- state and local governments to identify gaps in service delivery;
- funders to identify duplication of services; and
- researchers and policymakers to better understand the nonprofit sector as a whole.

We further recommend that the IRS adopt the National Taxonomy of Exempt Entities ([NTEE](#)) for classifying these activities and that the coding be expanded to include the Form 990-EZ.

The NTEE is the product of three decades of development in the nonprofit sector and is widely used by major foundations, research organizations, state charity offices, and the IRS itself. It has proven to be a useful, comprehensive system for tabulating and presenting information on millions of nonprofit activities. The infrastructure of definitions and keywords maintained by the Foundation Center and the Urban Institute ensures that users can quickly find exactly the code that they are looking for. Furthermore, there are comprehensive crosswalks available so that NTEE codes can be mapped to the federal government's NAICS codes, or to 2-1-1 emergency assistance classification system codes widely used around the country.

In the past, the IRS expressed concern that the NTEE is not sufficiently flexible and adaptable. We note that the NTEE system has evolved over time and now represents a nimble system of nonprofit classification. The Foundation Center, the Urban Institute and GuideStar stand ready to work with the IRS on an ongoing basis to ensure that it continues to meet all the needs of the IRS, state charity officials and other users. To deal with the problem that a small percentage of codes are appropriate for organizations, but not programs, our group would welcome the opportunity to work with the IRS to filter out those codes for use on the Form 990. Regardless, the existence of this small sub-section of codes should not stand in the way of the adoption of a system that works for the vast majority of nonprofit organizations. We also stand ready to help in the education process for filers as this recommendation is implemented.

As long as users have access to a searchable listing, such as the Urban Institute or the Foundation Center maintains, users can type in a keyword and get a list of possible terms. In our experience, this eliminates most of the inconsistent coding that has plagued activity classification systems of all types. The mature, finely-tuned definitions and keywords that NTEE employs ensures that users will find what they are looking for—a major problem should the IRS choose to construct a new list of

categories. Compared to the alternative of having no categorization of programs at all, the consistency of NTEE classification would be overwhelmingly superior.

Lastly, we would also like to note the development of a new taxonomy that builds upon NTEE. In 2012, in order to better meet the needs of the philanthropic sector, the Foundation Center, along with Urban Institute, GuideStar and many other partners and experts across the sector, began an extensive revision of the NTEE to develop the Philanthropy Classification System ([PCS](#)) reexamining both the terms included in the NTEE and the overall taxonomic structure. The goal was not to create yet another standard, but to deepen NTEE and create a more broadly adopted standard that can serve as a relevant classification tool for a 21st Century global philanthropy community.

While we are not suggesting that the IRS adopt the PCS in the short term, we want you to be aware of its development. We believe that facets of the PCS can meet the longer term needs of the IRS and other actors to answer a broader range of questions about the philanthropic sector, including who (population groups served), what (subject areas and organization types), how (support strategies and transaction types) and where (geographic area served) philanthropic organizations are working.

Conclusion

Adoption of the above recommendations will lead to improvements in the quality and usefulness of the Form 990, and will also result in benefits to Schedules A and B.

Thank you for this opportunity to submit comments. We look forward to working with you to address these issues. For further information, please contact Cinthia Schuman Ottinger of the Program on Philanthropy and Social Innovation of the Aspen Institute at cschuman@aspennet.org.