

# Legacy Advisor

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NOT-FOR-PROFIT ORGANIZATIONS

## Are You Ready for the New Form 990?



Eileen Brassil, CPA

Ready or not, the time has come to address the filing of your 2008 Form 990. Due to the extensive revisions to the core form and the addition of numerous schedules, the prospect may seem daunting. But leaving this task until the time of your annual audit may prove to be unwise, especially considering that the majority of the form can be completed right now.

If you were to ask where to start, our advice would be to focus on the two main areas of **governance** and **compensation**. The new 990 requires disclosure about relationships between officers, directors, and key employees, the total number of voting board members,

the number of voting board members that are independent, the documentation of decisions in board minutes, and the process for the Board to review Form 990 before the form is filed. You also have to disclose whether the organization has certain written policies and whether the policies are adhered to.

Furthermore, the new Form 990 requires compensation disclosures that focus on the total compensation package and not just salary (e.g., first class travel, housing allowances, etc.), whether the compensation is reasonable, and a description of the process used to determine compensation levels, such as the use of comparability data.

Here is an example of what you can do right now to ease the process of filing the new Form 990. Schedule L requires disclosure of transactions with "interested persons." You can identify all such persons and any transactions. For Part II of Schedule L, "interested persons" are current or former officers, directors, trustees, key employees, and the five highest compensated employees of the organization. For purposes of Part III, an "interested person" means a current or former officer, director, trustee, or key employee, a substantial contributor, or a related person.

Next, identify your "key employees" -- any person who receives in excess of \$150,000 (from the organization and all related organizations), who has overall responsibilities for the organization as a whole, as well as, certain persons who manage or have authority to control more than 10% of the organization's activities, assets, income, expenses, capital

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## Legacy News

**W**e are excited for Association Forum's Annual Holiday Showcase, which is scheduled for December 16 in Chicago. See article on page 3 for more information.

In addition to nonprofit organizations, our Firm provides audit and tax services to employee benefit plans, villages, municipalities, school districts, labor organizations, and other types of organizations. Given our extensive experience with employee benefit plans, we are uniquely equipped to provide an audit for your 403(b) plan. If your organization has a 403(b) plan that will now require an audit as a result of changes to the Form 5500 earlier this year, please contact us for more information on our qualifications for serving as auditor for your plan. See article on page 2.

We are pleased to announce the expansion of the Firm's commercial accounting and tax practice. Effective September 1, 2008, the employees of Frank Lowry & Co. P.C. joined the staff of Legacy. This group includes Frank E. Lowry, CPA, MST and his two employees, Mary E. Murzyn, CPA, and Rosemary Sanchez. Frank, Mary, and Rosemary all work out of Legacy's Munster, Indiana office where they now service Legacy's commercial and individual clients along with their existing clients.

Contact our Marketing Director, Julie Tucek at 312-384-4292 or [jtucek@legacycpas.com](mailto:jtucek@legacycpas.com) if you would like to discuss any opportunities. We appreciate your referrals.

This issue was edited by Rose G. Doherty, CPA, Partner. Rose can be reached at 312-384-4223 or [rdoherty@legacycpas.com](mailto:rdoherty@legacycpas.com).

*Wishing you all a Happy Holiday Season and a Healthy 2009!*

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## IRS Regulations Lead to Changes for 403(b) Plans

### It's a new world for 403(b) retirement plans.

By January 1, 2009, 403(b) plans need to be in compliance with IRS regulations which require a written plan document and more involvement from the plan sponsor than has been typically taken. Sponsors with multiple investment providers can expect to experience the most change, and this is causing many sponsors to engage the services of a third party administrator.

Why? Additional guidance may be necessary to assure compliance with the regulations, since the following must also be addressed:

- The universal availability rule must be met (i.e., if an employer permits one employee to defer salary into a 403(b) plan, the employer must extend this offer to all employees, with certain exceptions)
- Contribution limits must be monitored and funds must be timely transferred to providers
- Exchanges cannot be made with any investment providers who have not signed an information sharing agreement
- IRS rules must be followed for all distributions and loans
- Contracts cannot include new standalone insurance policies
- Plan-to-plan transfer rules must be strictly enforced
- Employer contributions must have non-discrimination testing, and
- Where applicable, the rules are to be considered on a control group basis.

Many 501(c)(3) organizations have determined that they do not "sponsor" their 403(b) plans since they allow only employee voluntary contributions to the plan that uses either one or multiple investment providers, thus not making the plan subject to ERISA rules.

*However under the new regulations, even if a 403(b) plan is not subject to ERISA requirements, it is still required to have a written plan document.*

Furthermore, 403(b) plans with multiple investment providers will have a difficult time maintaining their ERISA exemption if they continue to have features such as loans or hardship distributions. Gathering information from providers and determining loan limits may also constitute enough involvement as a "plan sponsorship" and cause the loss of the ERISA exemption, regardless of whether a third party administrator is involved or not.

Any 403(b) plans that are not exempt from ERISA regulations will need to file a Form 5500. Plans with over 100 participants need to have an audit conducted by an independent and qualified public accountant. The plan will also have to comply with all other ERISA reporting and disclosure requirements.

To aid plan sponsors in selecting a qualified auditor for their plan, the AICPA Employee Benefit Plan Audit Quality Center (of which Legacy Professionals LLP is a member) has released a document which includes information on how to find an auditor in addition to discussing the proposal evaluation and auditor selection process. The document, entitled *RFP and Auditor Evaluation Process Checklist for Plan Sponsors*, can be found on the AICPA Employee Benefit Plan Audit Quality Center's webpage, <http://ebpaqc.aicpa.org/>, under the Plan Sponsor Resource Center link. You can also find guidance at the IRS website, <http://www.irs.gov/retirement>.

If you have any questions regarding new 403(b) Plan rules and requirements, please feel free to contact us.

*By Donna A. Hubert, CPA, Partner, Chicago office  
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## FIN 48 to be Delayed One Year for Nonpublic Companies

In an announcement that will have an impact on most non-publicly-traded companies, the Financial Accounting Standards Board (FASB) has proposed to delay the implementation of FIN 48 by nonpublic entities for one year (until fiscal years beginning after December 15, 2008).

FASB's Statement of Financial Accounting Standards (SFAS) No. 109 sets forth the financial accounting and reporting standards for the effects of income taxes resulting from an entity's activities during the current and previous tax years. FIN 48 Accounting for Uncertainty in Income Taxes directs how SFAS No. 109 applies by setting a threshold condition that a tax position taken by an entity must satisfy before any part of the benefit of that position may be recognized in the entity's financial statements.

## Holiday Showcase 2008



Rose Doherty, CPA

Legacy Professionals will again participate in Association Forum's Annual Holiday Showcase. The event is scheduled to be held Tuesday, December 16, 2008 at the Hyatt Regency Chicago.

Partner Rose Doherty will be speaking at one of the Breakfast Roundtables, on the subject of *Safeguarding Your Association's Meetings from UBIT*. The Roundtable will take place from 8:30 a.m. to 9:30 a.m. on December 16.

During the afternoon tradeshow, Partner Rose Doherty and Marketing Director Julie Tucek will represent the Firm at the Legacy Booth, #546, in the Exhibitor's Hall. Please

come by to say hello or to hear more about what Legacy can do for your organization.

We look forward to seeing many of you at Holiday Showcase!



## Changing Your Accounting Period



Craig Resch, CPA

Every organization maintains its financial records on an annual accounting period, either on a calendar or fiscal year basis. But did you ever wonder if your organization would be better served by changing to a different accounting period?

There can be several good reasons for an organization to change its accounting period. For example, if your organization incurs most of its expenses in the fall and receives a great deal of its income in the spring (perhaps as a result of an annual conference or a large fundraiser), a calendar year basis may not make sense or accurately reflect the financial position of your organization from one year to the next. The receipts and expenses in the calendar year would not necessarily be related, and thus, a June, July, or August year-end might make more sense in this situation.

As long as your organization has not adjusted its fiscal year in the past ten years, all you must do if your organization

decides to change its accounting period is file a Form 990 for the short period resulting from the change. "Change of Accounting Period" must also be written on top of the short-period return.

However, if your organization has previously changed its accounting period within the ten-calendar-year period and it had a Form 990 filing requirement at any time during that ten year period, a Form 1128 must also be attached to the short-period return.

The biggest cost for many organizations that change accounting periods, is the short-period audit that may be required.

If you have any questions on changing your accounting period, please do not hesitate to contact us.

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Form 990  
Form 1128

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expenditures, operating budget or compensation for employees.

Your "substantial contributors" are those persons who contributed during the organization's tax year at least \$5,000 and are required to be reported by name in Schedule B, Schedule of Contributors. Instructions defining a "related person" are also outlined in the instructions to Schedule L.

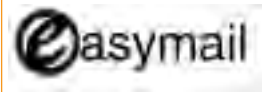
As you can see, completing the new Form 990 will be an organization-wide effort, involving the accounting, human resources and various other departments.

Another suggestion for what you can do right now is to compare your completed 2007 Form 990 to the new 2008 Form 990 and look over an IRS checklist to see which of the 16 new schedules apply to your organization. This can be found at [http://www.irs.gov/pub/irs-tege/part\\_iv\\_instructions.pdf](http://www.irs.gov/pub/irs-tege/part_iv_instructions.pdf)

Although many agree that change is never easy, it can be made less painful with suitable planning and preparation. As always, we at Legacy are here to help.

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