

August 22, 2008

## IRS Issues Final Instructions for New Form 990

Earlier this week, the IRS released its much-anticipated final instructions for the redesigned Form 990 for 2008. Though marked as “draft,” the IRS does not intend to make any additional substantive changes to the 2008 Instructions.

**Background:** In December 20, 2007, the IRS released its redesigned Final Form 990 for use beginning with the 2008 year (returns filed in 2009). The redesigned form contains a new hospital schedule (Schedule H) and tax-exempt bond schedule (Schedule K). Certain identifying information will be required for the 2008 tax year, with completion of the entire schedules required for the 2009 tax year.

**Highlights:** The 2008 Instructions generally follow the format used in 2007, but the 2008 Instructions contain several new features such as:

- A narrower definition for the term “key employee”
- A compensation table to help organizations determine where, when and how to report most types of compensation paid to officers, directors, trustees, key employees, and highest compensated employees
- A new “material financial benefit” test to determine the independence of an organization’s voting member for Schedule L, *Transactions with Interested Persons*
- A clarification on the definition of “officer” for purposes of reporting executive compensation
- Appendices that contain reporting requirements and guidance regarding group returns and activities conducted indirectly through joint ventures and disregarded entities

The 2008 Instructions also provide important clarifications to Schedule H, *Hospitals*, including the following:

- Clarification on how to determine which organizations must complete Schedule H, and which facilities must be listed in Part V of the schedule
- Clarification on the eligibility of physician clinics and skilled nursing facilities for treatment as a subsidized health service
- Clarification that health professions education costs include costs of all health education programs open to the general public, even if the organization’s employees may participate in such programs
- Clarification on reporting the cost of research
- Additional examples of how to treat cash or in kind contributions funded by restricted grants from related organizations

- Clarification that organizations may report as costs only its allowable costs that are reported in its Medicare Cost Reports, except for those costs already reported as subsidized health services or health professions education

To see the instructions in their entirety, click [here](#). For questions regarding the 2008 Instructions or Form 990 generally, please contact Ann T. Hollenbeck or any member of the Health Care Department.

Rachael Andersen-Watts	(313) 465-7342	Stuart M. Lockman	(313) 465-7500
Jennifer L. Benedict	(313) 465-7326	Kenneth R. Marcus	(313) 465-7470
Ann T. Hollenbeck	(313) 465-7680	Linda S. Ross	(313) 465-7526
Matthew R. Keuten	(313) 465-7510	Sarah Slosberg Tayter	(313) 465-7586

***This Alert provides general information only and does not constitute legal advice for any particular situation. © Honigman Miller Schwartz and Cohn LLP 2008. All rights reserved.***