

WEBINAR

FORVIS

Form 990 Red Flags & Updates: Is Your Organization in Compliance?

September 21, 2022

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Meet the Presenters



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AGENDA

WEBINAR

- Introductions

- Red Flags on the Form 990

- Hot Topics in Tax-Exempt Compliance for the Form 990

- Update on IRS Compliance Measures

FORVIS Footprint

WEBINAR



\$1.4B
in revenue

5,500+
team members

530+
partners &
principals

70
markets

27
states + United
Kingdom & Cayman
Islands

FORVIS

10 Industries

<p>Commercial Products</p> <p>\$265M</p> <hr/> <p>Agribusiness Transportation Wholesale Distribution Retail Manufacturing Energy & Natural Resources</p>	<p>Healthcare</p> <p>\$250M</p> <hr/> <p>Community Health Centers Home Care & Hospice Hospitals & Health Systems Long-Term Care & Senior Living</p>	<p>Financial Services</p> <p>\$190M</p> <hr/> <p>Banks Broker Dealers Finance Co.</p>	<p>Technology & Services</p> <p>\$180M</p> <hr/> <p>Life Sciences Software & Technology Telecom GovCon Professional Services</p>	<p>Private Equity*</p> <p>\$170M</p> <hr/> <p>Private Equity Funds Asset Management Portfolio Companies Investment Banks</p> <p><small>*Overlaps with other industries</small></p>
<p>Private Client</p> <p>\$130M</p> <hr/> <p>Family Office Estate Planning/Trusts Wealth Management Wealth Strategies</p>	<p>Construction & Real Estate</p> <p>\$120M</p> <hr/> <p>Hospitality Real Estate Construction Architectural Affordable Housing</p>	<p>Nonprofit, Education & Public</p> <p>\$115M</p> <hr/> <p>Nonprofit Education Public Sector</p>	<p>Insurance</p> <p>\$65M</p> <hr/> <p>Life Property & Casualty Warranty PEO/MGA Health</p>	<p>Dealerships</p> <p>\$50M</p> <hr/> <p>Auto Heavy Truck Machinery Recreational</p>

Form 990 Filing Requirements

- Form 990-N
 - Normally has gross receipts <\$50,000
- Form 990-EZ
 - <\$200,000 in gross receipts & \$500,000 in assets
- Form 990 if over these thresholds
- Form 990 not required for certain religious organizations (churches)

Form 990 Filing Requirements

- Common exceptions to general rule
 - Sponsoring organizations of donor advised funds must file Form 990
 - Controlling organizations with any transfers of funds with a controlled organization must file Form 990
 - Section 509(a)(3) supporting organizations must file Form 990 or 990-EZ even if gross receipts are normally \$50,000 or less

Form 990 Red Flags

- Missing Information
 - Form 990, Part IV – Checklist of Required Schedules triggers other schedules
 - Schedules A & O are always required
 - Missing Required Schedules is considered an incomplete return

Form 990 Red Flags

- Form 990, Part IV, Line 3
 - Political Activities Prohibited
 - Different from Lobbying
 - Subject to Excise Taxes
 - Could Jeopardize Tax-Exempt Status

Form 990 Red Flags

- Form 990, Part IV, Line 25a-b
 - Excess Benefit Transactions
 - + Excess value given to disqualified persons
 - + Disqualified persons are people with substantial influence

Form 990 Red Flags

- Form 990, Part V, Line 3b
 - Unrelated Business Income
 - + Required to file 990-T if Gross Income is over \$1,000, even if there is a net loss
 - + Churches are still required to file
 - + Considered a red flag if any does not correspond to 990-T reporting

Form 990 Red Flags

- Form 990, Part V, Line 15
 - Compensation over \$1,000,000
 - + Triggers Excise Tax
 - + File Form 4720
 - + Considered Red Flag if the Form is not filed
- Form 990, Part V, Line 16
 - Net Investment income for educational institutions
 - + Triggers Excise Tax
 - + File Form 4720
 - + Considered Red Flag if the Form is not filed

Form 990 Red Flags

- Form 990, Part VI, Line 5
 - Significant Diversion of Assets
 - + Unauthorized conversion of assets
 - + Embezzlement, fraud, theft
 - Could Result in Excess Benefit Transaction

Unrelated Business Income

- Losses from one unrelated business activity can not be used to offset income of another
- This is judged based on the NAICS code of the activity

Schedule A

- Monitoring support to be considered a public charity
- Important to track even in the first five years to avoid low public support percentages

Excise Tax on Compensation

- 21% Excise tax on any wages, including deferred compensation, in excess of \$1,000,000
- Important to review deferred compensation plans to watch for large amounts vesting at one time
- Will trigger a Form 4720 filing

Public Disclosures

- Form 990 & 990-T available to the public
- All Schedules except Schedule B are included
- Donors can view where money is spent
- Donors can see the accomplishments of the organization

Good Governance Practices

- Written Conflict of Interest Policy
- Written Whistleblower Policy
- Written Document Retention & Destruction Policy
- Documented process for compensation determination for officers & key employees

Update on IRS Compliance Measures

- Priorities for Fiscal Year 2022
 - Increase access to public disclosure copies
 - Continue to expand data analytics to identify high-risk areas
 - Cross collaboration with other IRS teams on exams to identify emerging issues
 - Increase digital communication platforms to assist taxpayers

Update on IRS Compliance Measures

- Accomplishments for Fiscal Year 2021
 - Exempt Organization Examinations Completed – 3,249
 - 82.3% of Exams resulted in a tax change
 - 94 entities received proposed revocations
- Common Themes Included
 - Hospitals with UBI operating at a loss
 - Missing filing requirements & forms
 - Unrelated Business Income
- Received 94,466 Determination Application
 - 81,589 Approvals – 76,852 of those were 501(c)(3)

Recent IRS Enforcement

- Compliance Checks versus Examinations
- “Bad answers” on the Form 990
- Compensation over \$1,000,000 reported on Form 990 with no Form 4720
- Hospitals – continued focus on 501(r)
 - IRS is required to review internally every 3 years
 - Form 990 & organization website
 - Deeper look at documents on website
- Unrelated Business Income – losses & M&A expenses
- Employment tax & notices
- Employee Retention Credit
- Whistleblower trigger

QUESTIONS

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