

Form 990 Annual Filing Requirements Explained

Filing Form 990 correctly is one of the most visible compliance obligations a nonprofit faces. This course walks through annual IRS information return requirements, including which version of Form 990 applies based on gross receipts and assets. You'll also explore Form 990-N for smaller organizations, reporting obligations related to Form 1099-K, and best practices for protecting sensitive information on publicly disclosed returns. Ideal for tax professionals advising nonprofit clients on annual filing obligations.

CREDIT HOURS 2 | FIELD OF STUDY TAXES | EXAM QUESTIONS 10

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LEARNING ASSIGNMENTS AND OBJECTIVES

Assignment

- Study the full course materials included here.
- Complete the review questions after each chapter.
- Answer 10 final exam questions.
- Final exam is scored immediately, 70% or better passes.
- Certificate of completion is available in your account.
- Failed exams can be retaken free of charge.

Course Objectives

- Recognize the nuances of the Form 990-EZ.

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TABLE OF CONTENTS

CHAPTER

01

Annual IRS Filings—Form 990 4

1.01 The Nuts And Bolts Of The Filing Process 4

1.02 The 990-N Postcard Filing—As Simple As It Gets 12

1.03 Form 990-Ez: The E-Z Way Out 15

1.04 Letting The Public See Your Report Card: Disclosure Of Form 990..... 50

1.05 Notifying The IRS If You Terminate, Merge, Or Contract Your Nonprofit
..... 54

1.06 What To Do If The IRS Has Revoked Your Nonprofit’S Tax-Exempt
Status..... 57

Test Your Knowledge..... 62

Final Exam Copy..... 76

Glossary..... 68

Index 62

Chapter 1: ANNUAL IRS FILINGS—FORM 990

Chapter Objective

After completing this chapter, you should be able to:

- Recognize the nuances of the Form 990-EZ.

Nonprofits don't pay income taxes like other businesses, and they don't file tax returns like other businesses either. However, that doesn't mean they don't have IRS tax filings to deal with. All nonprofits are required to file a form each year with the IRS. For the smaller nonprofits (those with less than \$50,000 in gross receipts), this filing is simply an electronic postcard with minimal information. All others must file an information return—either the dreaded Form 990, or its less burdensome cousin, Form 990-EZ.

An information return is just what it sounds like: a tax form that gives the IRS detailed financial and other information about your nonprofit. It isn't used to calculate or pay taxes. Instead, it shows the IRS how your nonprofit spends its money, conducts its operations, and whether it is in compliance with the tax laws that govern tax-exempt organizations. These IRS filings are important for nonprofits because if they aren't done properly, you risk having to pay IRS sanctions and could even lose your tax-exempt status. In addition, all 990 filings are freely available for the public to read. Thus, they often serve as the single most important source of public information about your nonprofit.

THE NUTS AND BOLTS OF THE FILING PROCESS

Let's look at the basic why, who, what, when, where, and how of filing 990 information returns with the IRS.

Why an Information Return?

The 990 returns are a big deal for nonprofits. Unless you are a small nonprofit with gross receipts of less than \$50,000, this annual filing is something you will need to pay attention to. Not only to avoid problems with the IRS, but also because for many nonprofits, it is their primary marketing document which can help enormously—or cause irreparable damage. A lot of information can be gleaned from this highly detailed, publicly available form, including how your nonprofit obtains and spends its money, how much it pays its staff and others, how it governs itself, and its program service accomplishments.

Moreover, almost all the information in Form 990 and 990-EZ, including financial details about executive compensation and program expenditures, is available for public inspection. Candid, which merged with the nonprofit watchdog organization GuideStar and still uses the GuideStar name, posts electronic copies of all filed Form 990s and 990-EZs in an easy-to-use database (www.guidestar.org). As a result, in the words of the IRS, Form 990 is “the key transparency tool relied on by the public, state regulators, the media, researchers, and policymakers to obtain information about the tax-exempt sector and individual organizations.”

Form 990 and 990-EZ are the IRS’s primary tools to enforce compliance with nonprofit tax rules. The financial disclosures and answers to the questions about your nonprofit’s activities will, among other things, help document whether your nonprofit is carrying out its tax-exempt purposes, engaging in excess benefit transactions, lobbying, or earning money from an unrelated business. The IRS uses this information to help it determine whether your nonprofit qualifies as a public charity or should be audited for any number of reasons. Wrong or misleading answers can lead to an audit of your nonprofit and the imposition of monetary sanctions against directors, officers, and other people who manage the organization.

In addition, some 40 states rely on 990 forms to perform charitable and other regulatory oversight, and to satisfy state income tax filing requirements for organizations claiming exemption from state income tax.

The first impression many people will get of your nonprofit will come from your Form 990 or Form 990-EZ. As we all know, negative first impressions are very hard to overcome.

Who Is Exempt?

Most nonprofits that the IRS has recognized as tax exempt must file an annual information return with the IRS. However, certain organizations are exempt from this annual filing requirement, including the following.

Religious organizations. The largest group of nonprofits that are exempt from any IRS informational filing requirement is churches and religious organizations. This exemption covers:

- Any church (including synagogues, mosques, and temples); an interchurch organization of local units of a church; a convention or association of churches; or an integrated auxiliary of a church (such as a men’s or women’s organization, religious school, mission society, or youth group)
- Schools below college level affiliated with a church or operated by a religious order
- Any exclusively religious activity of any religious order, or
- Religious missions in foreign countries.

Subsidiaries of other nonprofits. A nonprofit that is a subsidiary of another, larger nonprofit is exempt from the IRS information filing requirement if the parent nonprofit files a consolidated return for its subordinate organizations, including the particular subsidiary nonprofit. For example, individual Boy Scout troops usually don't file their own information returns—they are covered by the Boy Scout parent organization's filing on behalf of all its subsidiary organizations.

A parent organization may file on a subsidiary's behalf only if the subsidiary nonprofit is covered by the parent's group exemption letter from the IRS. In addition, each subsidiary nonprofit covered by the exempt group must give the parent written authority each year for inclusion in the group return.

Parent nonprofits don't have to file a consolidated return for their subsidiaries—they can require them to file their own returns. Whether they do so or not, a parent nonprofit must file its own separate return. If you're not sure whether or not your parent organization will include you in a group return, contact the main office of the parent group and ask.

Nonprofits not registered with the IRS. Any nonprofit that hasn't applied to the IRS for recognition of its exemption from federal income taxes is exempt. Nonprofit organizations that receive less than \$5,000 in income each year don't have to file Form 1023 or 1023-EZ to obtain tax-exempt status and they don't have to file an information return. (See Chapter 1 of course 33801D.)

Federal corporations and state institutions. This exemption applies to tax-exempt federal corporations, such as federal credit unions, and to state and local agencies or other entities such as a state college or university or state hospital.

Foreign nonprofits. Foreign nonprofits, including those located in U.S. possessions, don't have to file an information return if their annual gross receipts from sources within the United States are normally less than \$25,000.

Private foundations. These entities file IRS Form 990-PF each year, instead of one of the 990 forms discussed in this chapter.

Tip

Look at your IRS determination letter. If your nonprofit has received a determination letter from the IRS recognizing its tax-exempt status, the letter should state whether your nonprofit is exempt from filing an information return.

Which Form Should You File?

If you've heard about what a bear the IRS Form 990 is for nonprofits, don't panic. There's a good chance your nonprofit can file one of the simpler versions of the form. The IRS has created three different 990 forms, which differ greatly in size and complexity, from very simple to very

complicated. Which form you have to file depends on your nonprofit's annual income and, in most cases, the value of its assets.

The three different 990 forms are:

- Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ*
- Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, and
- Form 990, *Return of Organization Exempt From Income Tax*.

Larger nonprofits are required to file the most complex form—Form 990—while small nonprofits can file the simplest—Form 990-N. Midsized nonprofits have the option of filing Form 990-EZ.

Should Your Nonprofit File a 990 Anyway?

Even if your nonprofit falls within one of the exempt categories, you may decide to file an information return anyway. If you do, you must file a complete and accurate return, including all required schedules. Why would a nonprofit that doesn't have to file an information return go to the trouble of filing one? Here are several possible reasons:

- Information returns are an important way for nonprofits to gain recognition and provide information to the public about their organization. These forms are publicly available and many donors rely on this information when deciding which charities to donate to. Agencies that rate the effectiveness of nonprofits—such as Charity Navigator (www.charitynavigator.org)—also rely on Form 990s.
- In some cases, filing a Form 990 may be a condition of receiving a grant.
- Some states require nonprofits to file an annual return, even if they are exempt from the IRS filing requirements. Approximately 40 states will accept a Form 990 or 990-EZ in lieu of their own information return forms. Check your state law to see what the rules are.
- Filing Form 990 or 990-EZ starts the statute of limitations running on the IRS's authority to audit a nonprofit's tax compliance and impose monetary sanctions for "excess benefit transactions" against its managers, employees, directors, and others. Ordinarily, the IRS has three years to audit a return after its due date or filing date, whichever is later. The period is extended to six years if the return grossly understates the nonprofit's income or fails to adequately disclose improper activities. If a Form 990 return isn't filed, no statute of limitations restricts the time the IRS has to audit your nonprofit regarding its activities for that tax year. (See Chapter 1 of course 33801D.)

Filing Thresholds for Young Nonprofits

For nonprofits in their first few years of existence, the IRS has adopted special rules for determining their threshold levels for filing a 990 form. A nonprofit that is less than a year old can file a Form 990-N if it received, or donors have pledged to give, less than \$75,000 during its first tax year. For a nonprofit between one and three years old, it can file Form 990-N if it averaged \$60,000 or less in gross receipts during each of its first two tax years.

As shown in the chart below, which 990 form a nonprofit can use will depend on its gross receipts and, in the case of larger nonprofits, the value of its assets. “Gross receipts” means the nonprofit’s total income for the tax year from all sources without subtracting any costs or expenses.

Form 990 Filing Requirements		
Annual Gross Receipts	Total Assets	Form to File
“Normally” \$50,000 or less	N/A	990-N
\$50,001 to \$199,999	Less than \$500,000	990-EZ
\$200,000 or more	\$500,000 or more	990

Tip

Consider filing a Form 990, even if you don’t have to. Even if it isn’t required, you should consider carefully whether your nonprofit should file a Form 990 rather than Form 990-EZ. See “Should Your Nonprofit File a 990 Anyway?,” on the previous page.

When to File Your Return

No matter which form your nonprofit uses, the deadline for filing is the same: It is due by the 15th day of the 5th month after the end of your nonprofit’s tax year—that is, four-and-one-half months after the end of the tax year. If your nonprofit uses the calendar year as its tax year, your tax year ends on December 31, and the return is due on May 15— for example, your 2025 return is due May 15, 2026. If your nonprofit uses a fiscal year—that is, a year other than the calendar year—as its tax year, the four-and-one-half-month rule still applies. For example, if a nonprofit’s tax year ends on June 30, its information return would be due on November 15 of that year.

However, one exception applies to this general rule for filing deadlines. If your nonprofit is liquidated, dissolved, or terminated, its last return must be filed by the 15th day of the fifth month after the liquidation, dissolution, or termination, whether or not this coincides with the end of its

tax year. See “Notifying the IRS If You Terminate, Merge, or Contract Your Nonprofit,” later in this chapter.

How to Determine Your Nonprofit’s Tax Year

A tax year is usually 12 consecutive months. There are two kinds of tax years.

Calendar tax year. This is a period of 12 consecutive months beginning January 1 and ending December 31.

Fiscal tax year. This is a period of 12 consecutive months ending on the last day of any month except December—many fiscal years start on July 1 and end on June 30.

Your tax year (or accounting period) can usually be found in one or more of the following documents:

- Your nonprofit’s bylaws
- Your application for federal tax-exempt status (Form 1023, Form 1023-EZ, or Form 1024) or the determination letter you received approving your tax-exempt status
- The application, Form SS-4, your nonprofit filed to get its employer identification number (EIN), or
- A copy of a prior year’s annual return (Form 990 or 990-EZ) that you filed with the IRS.

When to File Your Return	
Tax Year	Time to File Information Return
Calendar year (ends on December 31)	May 15
Fiscal year (ends on the last day of any month other than December 31)	15th day of 5th month after year end

Beware of short deadlines for new nonprofits. When you start your nonprofit, your first tax year may be a “short year”—a tax year of less than 12 months. It all depends on when you file your articles of incorporation with your state government to establish your nonprofit’s legal existence. For example, if your nonprofit uses the calendar year as its accounting period and your articles of incorporation were filed on December 1, your first tax year consists of one month—from December 1 through December 31.

Even though your first tax year is less than 12 months, you must still file a 990 form within four-and-one-half months after its end. In the case of the nonprofit with the one-month-long first tax year

described above, the first 990 form must be filed by May 15 of the following year, only five-and-one-half months after its articles of incorporation were filed.

If your first tax year is a short year, there's a good chance that your federal tax exemption application will still be pending when your 990 form is due. That doesn't matter—you are still required to file the applicable 990 form.

There's also a good chance that you will be filing a Form 990-N in a short year, partly because it's likely your receipts will be low, but also because of special rules that apply. Namely, nonprofits that are less than one year old can file a Form 990-N if the nonprofit has received, or donors have pledged to give, less than \$75,000 during its first tax year. Or, if a nonprofit is between one and three years old and averaged \$60,000 or less in gross receipts during each of its first two tax years, it is also eligible to file a Form 990-N.

Obtaining an extension of time to file. All nonprofits are allowed one automatic six-month extension of time to file Form 990 or 990-EZ. Thus, you have as much as 10½ months to file either of these forms following the end your tax year. It is very common for nonprofits to obtain the automatic extension. To do so, you must file IRS Form 8868, *Application for Extension of Time to File an Exempt Organization Return*. Form 8868 must be filed before the due date of Form 990 or 990-EZ; it may be filed electronically or by postal mail. (The IRS strongly encourages electronic filing.) Don't include Form 8868 with your return when you file it because it will delay IRS processing of your return. Note that filing Form 8868 doesn't extend the time to pay any tax your nonprofit owes the IRS.

There is no extension of time for filing Form 990-N.

You Must File Your Return Electronically

Electronic filing of Forms 990 and 990-EZ is mandatory. For tax years before July 31, 2021, you had the option of filing Form 990-EZ electronically or by mail.

The IRS has created electronic versions of Form 990 and 990-EZ that you can complete online at its website. You must file your Form 990 or 990-EZ electronically through an IRS-approved provider for 990 electronic filings. For detailed IRS guidance on electronic filings, see www.irs.gov/e-file-providers/e-file-for-charities-and-non-profits. For a list of IRS-approved eFile providers, see www.irs.gov/e-file-providers/exempt-organizations-and-other-tax-exempt-entities-modernized-e-file-mef-providers.

You must file Form 990-N online through the IRS website. See “How to Complete and File Form 990-N,” below, for more on how to file Form 990-N online.

What If You Don't File?