

Form 990

Frequently Asked Questions (FAQ)

1. What were the most significant changes made to the 2008 Form 990?

After thirty years of modest annual changes to the Form 990, the IRS made significant changes in the 2008 Form 990. The revised Form 990 reflects the IRS's intention to enhance the transparency of tax-exempt organizations financial affairs and governance practices.

Below is a URL link to speeches delivered recently by Internal Revenue Service and Treasury Department officials on issues of interest to tax-exempt organizations which highlight the IRS's recent focus on governance:

<http://www.irs.gov/charities/article/0,,id=175235,00.html>

The Core Form 990, consists of the following a) New or b) Significantly revised parts:

a) New Parts:

Part I, *Summary*, provides certain important information regarding the organization's mission, activities, and current and prior years' financial results.

Part IV, *Checklist of Required Schedules*: The 2008 Form has added 16 new schedules for reporting additional information not asked in the Core Form. Part IV of the Core Form provides a checklist for the organization to determine which schedules should be completed and attached to the Core Form. The 37 questions in Part IV flow in alphabetical order based on the related Schedules (i.e., schedule A, Schedule B, and so on).

Part VI, *Governance, Management, and Disclosure*, asks 20 non-financial questions related to the organization's governing body and management, policies, and disclosure practices; many of the questions ask for submission of explanations on Schedule O.

- a. Section A, generally asks questions regarding how the organization is governed, and by whom.
- b. Section B asks whether the organization has written conflicts of interest, whistleblower, and document retention and destruction policies, and asks what process it uses to determine the compensation of its top management official and other officers or key employees.
- c. Section C asks questions regarding the public disclosure of certain documents subject to public disclosure requirements (Form 1023, Form 990) and documents not subject to public disclosure requirements (governing documents, conflict of interest policy, and financial statements).

Part XI, *Financial Statements and Reporting*: This is a new part for the 2008 Form 990 which requests information as to the organization's method of accounting; whether the organization's financial statements were compiled, reviewed, or audited by an independent accountant; and whether the organization has an audit or similar committee.

b) Significantly Revised:

Part VII, *Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors*. Part VII requires reporting of two types of compensation: 1) reportable compensation (amounts reportable on a person's Form W-2 (box 5) or Form 1099 (box 7)) and 2) other compensation.

Special rules apply to determine which types and amounts of compensation must be reported as "other compensation." Part VII also requires calendar year compensation reporting for all Form 990 filers, regardless of their tax year.

- a. Section A of Part VII requires a listing of the organization's:
 - i. Current officers, director, and trustees, regardless of whether they are compensated. This schedule should only include voting directors or trustees. Non-voting members of the board should no longer be reported.
 - ii. Top 20 highest paid "key employees" who receive over \$150,000, and
 - iii. Top 5 other highest compensated employees who receive over \$100,000 (as opposed to the \$50,000 threshold for 2007).
- b. Section B of Part VII requires the listing and reporting of compensation of the organization's top 5 highest paid independent contractors that receive more than \$100,000 from the organization (the 2007 threshold was \$50,000).

2. Does the 2008 Form 990 report on Calendar year or Fiscal Year basis?

Based on the IRS instructions, the Form 990 is to be prepared based on the calendar year or fiscal year beginning in 2008; therefore the 2008 ICANN Form 990 contains information related to the 2009 fiscal year which began in 2008 (i.e., July 1, 2008). One exception to the fiscal year reporting in the 2008 Form 990 is the Compensation amounts shown in Part VII which are required to be reported on a calendar year basis (January 1 – December 31, 2008).

3. Are only Voting Members of the Board included in Part VII and Schedule J of Form 990?

Yes, only voting Directors can be listed in Part VII and Schedule J on the new Form 990; however, non-voting Liaisons can be, and are listed in Schedule O.

4. What does the amount shown in column (F) of Schedule J-1 represent?

The amount in Column (F) on Schedule J-1 represents the portion of the listed employee's base compensation that is reported in this year's Form 990 to the extent such payment was already reported as compensation for the listed person on a prior Form 990. Generally, the amounts shown are due to the transition from the fiscal year reporting of compensation required on the 2007 Form 990 to the calendar year compensation reporting on the 2008 Form 990. This transition has created a one-time issue for the 2008 Form 990. Because base compensation shown on the 2008 Form 990 is for January - December 2008 and the prior year 990 reported compensation for July 2007 - June 2008, the compensation for January 1, 2008 - June 30, 2008 that was pulled into the 2007 990 is therefore reported in the "Compensation Reported in Prior Form 990" column on the 2008 990.

5. What does the amount shown in column (F) of Schedule J-2 represent?

The amount reported in Column F of Schedule J-2 is equal to the sum of non-taxable employee benefits (e.g., Life, Medical and Dental Insurance) and ICANN funded additions to the employee retirement plan.

6. What does Reportable Compensation refer to in Part VII column (D)?

Without regard to the amount of compensation a person receives during ICANN's fiscal year, the amount of each person's reportable compensation is equal to the amount reported on a calendar year basis in Box 5 of Form W-2 or Box 7 of Form 1099-MISC.

7. What does Schedule A, Public charity Status and Public Support report?

Organizations that qualify as charities under the Internal Revenue Code (IRC) (e.g. §501(c)(3)) furnish information to enable the IRS to review their ongoing qualifications for public charity status on schedule A. The reason for public charity status is shown by each organization by checking one of the eleven boxes on page 1 of Schedule A. ICANN has checked box nine which means the organization qualifies under IRC §509(a)(2), which are referred to as "Service-providing public charities".

For an organization to be excluded from private foundation status as an organization described in IRC §509(a)(2), it must normally receive more than one-third (33 1/3 %) of its support from any combination of gifts, grants, contributions, membership fees, and gross receipts from permitted sources, and not more than one-third (33 1/3%) of its support from gross investment income.

ICANN reported public support percentage of 50.91% and a Investment income percentage of 3.07% for the 2008 Form 990.

8. How is Public Support (Schedule A) percentage calculated?

In computing whether an organization meets the one-third support test of IRC §509(a)(2)(A):

- The organization's total support (as defined in IRC §509(d)) is the denominator of the fraction;
- The numerator is the amount of support received (subject to certain limitations) from any combination of gifts, grants, contributions and membership fees, and gross receipts from sales and performance of services.
- A further limitation on includible support applies with respect to gross receipts from sales or performance of services is that such support is includible in the numerator of the fraction for any taxable year only to the extent that it does not exceed the greater of \$5,000 or one percent on the organization's support in the taxable year.

The public support test was previously based on four years preceding the current year; as of the 2008 Form 990, the test now includes those four years plus the current year.

9. What does the Term "Person" refer to in column (d) on Schedule B – Schedule of Contributors?

The term "person" includes individuals, fiduciaries, partnerships, corporations, associations, trusts, and exempt organizations.

10. What is reported on Schedule F?

Schedule F is a new schedule required for 2008 tax years which requires the reporting of activities outside of the United States including grant making, fundraising, unrelated trade or

business, program services, or maintaining offices, employees, or agents for the purpose of conducting any such activities in regions outside the United States. A distinction between programs conducted in the US and those conducted outside the US was not requested in prior years' Form 990.

Organizations are required to report additional information if it makes more than \$5,000 in grants (or other assistance) to organizations or individuals outside the United States.

11. What is the threshold for reporting on Schedule F?

An organization must complete:

- Schedule F, Part I if it had aggregate revenues or expenses of more than \$10,000 during the tax year from grantmaking, fundraising, business (including investments), and program service activities outside the United States;
- Schedule F, Part II if it provided more than \$5,000 of grants or assistance to any particular foreign organization or foreign government; and
- Schedule F, Part III if it provided more than \$5,000 of grants or assistance, in the aggregate, to foreign individuals.

12. How are the Regions shown on Schedule F defined?

The IRS requires reporting of activities by one of the nine regions delineated by the World Bank which are:

- Central America and the Caribbean
- East Asia and the Pacific
- Europe (including Iceland and Greenland)
- Middle East and North Africa
- North America (including Canada and Mexico but not the United States)
- Russia and the newly independent States)
- South America
- South Asia and
- Sub-Saharan Africa

13. What kind of foreign activities need to be reported in Part I of Schedule F?

Activities conducted outside the United States that need to be reported on Schedule F, Part I (if the applicable \$10,000 revenue or expense threshold is met) include grantmaking, fundraising, investments (other than financial accounts reported on Part V, lines 4a and 4b), unrelated trade or business, program services, and maintaining offices, employees, or agents.

14. Does an organization have to report those employees and agents whose only presence in the region is to conduct on-site visits?

No, the reporting of the number of employees and agents by region would not include these situations.

15. Does an organization report expenses on Schedule F if it sends Board members to Board meetings or to attend and speak at seminars and conferences outside the United States?

Yes, if the organization exceeds the \$10,000 revenue or expense threshold, it will need to report these activities in Part I of Schedule F, listing the region(s) in which the activities are conducted, the type of activities conducted in each region, and its total expenditures in each region. However, it will not need to report any of its Board members as “agents” in column (c) if all of them serve the organization as volunteers.

16. What expenditures are required to be reported in Part I, column (f) and how are such expenditures required to be tracked?

The Part I, column (f) instructions provide that an expenditure is to be reported if it is an employment-related expense, an occupancy expense, a grant, a bank or financial account fee, or a payment to an agent, if the employee, office, grantee, or agent is located outside the United States. Organizations might use different accounting procedures and practices to keep track of foreign expenses for financial statement purposes, so there may be a variation in how organizations account for or allocate direct or indirect costs relating to their foreign activities. For the 2008 and 2009 tax years, the organization may use the method it used for its financial statements to report expenditures for Schedule F, Part I, column (f). For example, if under a university’s current accounting procedures, expenses associated with a study abroad program are not separately tracked, such expenses are not required to be included in Part I, column (f).

IRS TIP: An organization might have no expenditures reportable in Part I, column (f), even though it is required to report an activity in Part I. For example, an organization that derives more than \$10,000 of revenue from a foreign activity must report the activity in Part I, even if it incurred no expenditures for that activity.

17. Should grants reported in Parts II and III of Schedule F be reported on the cash method of accounting?

The organization should use the same accounting method it uses in reporting expenses throughout the Form 990 (i.e., the method checked in Part XI, line 1), whether cash or accrual.

18. What is purpose of Schedule O?

Schedule O (Supplemental Information to Form 990) consists of blank lines and its purpose is to serve as a coordinated place for narrative descriptions requested in the Core Form 990 as well as some of the other schedules included with the Form 990 (e.g., Schedules L and R). Freeform attachments, used in prior years’ Form 990 are no longer permitted; instead, any information ICANN is required to provide, or voluntarily chooses to provide that is not otherwise designated to be reported in another place, goes onto Schedule O.

19. What is the difference between the Public Inspection Copy and the copy of the Form 990 sent to the IRS?

The IRS requires that the Form 990 be available to anyone who requests a copy. ICANN posts the Form 990 on its website, and also provides a hard copy to anyone who requests one. The IRS allows donor confidential information to be redacted from the copy available to the public.