

July 17, 2015

Ms. Tamera Ripperda
Director, Exempt Organizations
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Via E-mail: tegeeof990revision@irs.gov

Re: Proposed Changes to Form 990-PF, Return of Private Foundation

Dear Ms. Ripperda:

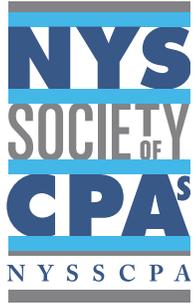
The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 28,000 CPAs in public practice, business, government and education, kindly requests you to review the attached comments and recommendations regarding the Form 990-PF, *Return of Private Foundation*, developed by our Exempt Organizations Committee.

If you would like additional discussion with us, please contact Kevin Sunkel, Chair of the Exempt Organizations Committee, at (212) 682-2783, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

Joseph M. Falbo, Jr.
President

Attachment



**NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS**

**PROPOSED CHANGES TO FORM 990-PF, RETURN OF PRIVATE
FOUNDATION**

July 17, 2015

Principal Drafters

**Martin S. Cantor
S. Ethan Kahn
Jacalyn L. Schwartz
Kevin C. Sunkel**

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NYSSCPA Staff

Ernest J. Markezin
William R. Lalli

The New York State Society of Certified Public Accountants

Proposed Changes to Form 990-PF, Return of Private Foundation

The NYSSCPA believes that certain changes could be made to Form 990-PF, Return of Private Foundation (the Form) that would improve IRS oversight responsibilities, simplify and increase accuracy of form preparation and filing, enhance consistency between Forms 990 and 990-PF and encourage electronic filing. We also believe that these changes are logical modifications that do not constitute an overhaul of the Form 990-PF. These changes could be implemented easily, and incorporated into the Form as early as the 2015 Form 990-PF.

Background

The Form 990-PF has not undergone any significant revision since it was first designed in 1974. Incremental changes have been added over the past 40 years which expanded the Form without any significant changes to the structure of the Form itself. While the 990 was dramatically re-designed in 2008 to bring it more in accordance with the current needs of its users, the 990-PF has remained a complex assembly of schedules that need to be completed in a non-sequential manner. The Form is notably difficult to follow, even for sophisticated readers, and undesired discrepancies between the Form 990 and 990-PF on similar items only add to the confusion in both the user and tax professional community.

While a complete overhaul of the Form 990-PF ultimately would be desirable, we believe that the modernization of the current Form 990 suggests a number of possible improvements that could be quickly and easily implemented and readily accepted by the IRS, tax professionals and the non-profit community.

Practical Suggestions

The following is a list of form changes for your consideration:

- 1. 990-PF Part II Balance Sheet Investments Lines 10a, b and c** – The current form requires schedules to be attached by category of investment. This is often a cumbersome process because private foundations generally have many different investment positions in multiple custodian accounts that comprise their endowments. As a result, many foundations attach lengthy supporting schedules rather than incur additional costs to enter or import this information into tax software. These detailed schedules serve no useful purpose to users because a snapshot of an active portfolio of publicly traded securities at any particular date is relatively meaningless. By the time the return is filed and posted (on Guidestar.org, for example), the information is already out of date.

The attachment of custodian statements may also have the unintended consequence of potentially providing investment account numbers and contacts that could expose foundations to a greater risk of identity theft by third parties. The transparent nature of private foundations means that information, such as name, address, identifying number, and the names of chief financial executives, is already available. Combined with custodian names and account numbers this has in practice resulted in attempts to initiate fraudulent transactions. This requirement also serves as a disincentive to electronic filing. In contrast, the Form 990 allows publicly traded securities to be entered on one line on the balance sheet with no supporting schedule required. Our recommendation would be to combine 990-PF balance sheet lines 10a, b and c into one line called “Publicly Traded Securities” with the same qualifications and limitations as applies to the comparable Form 990 line which only prohibits including investments with more than 5% ownership (which instead must be listed separately in a detailed schedule).

- 2. 990-PF Part VIII Information about Employees and Contractors Lines 2 and 3 –** The compensation threshold for Form 990-PF for employees and contractors is \$50,000 (while the Form 990 threshold for highest compensated employees and contractors is \$100,000). There is no discernible public policy reason or tax enforcement purpose that would justify the lower threshold for the 990-PF. In addition, with the cumulative effects of inflation, at this point in time salaries of non-management level employees at private foundations often exceed the compensation threshold originally intended to spotlight highly paid employees. Therefore, we recommend that the compensation threshold on the Form 990-PF be increased to \$100,000. This would simplify form preparation and improve consistency and comparability of compensation data between public and private charities.
- 3. 990-PF Part VII Statements Regarding Activities Line 3 –** The question relates to changes in governing instruments not previously reported to the IRS. The 990-PF requires a conformed copy of the changes to be attached. The comparable question on Form 990 Part VI, line 4 only requires an explanation of the changes. The 990-PF requirement is more burdensome and discourages electronic filing. We recommend that the Form 990-PF requirement be modified and aligned with the current Form 990 requirement.

There are many other areas where alignment and comparability of the Form 990-PF and Form 990 could be accomplished. For example, the line categories and definitions of income and expenses between the two forms have numerous differences including the lack of recognition of key employees on the 990-PF and the grouping of employee benefits and payroll taxes which might affect how the overall compensation and benefits packages of employees at public charities and private foundations might be compared. However, this would require more extensive form modifications which can be addressed more suitably when a complete revision of the Form 990-PF is undertaken. We view the current suggestions as a first step in making improvements easily and in opening dialogue with the IRS.

In conclusion, we view these changes to be in the best interests of the IRS, the tax exempt industry, the general public and tax professionals. Our comments are based upon our real world experiences in providing professional services to a wide array of tax exempt organizations. We look forward to working with the IRS on an ongoing collaborative basis to bring the nonprofit industry to a more consistent, transparent and reliable position.