

## Executive Compensation Is the Focus of New Charity Tax Form

**W**ITH THE DEBUT this year of a new tax form to be filed with the Internal Revenue Service, charities will face many changes in how they disclose information to the public. Perhaps most significant is the new focus on executive compensation.

"Everything has been flipped," says Ken Berger, president of Charity Navigator, a watchdog group in Mahwah, N.J. "In the past, a small part of the focus was on compensation, and the majority of the focus was on the charity's financial measures. Now, compensation is front and center."

On the new Form 990, the Internal Revenue Service has standardized reporting to make comparing salaries easier, is seeking far more information from charities with sophisticated compensation arrangements for executives, and is requiring charities to provide some information about the process they use to set compensation.

The new form will ask charities to copy information over to the 990 from the W-2 forms that are used to report wages to employees.

That requirement will ensure that all charities use the same time period—a calendar year—for reporting compensation. On the old form, some charities re-

ported salaries paid on a fiscal year, which often ends in June. The instructions for the new 990 also list 50 kinds of compensation—such as stock options, tuition assistance, sick pay, and forgiven loans—and tell charities how each should be handled on the form.

"Before, the reporting was all over the place," says Ronald J. Schultz, a top staff member in the IRS's tax-exempt division. "It was our fault as much as anybody's. We've now eliminated the guessing about what we're asking for."

### 'Questions of Shame'

Much of the new information that the IRS is seeking appears on Schedule J, "Compensation Information"—which will need to be filled out by only a small group of charities, including those that pay at least one employee more than \$150,000 per year.

Schedule J asks nonprofit organizations whether they provide specific types of benefits, including housing allowances, first-class-travel expenses, social-club dues, maids, and chefs.

Many of the executive-compensation scandals in recent years have involved accusations of inappropriate spending on such items.

"The IRS is saying, 'These are

hot buttons for us. We're now asking specifically if you provide these types of benefits and if you do, we want more detail about them,'" says Richard M. Lucash, a compensation consultant in Boston.

Jack B. Siegel, a lawyer in Chicago who advises charities, says those "questions of shame" will prompt many charities to eliminate fringe benefits like social-club dues and just give executives additional salary to cover those costs.

Charles S. Ingersoll, a recruiter at Korn/Ferry International's Washington office who specializes in placing nonprofit executives, says he has long advised charities to do away with perks such as a \$500 per month car allowance, and just pay the executive an extra \$6,000 per year—in part because of the negative publicity that comes with the disclosure of such benefits.

"People find it distasteful to see all the little perks," he says.

Mr. Schultz says it was not the agency's intention to see perks rolled into base salaries, but he argues that such a development might be positive, since one of the IRS's primary goals is greater consistency and clarity in how compensation is reported.

"If it happened, it might make it easier for us," he says. "We wouldn't have to value fringe

benefits or question whether the value placed on the benefit was appropriate."

### Penalties on High Pay

Since 2001, the IRS has encouraged charities to go through a set of steps to ensure that executive compensation is set appropriately. The revenue service can levy fines on charity officials who receive salaries deemed to be inappropriate or perquisites, as well as on trustees who authorize the arrangements.

Completing those steps—which include using data to compare salaries earned by executives at similar charities—allows a charity to establish what the IRS calls a "rebuttable presumption of reasonableness." One question on the new 990 essentially asks charities if they use the "rebuttable presumption" process.

If a charity does not use that process, reporters, donors, and others will be able to find out, since 990s are available on the Web site of Guidestar, an organization in Williamsburg, Va., that collects the tax forms and posts them online. Most experts believe that the mere presence of the question on the 990 will prompt a higher percentage of charities to adopt formal procedures for setting compensation.

"The new 990 adds to the list

of incentives for nonprofits to handle compensation in the way that the IRS has indicated it intends for them to," says David L. Kyger, a lawyer in Charlotte, N.C., who works with charities on governance and compensation issues.

Mr. Shultz says the IRS intended to up the ante on charities by asking the question on the 990. "It makes sense that organizations should be going through that process to get to a better answer," he says.

The IRS recently completed a review of pay packages at 20 hospitals to determine whether compensation provided to executives was excessive. It identified those 20 following a preliminary review of 500 hospitals. The IRS plans to release a report on the examination of hospital salaries in the next few months, according to Mr. Schultz.

The agency will soon mail out questionnaires to begin a similar review of compensation and other information at 400 public and private colleges and universities. Mr. Schultz says the IRS expects to conduct in-depth reviews of salaries at some of the colleges, but he isn't sure how many will face that scrutiny.

"We don't have a particular number in mind," he says. "It really depends on what we see in the responses." —BEN GOSE