



January 31, 2022

Dear Members of the Senate Finance Committee and House Committee on Ways and Means:

On behalf of the National Taxpayers Union, the nation's oldest taxpayer advocacy organization, I write to express our views regarding the return that most tax-exempt organizations are required to file annually: the Form 990. This important disclosure filing provides stakeholders and taxpayers with reliable financial information of a tax-exempt entity. However, as an organization that dutifully files this annual report, there are numerous reforms that Congress should consider that would result in a net reduction in costs. NTU looks forward to working with Members of both parties to address a number of policies we believe could make the process more efficient and fairer to all filers.

As you are no doubt aware, the Internal Revenue Service (IRS) requires nearly all tax-exempt organizations to file some version of the Form 990 information return, as stipulated by Section 6033 of the Internal Revenue Code. The filing of this Form, while time consuming and in some circumstances overly burdensome, is an important tool to promote oversight and accountability of institutions that are tax-exempt. Form 990 includes the disclosure of basic financial information about a non-profit tax-exempt organization, such as details on its revenues, expenses, salaries of top executives, and more. Essentially, the Form 990 is a transparency tool for the general public and other stakeholders to scrutinize whether a tax-exempt organization is operating within the scope of its tax-exempt purpose.

The filing of the Form 990, while beneficial overall, is not without cost. In a [Federal Register notice](#) dated October 1, 2021, the IRS sought comments on information collection burdens on tax-exempt organization forms. In this request document, the IRS estimated that nearly 1.6 million respondents to the forms would spend 52.47 million hours of time worth \$4.08 billion, along with an additional \$1.47 billion in out of pocket costs, to comply with the forms' filing requirements. Consequently, taxpayers, the government, nonprofit organizations, and those they assist with their tax-exempt work could all benefit from a periodic examination of the tax filing laws surrounding these entities – an examination that could suggest areas for improving the quality of information reported, easing administration, simplifying filing requirements, and enhancing public trust of the nonprofit community. We therefore respectfully suggest the following matters for the Committees' consideration in the tax-exempt filing space.

- **Not All Forms Are Created Equal.** The Federal Register notice referenced above helpfully illustrates where the heaviest compliance burden falls among tax-exempt return filings. The Form 990-N, for example, appears to be providing a significantly streamlined filing experience for those taxpayers eligible to utilize it, imposing an average time per response of 2 hours and \$40 in combined labor and out-of-pocket costs. The 990-EZ requires considerably more time and effort, with an average of 45 hours and \$1,700 in combined expense. Those having to file the “long form,” however, encounter a much worse experience – while comprising only about 1 in 5 filers in the whole 990 universe, they must bear over half the monetized compliance burden. Congress should give considerable prioritization to the Form 990, followed by 990-EZ and 990-PF, for opportunities to improve the filing process. At the same

time, Congress could examine whether the 990-PF is effectively balancing the need for public information with the need to keep taxpayer filing burdens manageable. One area to explore is whether cash flow and asset filing thresholds for the EZ versus the long form, which have not been adjusted for more than a decade, should be revisited.

- **Consider Long Standing Simplification Issues.** It has likewise been over a decade since the last major revision and redesign of the Form 990 took place. What has been learned since that time about the pressure points of the return that create the most complexity, both for the government and the taxpayer? At a [2012 hearing](#) of the House Ways and Means Committee’s Subcommittee on Oversight, witnesses from the nonprofit sector described several early challenges from that revision effort, including a revised Schedule H for nonprofit hospitals interacting with the Affordable Care Act, the complexity of Schedules F, I, and K, the redundancy of many Form 990 items for nonprofits already subject to Single Audit Act/Circular A-133, and reconciliation of the 990 financial data with other data streams such as K-1s. Some of those issues remain relevant today, and merit examination by the Committees.
- **Consider Which Classes of Organizations Should File Form 990s.** Congress and the IRS have had a history of expanding filing and disclosure requirements around the Form 990. Over some 50 years, executive compensation disclosure requirements have been widened to virtually all tax-exempt organizations filing the 990, while many political organizations became subject to general Form 990 filing requirements some 20 years ago. On the other hand, tax-exempt federally chartered credit unions have not been required to file the Form 990 since 1988. In a [2018 letter to the IRS](#), then-Chair of the Senate Finance Committee Orrin Hatch (R-UT) noted that “large federal credit unions have grown in size and complexity, it should give us pause to reflect whether that exemption is still warranted.” Because Congressional intent has increasingly been motivated by a desire to encourage parity in transparency and accountability from organizations that don’t file corporate profit tax returns, the Committees may wish to examine the rationale for both expanded and reduced filing requirements for areas of the nonprofit sector. Are there other types of disclosure that could achieve these ends at less cost?
- **Review Recent Developments Affecting the Nonprofit Sector.** The IRS’s October 2021 request referenced above elicited numerous comments on improving the administration of the tax-exempt filing process, among them creation of an IRS Technical Liaison for 990 filings, as well as improving the clarity of Part VIII of the Form 990 to distinguish between grants that directly benefit the public and those that serve a government entity. Furthermore, the Taxpayer First Act of 2019 mandated a [comprehensive report](#) from the IRS to “reimagine the taxpayer experience, enhance employee training and restructure the organization to increase collaboration and innovation.” Numerous elements of this plan, including the new proposed Taxpayer Experience Office and the Third-Party Relationships would, if enacted, directly affect non-profit organizations. The Committees can, and should, give specific consideration of this report and its impact on all elements of the tax filing population. Furthermore, federal tax administration policies toward non–profits could also benefit from an examination of state-level developments that could afford opportunities for harmonization and cooperation.

Beyond this framework, NTU also believes that the Committees can have constructive roles in upholding donor privacy established in Treasury regulations and a recent Supreme Court ruling, as well as avoiding harmful regulations on entities such as donor advised funds. In any case, it is our hope that the points above can help Members of the Committees to shape a discussion that is meaningful and sufficiently defined.

No doubt, Congress must find a balance between transparency and costs associated with compliance to the law. We strongly believe these aforementioned recommendations could be the basis for improving the overall process in a manner that benefits the entire tax-exempt community. Should you have any questions or feedback regarding NTU's recommendations, we are at your service. We look forward to working with you to enact pro-taxpayer, pro-consumer policies in 2022 and beyond.

Sincerely,

Pete Sepp  
President, National Taxpayers Union