

Internal Revenue Service
2008 Form 990
Schedule J, Compensation Information – Highlights
December 20, 2007

Rationale and Overview

The Draft added a new Schedule J, Supplemental Compensation Information, to report detailed compensation information for those individuals whose compensation from the filing organization and related organizations exceeded certain thresholds as reported on the core form compensation table.

The Draft Schedule J, which applied to organizations of all types, requested detailed compensation information by various categories (base compensation, bonus and incentive compensation, severance or change of control payments, nonqualified deferred compensation, nontaxable benefits, and nontaxable expense reimbursements) for each individual required to be listed on the schedule. The schedule also requested information regarding supplemental nonqualified retirement plans, equity-based compensation arrangements, travel and entertainment policies, and certain arrangements (first class travel, club dues, or use of personal residence). The thresholds for reporting an individual's compensation on Schedule J included either reportable compensation (Form W-2 or 1099-MISC) greater than \$150,000, or more than \$250,000 of total compensation, nontaxable fringe benefits and expense reimbursements.

Summary of Major Comments and Major Changes

Most of the comments addressed reporting burden for nontaxable fringe benefit and expense arrangement reporting, multiple reporting of certain deferred compensation (when earned and again when paid), and ambiguity regarding the meaning of equity-based compensation and other compensation arrangements. The revised Schedule J addresses these concerns. The Draft's thresholds for reporting compensation of individuals on the schedule have been retained.

Eliminate Reporting of De Minimis Fringe and Expense Amounts

The Draft included de minimis fringe benefits in nontaxable fringe benefits, and a separate column for reporting nontaxable expense reimbursement amounts, for each listed individual. This expanded the reporting of amounts not required by the current form. Many commented that these changes imposed substantial reporting burdens on organizations without serving any significant tax compliance interest. Others objected to treating expense reimbursements or allowances as if they were compensation for this purpose. In response to these comments, the reporting of de minimis fringe benefit and nontaxable expense arrangement amounts has been eliminated. The Draft's question regarding certain payments (first class travel, club dues, and use of a personal residence) was revised to include additional types of arrangements that may raise tax compliance and transparency concerns. These now include first class or charter travel, travel for companions, tax indemnification and gross up payments, discretionary spending accounts, housing allowances and payments for business use of a personal residence, health or social club dues or fees, and personal services (maid,

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chauffeur, chef). In addition, questions regarding policies and substantiation practices were added with respect to the listed items.

Eliminate Double Counting of Deferred Compensation

As is the case with the current form, compensation earned or paid under a deferred compensation arrangement is reported for multiple years (i.e., the year earned and the year paid). Although reporting of compensation in each year is important for transparency and compliance reasons, the duplicative reporting of the same compensation dollars can lead to a perception that an individual's compensation (in a single year and on a cumulative basis) is greater than it actually was. The Draft's use of Form W-2 reported amounts did not rectify this problem for the Schedule J, which continued to require reporting of deferred compensation not yet reported on the Form W-2. The IRS acknowledged this to be a transparency problem, and many commented that a column should be added to the schedule to report amounts that are in current year amounts but also reported in a prior year's form. Schedule J adopted this recommendation and includes a new column (F) to report amounts that were also reported in a prior year.

Other Changes

- Revised reporting of severance or change of control compensation, supplemental retirement plans, and equity-based compensation, by removing from the table and adding separate questions;
- Added question asking whether substantiation was required prior to incurring a reimbursed listed expense;
- Added question regarding process and data used to establish compensation of the CEO/Executive Director (e.g., compensation committee, compensation study or survey, Form 990 of other organizations);
- Limited questions on payments contingent on revenues or net earnings, other non-fixed payments, and compensation subject to the initial contract exception, to payments by 501(c)(3) and 501(c)(4) organizations; and
- Provided opportunity to explain responses by adding continuation sheets.

Impact on Burden

Schedule J requires new information which may result in new recordkeeping practices so additional burden is expected. However, the elimination of reporting expense reimbursement and de minimis fringe benefit amounts for listed individuals, and limiting several of the questions to organizations subject to excess benefit transaction tax provisions, should reduce burden from that which would have been imposed by the Draft.