

March 15, 2004

Internal Revenue Service
Room 5244
1111 Constitution Avenue NW
Washington, DC 20224
Attn: Glenn P. Kirkland

Dear Mr. Kirkland:

We are pleased to submit the following comments on the administrative burden imposed on nonprofits by filing the Form 990 and Schedules A and B. The comments are submitted by INDEPENDENT SECTOR, a national coalition of charitable organizations, foundations, and corporate giving programs that collectively represent tens of thousands of charitable groups in every state across the nation. INDEPENDENT SECTOR works to promote, strengthen, and improve the nonprofit and philanthropic community to foster private initiative for the public good.

These comments also reflect the interests of the Electronic Data Initiative for Nonprofits (EDIN), a newly created coalition that promotes an integrated federal and state effort to streamline and improve the reporting and dissemination of data on nonprofit organizations through the appropriate use of electronic technology. In addition to INDEPENDENT SECTOR, the EDIN coalition includes the Council on Foundations, GuideStar, the National Council of Nonprofit Associations, and OMB Watch, with the National Center for Charitable Statistics providing advisory assistance.

In January 2003, in response to the IRS's request for guidance (Announcement 2002-87) on possible changes to the Form 990, INDEPENDENT SECTOR submitted comments that included recommendations for specific changes to improve the practical utility of the Form 990. Inasmuch as the IRS has not announced any changes to the Form 990 to date, we reiterate our suggestions in our comments below.

INDEPENDENT SECTOR and the EDIN Coalition strongly support the Internal Revenue Service's recent launch of e-filing capability for Form 990 and Form 990-EZ Exempt Organization Returns as an important step toward streamlining the reporting and dissemination of data on nonprofit organizations.

Comments On Specific Questions:

▪ **Collection of information and its practical utility and necessity for the oversight functions of the IRS.**

The Form 990 is the principal source of current information on the operations of charitable organizations and has become an essential resource for donors, grant makers, and the public to make wise giving decisions. Changes to the Form 990 to increase tax-exempt organizations' transparency and accountability must strike an appropriate balance among multiple goals: providing sufficient data to determine compliance with the applicable tax laws, informing donors and the general public, and minimizing organizations' administrative burdens.

INDEPENDENT SECTOR is particularly interested in ensuring that the Form 990 provides a clear and accurate picture of charitable organizations' operations that results in greater transparency of the sector while minimizing the time-consuming, costly aspects of completing and filing the Form 990 with the IRS, other federal government agencies, state agencies, and private grant makers.

▪ **Ways to enhance the quality, utility and clarity of the information collected.**

- 1) We recommend that Part I provides an opportunity for filers to report separate categories of direct public support (individual, foundations and corporate giving programs) and for government contributions (federal, state, and local). We also recommend providing an opportunity for filers to report in-kind contributions in lieu of a separate reconciliation, if they choose to do so.
- 2) We recommend that Part II of the Form 990 provide ample space for organizations to explain their fundraising expenditures, if they choose to do so. This will give organizations an opportunity to describe the factors that may make their fundraising program particularly costly and will help to prevent donors from making unfair judgments about an organization's performance of the basis of assumptions about its spending efficiency.
- 3) We recommend that Part III of the Form 990 provide additional space to improve the narrative information on program service accomplishments, including an organization's mission statement.
- 4) We recommend that the Form 990 allow a parent organization the option of filing a combined Form 990 for itself and all affiliates that are subject to its supervision and control, and that meet the current criteria for filing a group return. Currently, the parent organization must file at least two returns – one for itself and one for the organizations covered by the group exemption. These separate Forms 990s include material inter-company income, expenses, assets and liabilities that distort the overall

operations and financial position of the organization and make it difficult for donors and others to use the information return data.

- 5) We recommend that exempt organizations be required to disclose on the Form 990 whether they have adopted conflict of interest policies or have independent audit committees.

▪ **Ways to minimize the burden of providing the information, such as through the use of automated collection techniques.**

The current system of data collection for Form 990 is a costly, time-consuming and inefficient process for exempt organization filers, state charity officials, the IRS, and GuideStar, which receives scanned images from the IRS and re-keys in the data to make the information available on the Internet. In addition to being filed with the IRS, the Form 990 must be filed with a large number of states that regulate charitable solicitation. About 35 states make the Form 990 the central part of their annual report, although many states require supplemental reports as well as the Form 990.

INDEPENDENT SECTOR and the EDIN Coalition are particularly interested in streamlining the process for reporting, managing and disseminating nonprofit data to achieve more accurate, timelier information about nonprofit organizations that is widely accessible to donors, grant makers, government regulators, and the public. Enabling nonprofits to electronically transmit their data directly to the IRS and the state(s) in which they are registered and/or solicit will help achieve this goal.

We are pleased with the IRS's launch last month of electronic filing capability for the Forms 990 and 990-EZ, and support the IRS's plans to make the Form 990-PF available for electronic filing in 2005.

INDEPENDENT SECTOR and the EDIN Coalition are working to identify and remove obstacles to electronic filing.

- 1) We recommend that the IRS work closely with the states to provide exempt organizations an integrated, streamlined electronic system for reporting, managing and disseminating information on exempt organizations.
- 2) We encourage the IRS to coordinate and integrate its plans for a State Retrieval system with other technology initiatives being considered at the state level, and to be cautious of the current expense and complexities of the IRS's paper-based system being replaced by an equally complex and expensive patchwork of electronic systems.
- 3) We urge the IRS to pursue additional incentives for software developers, practitioners and exempt organizations to attract participation in electronic filing of the Forms 990 series.

4) We recommend that electronic filers have an opportunity, as paper filers have, to provide supplemental information, for example, clarification to changes in compensation reported on Schedule A.

5) We recommend that the IRS leverage its technology capabilities to provide more timely, publicly accessible information on the nonprofit sector.

Please feel free to contact me if you need further information about or clarification of our comments or the work of INDEPENDENT SECTOR or the EDIN Coalition.

Sincerely,

Patricia Read
Vice President, Public Affairs
INDEPENDENT SECTOR
Co-Chair
Electronic Data Initiative for Nonprofits (EDIN)