

Outline prepared by Smith Marion & Co.,

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Form 1360, 1361 & 1362

What are they? Information for the Preparation of Forms 990, 199, & RRF-1

Why is it important? The 1360 helps us prepare the 990 correctly so that it gives an accurate picture of your organizations activities for the year. The 990 is a public document that is filed with the IRS and then made available to the public. Donors use the 990 to determine if they would like to donate to your organization. The mission of the organization, the programs of the organization, the policies of the organization, and the financial health of the organization are all reflected on the 990.

Why is it necessary? 990 tax forms require much more than financial information.

Every year? Yes, policies change, environments change, Board members change and the IRS guidelines change.

How do we fill it out? We are happy to work with to clarify any of the information on the 1360 that is required to file an accurate and timely return.

What if the form is not complete? We will call you for the information later

How long does it take? Usually it takes about an hour.

The form 1360

Please don't leave a question blank – write N/A if it doesn't apply to you.

Part I & II – Summary

1. General Information

- a. Type of Organization – Corporation, Trust, Association, Other.
 - i. We already know you are an exempt organization (aka 501(c)) so that is not the answer.
- b. Year of Formation not necessarily the year incorporated
- c. Website & email address
- d. Name and title of the person signing the tax return

- e. Number of W-2s, W-2Gs, & 1099s issued at December 31. We ask that you provide us with the W-3 form which lists the total number of W-2s issued and the total wages for the Calendar year. This means that if your fiscal year end is June 30, 2010 then we will require the number of employees who received a W-2 for the year ended December 31, 2009. This is important. The IRS has the capability to match this number with your payroll information.
- f. Number of Volunteers during the year – Estimates are fine.
 - i. If the number is zero please indicate that by a 0 or N/A.
 - ii. Do not include board members in this number

Part III – Mission & Program Service Accomplishments

2. Service Accomplishments

- a. Did the organization add new programs or terminate existing programs?
 - i. Identify the program
 - ii. Identify and describe the specific service accomplishments (number of clients served, specific goals achieved, etc.)
 - iii. Be clear, concise, and complete in the description.
 - iv. Look over what your service accomplishments' were on your prior year return and make changes as necessary. This is the place on the 990 that shows the IRS and the public how you are accomplishing your mission.

3. Mission Statement

- i. It is important to look over the previous year's tax return and make any necessary changes to the statement.
- ii. The statement should be concise, to the point, realistic, operational, inspirational, motivational, informative, and even emotional. This is the place on the 990 where you show the IRS and the public what you are trying to accomplish.

Part IV – Checklist of Required Schedules

4. Schedules - Participation in certain activities

- a. Schedule B - Contributions of \$5,000 or more from one donor (includes private, corporate and government donors and grantors)
 - i. If so, we require the name, address, total contributions for the fiscal year, and whether or not it was cash or non-cash contributions.
 - ii. No anonymous donors.
 - 1. Schedule B is NOT a public document.

2. If you have someone who would like to give anonymously you should not accept the donation.
 - iii. If the contributions are non-cash we will require a description of the property given (including the number of items or pounds, etc.), the valuation method (Fair Market Value, cost, other) of the property and the date received.
 - b. Schedule C - Direct or Indirect political campaign activities? Lobbying, supporting a candidate?
 - i. Lobbying is allowed but there are guidelines and thresholds that must be followed.
 1. Lobbying cannot be a “substantial part” of their activities unless the organization has elected option 501(h) which creates a sliding scale of acceptable limits.
 2. Federal Grant funds cannot be spent on lobbying.
 3. This activity is something a 501(c) 3 should consider carefully because lobbying can create a tax liability as well as jeopardize your tax-exempt status.
 - ii. Supporting a particular candidate is grounds for revocation of your exempt status.
 1. No money from the organization should be paid to support a candidate.
 2. No board member or employee should attend any fundraiser for a candidate as a representative of the organization.
 - iii. There are certain Exempt organizations that are allowed these activities (501(h), 527) but you would have been organized for that purpose and know how to stay within the legal bounds.
 - c. Schedule D - Maintain any donor advised funds, conservation easements or endowments (term, permanent, or quasi)?
 - i. A Donor advised fund or account:
 1. That is separately identified by reference to contributions of a donor or donors;
 2. That is owned and controlled by a sponsoring organization; and
 3. For which the donor or donor advisor has or reasonably expects to have advisory privileges in the distribution or investment of amounts held in the donor advised funds or accounts because of the donor’s status as a donor.

- ii. Conservation easements are lands that remain in the name of the owner but the use has been turned over to an entity for a specific purpose.
- iii. Endowment – A fund established to provide a source of income for the organization
 - 1. **Permanent (true) Endowment** is an endowment fund established by donor-restricted gifts that is maintained to provide a permanent source of income, with the stipulation that principal must be invested and kept intact in perpetuity, while only the income generated can be used by the organization.
 - 2. **Term Endowment is an endowment** fund established by donor-restricted gifts and maintained to provide a source of income for either a specified period of time or until a specific event occurs.
 - 3. **Quasi Endowments** are Funds established by the governing board to function like an endowment fund but which may be totally expended at any time at the discretion of the governing board.
- d. Schedule G - Have more than \$15,000 in fundraising activities? This is gross revenue from fundraising. If so we will contact you for more information. This information includes the following:
 - i. Event type
 - ii. Cash prizes
 - iii. Noncash prizes
 - iv. Rent/facility costs
 - v. Food and beverages
 - vi. Entertainment
 - vii. Other direct expenses
- e. Schedule I - Provide assistance to individuals of \$5,000 or more (aggregate amount)? If so additional information is required:
 - i. Type of Grant or assistance
 - ii. Number of recipients
 - iii. Amount of Cash grant
 - iv. Amount of non-cash assistance
 - v. Method of valuation (book, FMV, appraisal, other)
 - vi. Description of non-cash assistance.

- f. Schedule L - Provide a grant, loan or other assistance to an individual who is a current or former board member or key employee?
- g. Schedule M - Receive more than \$25,000 in non-cash contributions? If so additional information is required
- h. Schedule R - Transaction between any related tax-exempt or taxable entity?
 - i. Related entity is an organization, including a nonprofit organization, a stock corporation, a partnership or Limited Liability Company, a trust, and a governmental unit or other government entity if it stands, as any time during the tax year, in one or more of the following relationships to the filing organization.
 - 1. Parent – an organization that controls the filing organization
 - 2. Subsidiary – an organization controlled by the filing organization.
 - 3. Brother/Sister – an organization controlled by the same person or persons that control the filing organization.
 - 4. Supporting/Supported – an organization that is (or claims to be) at any time during the organization’s tax year
 - a. A supporting organization of the filing organization or
 - b. A supported organization of the filing organization

Part V – Statements Regarding Other IRS Filings & Tax Compliance

5. Tax Compliance

- a. Filed all required federal employment tax returns? If you use ADP, Paychex or another payroll company these forms are filed automatically and you will have a copy in your records.
 - i. 940, 941, EDD DE-7, DE-6, etc.
- b. Unrelated business income of \$1,000 or more, was a form 990-T filed?
 - i. Any trade or business, the conduct of which is not substantially related to the exercise of performance by the organization of its charitable, educational, or other purpose or function constituting the basis for its exemption.
- c. Any tax shelter transactions?
 - i. These are tax transactions that shelter individuals and other entities from paying tax. An example is if the organization and a donor make an agreement to value a property that is being donated at an amount that would be more beneficial to the taxpayer than would normally be the case.
- d. Solicit contributions that were not tax deductible?

- i. If so, was there an expressed statement that such contributions were not tax deductible? (normally preprinted on ticket)
 - e. Provide goods or services in exchange for any contribution of \$75.00 or more? If so was the donor notified?
 - i. Example: A donor gives a charity \$100 in consideration for a concert ticket valued at \$40 (a quid pro quo contribution). In this example, \$60 would be deductible. Because the donor's payment exceeds \$75, the organization must furnish a disclosure statement even though the taxpayer's deductible amount does not exceed \$75. Separate payments of \$75 or less made at different times of the year for separate fundraising events will not be aggregated for purposes of the \$75 threshold.
 - f. Receive any funds, directly or indirectly, to pay personal benefit contract?
 - i. This is when a donor receives a personal benefit contract in exchange for the donation. A personal benefit contract generally is any life insurance, annuity, or endowment contract that benefits, directly or indirectly, the transferor, a member of the transferor's family, or any other person designated by the transferor.
 - g. Contributions of cars, boats, airplanes, or other vehicles? If so was form 1098-C filed?
 - i. If you receive any of these types of donations you must comply with IRS regulations to provide a 1098-C to the donor for the amount you sold the item for. In addition you must report the transaction to the IRS.
 - ii. The donor will not be able to take a tax deduction unless you provide this form to them.
 - h. Make any taxable distributions to donors, donor advisors, or related persons?
 - i. This question applies to organizations making distributions from a donor advised fund to a donor, donor advisor, or related person (a related person is any family member of the donor or donor advisor and has 35% controlled entity of the donor or donor advisor).
 - ii. A 35% controlled entity is an entity that is owned, directly or indirectly by a given person, such as the organization's current or former officers, directors, trustee, or key employees listed in form 990 or their family members as follows:
 - 1. A corporation in which listed persons own more than 35% of the profits interest; or

2. A partnership in which listed persons own more than 35% of the profits interest; or
3. A trust or estate which listed persons own more than 35% of the beneficial interest.

Part VI – Governance, Management & Disclosures

6. Governing Body & Management

- a. Significant changes to the by-laws (attach a copy)
 - i. Examples of significant changes to the organizing/enabling document or bylaws include:
 1. The organization's exempt purposes or mission;
 2. The number, composition, qualifications, authority, or duties of the governing body's voting members and the organization's officers or key employees;
 3. The role of the membership in governance;
 4. The distribution of assets upon dissolution;
 5. The provisions to amend the organizing/enabling documents or bylaws;
 6. The quorum, voting rights, or voting approval requirements of the governing body or the membership;
 7. The policies or procedures contained within the organizing documents or bylaws regarding compensation of officers, directors, trustees, or key employees, conflicts of interest, whistleblowers, or document retention and destruction policies; and
 8. The composition or procedures contained within the organizing document or bylaws of an audit committee.
- b. Documentation/minutes of governing board and committee meetings held?
 - i. Did the organization contemporaneously document every meeting held and written action taken by the governing body and committees with authority to act on behalf of the governing body.
 1. Documentation includes approved minutes, email, or similar writings that explain the action taken, when it was taken, and who made the decision. Let us know if you have any questions about what should be included in the minutes.
 2. Contemporaneously means by the later of
 - a. The next meeting of the governing body or committee (i.e. approve the minutes); or

- b. 60 days after the date of the meeting or written action.
 - 3. If minutes were not taken and approved you must explain your policies and practices, if any, regarding documentation of meetings and written actions of the governing body and committees.
 - c. Are there local chapters, branches, or affiliates? If yes, are there written policies & procedures governing the activities? Provide a list of these chapters, branches and affiliates.
 - d. What is the organization's process for approving the Form 990? ("Each board member receives, reviews and approves the return")
 - i. Is this a correct statement? If not, you should consider emailing the return to each voting member for approval before it is signed and submitted to the IRS.
 - ii. Please tell us what the policy is for approving the 990 if you do not do it as stated above.
7. Policies (There are samples of the following policies on the IRS website: irs.gov)
- a. Written Conflict of Interest Policy?
 - i. What is a Conflict of Interest? A conflict of interest arises when a person in a position of authority over an organization, such as an officer, director, or manager, can benefit financially from a decision he or she could make in such capacity, including indirect benefits such as to family members or businesses with which the person is closely associated. For this purpose, a conflict of interest does not include questions involving a person's competing or respective duties to the organization and to another organization, such as by serving on the boards of both organizations, that do not involve a material financial interest of, or benefit to, such person.
 - ii. Every organization should have a Conflict of Interest Policy. If you do not you should implement one as soon as possible.
 - iii. Remember, conflicts of interest are not necessarily a detriment to the organization. Conflicts need to be identified and dealt with appropriately.
 - iv. There should be annual memos distributed to document compliance for each year.
 - b. Written Whistleblower Policy?
 - i. It is a federal crime for any organization to retaliate against a "whistleblower" who reports illegal or unacceptable activity.
 - ii. If you don't have a Whistleblower policy, consider adopting one

- c. Written records retention and destruction policy?
 - i. This is another policy you should consider adopting if you don't have one already.
 - d. What is the process for determining compensation? ("Statistical data for the surrounding area is gathered and reviewed to determine average salary for specific job requirements & responsibilities")
 - i. Is this statement correct? If not please explain your process so that we can document the process on the 990.
 - ii. Executive compensation over \$100,000 is public knowledge **WITHOUT EXCEPTION.**
 - iii. Compensation includes salary and benefits from the reporting organization as well as any related organization.
8. Disclosures
- a. Indicate how you make documents available for public inspection? ("Upon written request the organization will make available the governing documents, policies and/or financial statements")
 - i. Is this statement correct? If not please provide a statement of how your documents are made available.
 - ii. Is the tax return posted on your website? Another website?
 - b. Name, physical address, and telephone number of the person responsible for the books and records of the organization.

Part VII – COMPENSATION OF OFFICERS, DIRECTORS, TRUSTEES, KEY EMPLOYEES

9. Directors and Key Employees
- a. Complete attached schedule 1361 (or use you own list) to identify information for all Current/Former Board Members and Key Employees as of the Calendar year end.
 - i. If you use your own list please be sure to use the form 1361 as a guide
 - 1. Current and Former Board Members paid more than \$10,000
 - 2. Former Key Employees paid more than \$100,000.
 - 3. Current Key Employees paid more than \$150,000
 - 4. **Any** compensation paid to Current Board Members
 - b. Are any of the persons listed in 9a above related to each other through family or business relationships?
 - i. If yes, please give us the names and the relations ship
 - c. Did you pay \$100,000 or more to employees other than those already listed in 9a?

- i. If yes, identify and include information on attached schedule 1361
- d. Did you pay \$100,000 or more to independent contractors?
 - i. If yes, identify by name, address, type of service and amounts paid on schedule 1362

10. Form RRF-1

- a. Were any of the organization's funds used to pay a penalty, fine or judgment?
 - i. If yes, explain what was paid and the reason it had to be paid.
- b. Was there any theft, embezzlement, diversion or misuse of charitable funds?
 - i. If yes, please explain what happened and how much money is involved.
- c. Did you use a professional or commercial fundraiser?
 - i. If yes, please provide: name, address and phone number
- d. Did you receive governmental funding?
 - i. If yes, attach a schedule with the following information included:
 - 1. Name of Agency
 - 2. Mailing address
 - 3. Contact person
 - 4. Phone Number
- e. Did you conduct a raffle or vehicle donation program?
 - i. If yes, provide information regarding the nature of the program.
 - ii. If you held a raffle, did you obtain permission from the Attorney General's office?