



WELCOME

# Navigate IRS Form 990 With Confidence

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# Navigate IRS Form 990 With Confidence

March 24, 2022

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# Welcome

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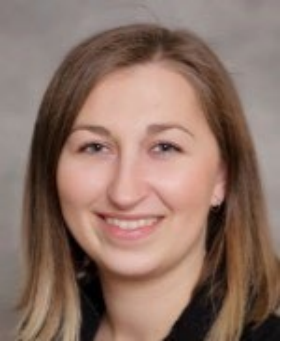
**Kameron Green**

*Vice President, Professional Learning &  
Family Philanthropy*

[Kameron@socalgrantmakers.org](mailto:Kameron@socalgrantmakers.org)

# Today's Presenters

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**Emina Cresswell**  
*Senior Manager*

[Emina.Cresswell@mossadams.com](mailto:Emina.Cresswell@mossadams.com)

(509) 777-0218



**Jane Coleman**  
Senior Manager

[Jane.Coleman@mossadams.com](mailto:Jane.Coleman@mossadams.com)

(858) 627-5511



# Form 990, Part I: Summary – Snapshot of the Organization

**Line 1:** mission and significant activities

**Line 3 / 4:** board members and *independence*

**Line 7a / 7b:** unrelated business income activities

Part I		Summary	
Activities & Governance	1	Briefly describe the organization's mission or most significant activities: _____	
	2	Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets.	
	3	Number of voting members of the governing body (Part VI, line 1a) . . . . .	3
	4	Number of independent voting members of the governing body (Part VI, line 1b) . . . . .	4
	5	Total number of individuals employed in calendar year 2019 (Part V, line 2a) . . . . .	5
	6	Total number of volunteers (estimate if necessary) . . . . .	6
	7a	Total unrelated business revenue from Part VIII, column (C), line 12 . . . . .	7a
	b	Net unrelated business taxable income from Form 990-T, line 39 . . . . .	7b



# Part III: Program Service Accomplishments

Great PR opportunity for the tax-exempt entity

**Line 1:** board *approved* mission

**Line 4a – 4c:** description of program service accomplishments during the year

<b>Part III</b> Statement of Program Service Accomplishments	
Check if Schedule O contains a response or note to any line in this Part III <input type="checkbox"/>	
<b>1</b>	Briefly describe the organization's mission: _____ _____ _____
<b>2</b>	Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," describe these new services on Schedule O.
<b>3</b>	Did the organization cease conducting, or make significant changes in how it conducts, any program services? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," describe these changes on Schedule O.
<b>4</b>	Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.
<b>4a</b>	(Code: _____) (Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)



# Part IV: Checklist of Required Schedules

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Road map to the rest of the Form 990

List of various questions, which determine additional schedules (Schedule A – Schedule R) to be attached to the core Form 990

## NOTABLE QUESTIONS:

QUESTIONS 4-6
<b>LOBBYING / POLITICAL ACTIVITY (SCHEDULE C)</b>

QUESTIONS 14A – 14B
<b>FOREIGN ACTIVITY (SCHEDULE F)</b>

QUESTIONS 25 – 28
<b>TRANSACTIONS WITH DISQUALIFIED PERSONS (SCHEDULE L)</b>



# Part V: Statements Regarding Other IRS Filings/Tax Compliance

## “CHECK-UP” REGARDING OTHER FILINGS ORG MIGHT HAVE WITH IRS

### Questions 3a – 3b: Form 990-T filing requirement

<b>3a</b> Did the organization have unrelated business gross income of \$1,000 or more during the year? . . . . .	<b>3a</b>		
<b>b</b> If “Yes,” has it filed a Form 990-T for this year? <i>If “No” to line 3b, provide an explanation on Schedule O</i> . . . . .	<b>3b</b>		

### Questions 4a – 4b: FinCEN Form 114 (foreign bank account) filing

<b>4a</b> At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?	<b>4a</b>		
<b>b</b> If “Yes,” enter the name of the foreign country ►			

### Questions 6a – 7h: requirements associated with contributions

<b>6a</b> Does the organization have annual gross receipts that are normally greater than \$100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions? . . . . .	<b>6a</b>		
<b>b</b> If “Yes,” did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible? . . . . .	<b>6b</b>		
<b>7 Organizations that may receive deductible contributions under section 170(c).</b>			
<b>a</b> Did the organization receive a payment in excess of \$75 made partly as a contribution and partly for goods and services provided to the payor? . . . . .	<b>7a</b>		
<b>b</b> If “Yes,” did the organization notify the donor of the value of the goods or services provided? . . . . .	<b>7b</b>		
<b>c</b> Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282? . . . . .	<b>7c</b>		
<b>d</b> If “Yes,” indicate the number of Forms 8282 filed during the year . . . . .	<b>7d</b>		
<b>e</b> Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?	<b>7e</b>		
<b>f</b> Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract? . . . . .	<b>7f</b>		
<b>g</b> If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?	<b>7g</b>		
<b>h</b> If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?	<b>7h</b>		





# Part V: Statements Regarding Other IRS Filings/Tax Compliance (cont.)

## Question 15: Section 4960 tax on remuneration more than \$1M

15	Is the organization subject to the section 4960 tax on payment(s) of more than \$1,000,000 in remuneration or excess parachute payment(s) during the year? .....	15		
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## Questions 16: Section 4968 tax on net investment income for certain educational institutions

16	Is the organization an educational institution subject to the section 4968 excise tax on net investment income? ..... If "Yes," complete Form 4720, Schedule O.	16		
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## Part VI, Section A - Governance

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**Line 2:** relationships between board members?

**Line 5:** significant diversion of the organization's assets?

**Lines 6 – 7b:**

- Who has the power to appoint the Board?
- What governance decisions are reserved to members other than the governing body?

# Part VI, Section B – Policies / Procedures

Generally want to see a lot of “yes” replies in this section

**Line 11a:** is the Form 990 provided to the Board prior to filing?

**Line 12a – 12c:** process for monitoring/enforcing COI policy

**Line 15a - 15b:** process for establishing comp of officers / key EEs

<b>Section B. Policies</b> <i>(This Section B requests information about policies not required by the Internal Revenue Code.)</i>		Yes	No
<b>10a</b>	Did the organization have local chapters, branches, or affiliates? . . . . .	<b>10a</b>	
<b>b</b>	If “Yes,” did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization’s exempt purposes?	<b>10b</b>	
<b>11a</b>	Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	<b>11a</b>	
<b>b</b>	Describe in Schedule O the process, if any, used by the organization to review this Form 990.		
<b>12a</b>	Did the organization have a written conflict of interest policy? <i>If “No,” go to line 13</i> . . . . .	<b>12a</b>	
<b>b</b>	Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	<b>12b</b>	
<b>c</b>	Did the organization regularly and consistently monitor and enforce compliance with the policy? <i>If “Yes,” describe in Schedule O how this was done</i> . . . . .	<b>12c</b>	
<b>13</b>	Did the organization have a written whistleblower policy? . . . . .	<b>13</b>	
<b>14</b>	Did the organization have a written document retention and destruction policy? . . . . .	<b>14</b>	
<b>15</b>	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?		
<b>a</b>	The organization’s CEO, Executive Director, or top management official . . . . .	<b>15a</b>	
<b>b</b>	Other officers or key employees of the organization . . . . .	<b>15b</b>	
	If “Yes” to line 15a or 15b, describe the process in Schedule O (see instructions).		
<b>16a</b>	Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year? . . . . .	<b>16a</b>	
<b>b</b>	If “Yes,” did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization’s exempt status with respect to such arrangements? . . . . .	<b>16b</b>	



# Part VII: Compensation

Compensation information for the following individuals:

- Directors (if applicable)
- Officers
- Key Employees
- Next Top Five Highest Compensated Employees
- Any “Formers”

Figures are based off the **calendar year** falling within the organization’s tax year

Order of reporting from highest to lowest compensation based on the sum of columns (D), (E), and (F) for each individual



# Part VII: Compensation (Continued)

**Column (D)** – comp. from the org; ties to greater of W-2 Box 5 or 1

**Column (E)** – comp. from related orgs; ties to the greater of W-2 Box 5 or 1

**Column (F)** – benefits from org and related orgs:

- Deferred compensation (employer contributions to retirement plans)
- Nontaxable benefits (medical, dental, vision, other non-taxable benefits)

(A) Name and title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
(1)										



# Part VIII: Statement of Revenue

Presentation follows financial statements, with minor differences including:

- Donated services (excluded from Form 990, Part VIII)
- Unrealized gains/losses (excluded from Form 990, Part VIII)

Revenue is segregated between:

- Program revenue [column (B)]
- Unrelated business income [column (C)]
- Revenue excluded from tax under IRC Sections 512 – 514 [column (D)]

Program revenue should be compared to total revenue

Is there too much unrelated revenue?



# Part IX: Statement of Functional Expense

Expenses broken out into three categories



## Ratios to Analyze:

- Ratio of program, M&G, and fundraising expenses to total expenses
- Ratio of fundraising expenses to total contributions





A silhouette of a person in a dynamic, almost dancing pose, with one leg raised and arms outstretched. The background is a warm sunset or sunrise with a large, bright sun low on the horizon, creating a gradient of orange and yellow colors.

# Part X: Balance Sheet

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Details the traditional three sections of a balance sheet

- Assets
- Liabilities
- Net Assets / Fund Balances

## ITEMS TO NOTE:

- Provides insight to the organization's health
- Comparative information; can help determine if there are potential cash flow issues
- Notice restrictions on the net assets





# New Financial Reporting Standards

Revenue recognition: could affect Form 990, part VIII reporting, but tax definitions (e.g. grants as program revenue vs. donation revenue) didn't change.

Net assets: Form 990, part X (2019 forms updated):

- Without donor restriction = line 27
- With donor restrictions = line 28

Statement of functional expense: generally audits have adopted existing tax groupings as the starting point for the Statement of Functional Expense



# Schedule A: Public Charity Status and Public Support

Determines if an exempt organization qualifies as a public charity

Organization must select lines 1 – 12 of Schedule A, Part I:

1	<input type="checkbox"/> A church, convention of churches, or association of churches described in <b>section 170(b)(1)(A)(i).</b>
2	<input type="checkbox"/> A school described in <b>section 170(b)(1)(A)(ii).</b> (Attach Schedule E (Form 990 or 990-EZ).)
3	<input type="checkbox"/> A hospital or a cooperative hospital service organization described in <b>section 170(b)(1)(A)(iii).</b>
4	<input type="checkbox"/> A medical research organization operated in conjunction with a hospital described in <b>section 170(b)(1)(A)(iii).</b> Enter the hospital's name, city, and state: _____
5	<input type="checkbox"/> An organization operated for the benefit of a college or university owned or operated by a governmental unit described in <b>section 170(b)(1)(A)(iv).</b> (Complete Part II.)
6	<input type="checkbox"/> A federal, state, or local government or governmental unit described in <b>section 170(b)(1)(A)(v).</b>
7	<input type="checkbox"/> An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in <b>section 170(b)(1)(A)(vi).</b> (Complete Part II.)
8	<input type="checkbox"/> A community trust described in <b>section 170(b)(1)(A)(vii).</b> (Complete Part II.)
9	<input type="checkbox"/> An agricultural research organization described in <b>section 170(b)(1)(A)(ix)</b> operated in conjunction with a land-grant college or university or a non-land-grant college of agriculture (see instructions). Enter the name, city, and state of the college or university: _____
10	<input type="checkbox"/> An organization that normally receives: (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions—subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See <b>section 509(a)(2).</b> (Complete Part III.)
11	<input type="checkbox"/> An organization organized and operated exclusively to test for public safety. See <b>section 509(a)(4).</b>
12	<input type="checkbox"/> An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in <b>section 509(a)(1)</b> or <b>section 509(a)(2).</b> See <b>section 509(a)(3).</b> Check the box in lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g.



# Schedule A, Part II

509(a)(1) Organizations (receives most revenue from contributions)

Public support test calculates how large is the donor base of the organization (i.e. limits contributions from single sources)

- Excess contributions from donors removed from public support numerator on Line 5

Section A. Public Support						
Calendar year (or fiscal year beginning in) ►	(a) 2015	(b) 2016	(c) 2017	(d) 2018	(e) 2019	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.") . . .						
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf . . .						
3 The value of services or facilities furnished by a governmental unit to the organization without charge . . .						
4 <b>Total.</b> Add lines 1 through 3 . . .						
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f) . . .						
6 <b>Public support.</b> Subtract line 5 from line 4 . . .						

Public support percentage must be > 33%, or 10% Facts and Circumstances



# Schedule A, Part III

509(a)(2) Organizations (receives most revenue from program service revenue & donations)

**Line 7a:** revenue received from officers, directors removed from public support test

**Line 7b:** program service revenue from sources > 1% of total support removed

Section A. Public Support						
Calendar year (or fiscal year beginning in) ►	(a) 2015	(b) 2016	(c) 2017	(d) 2018	(e) 2019	(f) Total
<b>1</b> Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")						
<b>2</b> Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose . . . .						
<b>3</b> Gross receipts from activities that are not an unrelated trade or business under section 513						
<b>4</b> Tax revenues levied for the organization's benefit and either paid to or expended on its behalf . . . .						
<b>5</b> The value of services or facilities furnished by a governmental unit to the organization without charge . . . .						
<b>6 Total.</b> Add lines 1 through 5 . . . .						
<b>7a</b> Amounts included on lines 1, 2, and 3 received from disqualified persons . . . .						
<b>b</b> Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year . . . .						
<b>c</b> Add lines 7a and 7b . . . .						
<b>8 Public support.</b> (Subtract line 7c from line 6.) . . . .						

**> 33 1/3% FROM PROGRAM REVENUE AND DONATIONS**

**AND**

**< 33 1/3% FROM INVESTMENT INCOME**

**NO 10% FACTS AND CIRCUMSTANCES TEST**



# Schedule B: Schedule of Contributors

**Not** open for public disclosure

- Names/addresses of donors not disclosed
- Some states require disclosure to the Attorney General

Entities other than §§501(c)(3) and 527 organizations are not required to provide donor names and addresses; 2021 instructions say to enter “N/A”

- NJ and MT challenged and won in federal court (July 2019)
- IRS issued proposed regs to codify the change (September 2019)

General Rule – §§501(c)(3) and 527 organizations must disclose contributions from all donors who contributed > \$5,000 during tax year

Special Rule – reporters are allowed to limit listing to those donors who contributed > 2% of total contributions during tax year

- Must complete **Schedule A, Part II**



# Schedule J: Compensation Information

Supplemental schedule to Form 990, Part VII

**Part I, Line 1a:** information regarding benefits provided to those listed on Part VII

**1a** Check the appropriate box(es) if the organization provided any of the following to or for a person listed on Form 990, Part VII, Section A, line 1a. Complete Part III to provide any relevant information regarding these items.

- |  |  |
|--|--|
| <input type="checkbox"/> First-class or charter travel             | <input type="checkbox"/> Housing allowance or residence for personal use   |
| <input type="checkbox"/> Travel for companions                     | <input type="checkbox"/> Payments for business use of personal residence   |
| <input type="checkbox"/> Tax indemnification and gross-up payments | <input type="checkbox"/> Health or social club dues or initiation fees     |
| <input type="checkbox"/> Discretionary spending account            | <input type="checkbox"/> Personal services (such as maid, chauffeur, chef) |

**Part I, Lines 4a – 4b:** severance and non-qualified retirement plans

**Part II:** subset of people listed on Form 990, Part VII

(A) Name and Title	(B) Breakdown of W-2 and/or 1099-MISC compensation			(C) Retirement and other deferred compensation	(D) Nontaxable benefits	(E) Total of columns (B)(i)–(D)	(F) Compensation in column (B) reported as deferred on prior Form 990
	(i) Base compensation	(ii) Bonus & incentive compensation	(iii) Other reportable compensation				
	(i)						



# Schedule L: Transactions with Interested Persons

Highly scrutinized

## Part II: Loans to/from interested persons; no threshold for reporting

<b>Part II</b> <b>Loans to and/or From Interested Persons.</b> Complete if the organization answered "Yes" on Form 990-EZ, Part V, line 38a or Form 990, Part IV, line 26; or if the organization reported an amount on Form 990, Part X, line 5, 6, or 22.												
(a) Name of interested person	(b) Relationship with organization	(c) Purpose of loan	(d) Loan to or from the organization?		(e) Original principal amount	(f) Balance due	(g) In default?		(h) Approved by board or committee?		(i) Written agreement?	
			To	From			Yes	No	Yes	No	Yes	No
(1)												

## Part IV: Business transactions with interested persons, typically in excess of \$100k; family member compensation >\$10k

<b>Part IV</b> <b>Business Transactions Involving Interested Persons.</b> Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c.					
(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No
(1)					







# Schedule R: Related Organizations and Unrelated Partnerships

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Lists all related organizations

Must be an element of control to be related organization

- For-Profit Organization > 50% profits or capital interest
- Non-Profit Organization
  - > 50% board overlap (brother/sister)
  - power to appoint the board (parent/subsidiary)
  - §509(a)(3) supporting or supported organization relationship
- Trusts > 50% beneficial interest





# Form 990 – What to Take Away?

What activities does the organization undertake?	Form 990, Part III
Is the organization well-governed, and have in place best practices/procedures?	Form 990, Part VI
Is compensation / transactions with interested persons reasonable?	Form 990, Part VII and Schedule J Schedule L
Is the organization financially healthy?	Form 990, Part I and Form 990, Part VIII - X





# Other Tax Updates

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# Infrastructure Innovation and Jobs Act

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The bill includes the Energy Efficiency Materials pilot program which would fund \$50 million in grants to nonprofits to make upgrades to their facilities. The Department of Energy would oversee the program and can provide grants of up to \$200,000 for each nonprofit project. Nonprofits could use this funding for new HVAC units, generators, doors, windows, roofs, and lighting systems.



# Build Back Better Act Update

## A FEW PROVISIONS UNDER CONSIDERATION:

Phase out the excise tax on net investment income under section 4968 for institutions providing qualified aid awards to first time, full time undergraduate students

Provide tax credit to donors equal to 40% of contributions to certain certified public universities for research infrastructure

Make federal Pell grants fully excludible from gross income

Create a new refundable tax credit for certain higher educational institutions that incur costs during a tax year as part of a “qualified environmental justice program” that receives a credit dollar allocation

Repeal the prohibition that excludes students convicted of a federal or state felony offense relating to the possession or distribution of a controlled substance from qualifying for the American Opportunity Tax Credit



# ACE Act Legislation

Accelerating Charitable Efforts (ACE) Act Introduced by Senators King and Grassley on June 9, 2021

- Established three types of DAFs to replace existing DAF rules

		
<b>Qualified</b> <b>15-year payout</b> <b>requirement</b>	<b>Nonqualified</b> <b>50-year DAF's</b>	<b>Qualified Community</b> <b>Foundation DAF</b> <b>Max value of \$1M</b> <b>(adj for inflation)</b>

Proposes timeframes for DAF distributions to ensure there is no wealth accumulation in the DAF

- There is currently \$140 billion sitting in DAF's





# Contributions from DAFs for Determining Public Support

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## **SUPPORT FROM DAFS**

Shall not be treated as support from the sponsoring organization (public charity) but rather as support from a single person, unless

The funds are identified as coming from the original donor, then those funds would be treated as provided by that donor for the public support test



# Employee Retention Tax Credit Update

- Originally enacted as part of the CARES Act of 2020 beginning March 13, 2020, eligible employers are entitled to a refundable tax credit used to offset their employment taxes
- Consolidated Appropriations Act (CAA) of 2021, further extended the ERTC through June 30, 2021 and included certain enhancements that apply starting January 1, 2021
- The American Rescue Plan Act (ARPA) of 2021 extended the ERTC enhancements under the CAA through the end of 2021
- Infrastructure Investment and Jobs Act of 2021 changed the expiration date to 9/30/2021
- Expect to see audits of this credit
- Refund timing – IRS catching up, still at least 16-18 weeks





# Status of Tax Reform Provisions

IRC §512(a)(7) Treating employer provided parking as UBI	Repealed December 2019
IRC §512(a)(6) UBI activity silo-ing	Final regulations issued December 2020
IRC §4960 Excise tax on compensation > \$1 million	Final regulations issued January 2021
IRC §4968 1.4% excise tax on NII of private colleges and universities and their related organizations	Final regulations issued September 2020







# Form 990-T and Schedule A

**THE IRS RELEASED THE 2020 FORM 990-T AND NEW SCHEDULE A (FORM 990-T), WHICH IS A REPLACEMENT FOR FORM 990-T, SCHEDULE M THAT WE HAD IN 2019.**

If multiple unrelated trade or businesses:

- Summary is shown on the first page of the Form 990-T, and
- Schedule A must be attached for each unrelated trades or businesses



# Electronic Filing Requirements

**Form 990 and Form 990-PF** must be e-filed, effective for years beginning on or after 7/2/2019

**Form 990-EZ** must be e-filed, effective for years beginning on or after 7/31/2021

**Form 990-T** is required to be e-filed for 2020 forms

**Form 1023**, application for exemption, now required to be completed and submitted through Pay.gov

**Form 4720** is required to be e-filed for 2020 forms beginning June 16, 2021





Questions?

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