

## **Form 990 Part VII and Schedule J – Reporting Executive Compensation**

### **Frequently Asked Questions and Tips**

March 26, 2012

**1. Which persons must be listed as officers, directors, trustees, key employees, and five highest compensated employees on the core form's Part VII?**

The organization must list all of its current officers, directors, and trustees, as those terms are defined in the Glossary contained in the instructions, regardless of whether any compensation was paid to such individuals. The organization must also list up to 20 current employees who satisfy the definition of key employee (persons with certain responsibilities and reportable compensation greater than \$150,000 from the organization and related organizations), and its five current highest compensated employees with reportable compensation of at least \$100,000 from the organization and related organizations who are not officers, directors, trustees, or key employees of the organization.

Special filing amounts and requirements apply for a former--a person who was an officer, director, trustee, key employee, or one of the five highest compensated employees, in one of the five prior reporting years.

**TIP:** Beginning with 2008 tax years, all filing organizations (not just section 501(c)(3) organizations) must list and report compensation paid to the organization's five highest compensated employees with reportable compensation greater than \$100,000 from the organization and related organizations, as well as to its five highest compensated independent contractors to which the organization paid more than \$100,000 for services. See Part VII and related instructions.

**2. The organization uses a fiscal year as its tax year for completing the Form 990. May the organization report executive compensation amounts based on its fiscal year rather than the calendar year amounts reported on Form W-2 or Form 1099?**

No. A fiscal year filing organization must report amounts in the core form Part VII, as well as any amounts reported in Schedule J, based on the calendar year ending with or within the organization's fiscal year. This is the same requirement for organizations filing a Form 990 on a calendar year basis.

**TIP:** Although the organization must use the calendar year to report in the core form Part VII executive compensation and amounts paid to independent contractors, an organization filing Form 990 for a fiscal year must use its fiscal

year to report compensation expense amounts in its Statement of Expenses (Part IX of the core form).

**3. Under what circumstances must compensation paid by a related organization be reported on the Form 990?**

For purposes of the Form 990, related organization generally means a parent, subsidiary, brother or sister organization under common control, or a 509(a)(3) supporting or supported organization of the filing organization. An organization is not required to list individuals who are officers, directors, trustees, key employees, or the five highest compensated employees of a related organization unless the person also serves in one or more of these capacities with the filing organization. Once a person is required to be listed in Part VII, Section A, however, compensation paid by a related organization to such person generally must be reported in Part VII if it equals or exceeds \$10,000 from that organization. The \$10,000 exception for amounts paid by a related organization only applies to reporting in Part VII of the core form; it does not apply to Schedule J.

**4. The core form Part VII, Section A instructions say to list persons in a particular order, beginning with trustees or directors, followed by officers, then key employees, then highest compensated employees, then former such persons. Why should these persons be listed in this order?**

If a person is a director, trustee, or officer of the organization, he or she cannot be listed as a key employee of that organization in Part VII. Accordingly, officers, directors, or trustees should be listed in Part VII before the organization determines which key employees to list. Likewise, in determining its five most highly compensated employees who received more than \$100,000 of reportable compensation, the organization is not to consider persons who are already listed in Part VII as officers, directors, trustees, or key employees of the organization.

**5. Form 990 reporting requirements refer to *reportable* compensation and *other compensation*. How does an organization know which types and amounts of compensation are included in each, and where to report these types and amounts on the form?**

*Reportable compensation* generally means compensation reported in Box 5 of the employee's Form W-2, or in Box 7 of a non-employee's Form 1099-MISC. Special rules apply if an employee does not have any amount reported in Box 5 of Form W-2. *Other compensation* generally means compensation that is not reportable compensation. The instructions to Part VII explain these terms, and also provide a table listing various types of compensation and where to report them in Part VII or in Schedule J. A specific type of *other compensation* that is less than \$10,000 for a given person does not need to be reported in Part VII,

except tax-deferred contributions by the employer to a defined contribution retirement plan, the annual increase in the actuarial value of a defined benefit plan, and the value of health benefits not includible in reportable compensation. This \$10,000 exception only applies to reporting in Part VII of the core form; it does not apply to Schedule J.

**TIP:** As stated above, the \$10,000 exclusions for reporting related organization compensation (described in [Reporting Compensation Paid by Related Organizations](#) ) and certain types of other compensation (described in this Q&A) apply only to core form Part VII reporting, and are not available for Schedule J reporting. Accordingly, the compensation amounts required to be reported on Schedule J may exceed the amounts required to be reported on Part VII for the same person. Organizations are not required to use the available reporting exclusions for Part VII. Organizations that prefer to report the same total reportable compensation and other compensation amounts in both Part VII and Schedule J for a person listed in Schedule J may do so by reporting otherwise excludible amounts in Part VII.

- 6. A table in the core form Part VII instructions indicates that employee deferrals to 401(k) and 403(b) plans should be reported in other reportable compensation on Schedule J column (B)(iii). Because these are deferrals of base pay for many organizations, it may cause the base pay column (B)(i) amount in Schedule J to be understated. Is it incorrect if an organization reports base pay at the full amount, including these deferrals, rather than separating the deferrals from other base pay and reporting the deferrals in Schedule J column (B)(iii) as other reportable compensation?**

The sum of amounts reported by the organization for an individual in Schedule J columns (B)(i) – (iii) must equal the total reportable compensation amount (generally the Form W-2 Box 5 amount) for that person. The organization may report the 401(k) or 403(b) employee deferral either in column (B)(i) as base pay, or in column (B)(iii) as other reportable compensation. For instance, if an employee has Box 5 compensation of \$200,000, including \$5,000 of 401(k) employee deferrals, the organization may report \$200,000 in base pay (column (B)(i)), or \$195,000 in base pay and \$5,000 in other reportable compensation (column (B)(iii)).

- 7. Are all organizations that list individuals in Form 990, Part VII also required to complete Schedule J?**

No. An organization is required to complete Schedule J only if it satisfied at least one of three separate requirements:

1. It is required to list any former officer, director, trustee, key employee or highest compensated employee in Part VII, Form 990;
2. The sum of reportable compensation and other compensation paid to any individual listed in Part VII by the filing organization and related organizations exceeds \$150,000, or
3. It participated in an arrangement in which compensation was paid by an unrelated organization to at least one of its officers, directors, trustees, key employees or five highest compensated employees for services provided to the filing organization.

The thresholds for completing Schedule J are contained in Questions 3-5 of Part VII, Section A.

**TIP:** Organizations required to complete Schedule J are not required to list and report compensation for all individuals listed and reported in core form Part VII. They only must list and report in Schedule J, Part II, those individuals who receive compensation for the tax year that exceeds the applicable reporting thresholds described in Questions 3-5 of Part VII, Section A (e.g., \$150,000 for current officers, directors, trustees and key employees).

- 8. Schedule J, Part I, contains questions about an organization's executive compensation practices and policies. Are these questions to be answered for all of the persons listed in the core form Part VII, or only those persons listed in Schedule J, Part II?**

Question 3 of Schedule J, Part I, must be answered with respect to the organization's top management official (e.g., CEO/Executive Director). All other Part I questions are to be answered for all persons listed in the core form Part VII, not just those also required to be listed in Schedule J.

- 9. How should an organization list in Part VII, Form 990, a person who is a current officer or director for part of the year and a former officer or director for the rest of the year - as a current, former or both? What about persons who are key employees or highest compensated employees for only part of the year?**

The filer should list in Part VII, Section A, [Form 990](#), any person who was a current officer or director at any time during the tax year, even if the person is not an officer or director at the end of the year. All of that person's compensation from the organization should be listed in Part VII, Section A, whether received as a current officer or director, a former officer or director or in another capacity (e.g., independent contractor). A *current*

key employee or highest compensated employee is a person who was a key employee or highest compensated employee for the calendar year ending with or within the organization's tax year, even if he or she is not an employee of the organization at the end of that year. A former officer, director, trustee, key employee or highest compensated employee should be listed in Part VII, Section A, only if such person is not listed in Part VII, Section A, in any other capacity.

**Additional information:**

- [Form 990](#), *Return of Organization Exempt From Income Tax*
- Form 990 [instructions](#)

Schedule J [instructions](#)