

Common Errors on Form 990 That Can Result In IRS Penalties

IRC Section 6652(c)(1)(A)(ii) provides that penalties can be assessed for the filing of an incomplete return. Inexperienced preparers frequently fail to complete or improperly complete various parts of the required forms, thus exposing the organization to IRS penalties. If you've ever received such a penalty notice, you know that those penalties can be tens of thousands of dollars.

Here are some common errors preparers make on Form 990 that can result in IRS penalties:

1. **Filing on the wrong year's form.** If your organization keeps its books and records on the calendar year basis, this is not generally a problem. If your year ends on December 31, 2008, obviously you would file a 2008 Form 990. But what if your year ended on November 30, 2008? What form would you use? **Answer:** You would file a 2007 Form 990 (or 990-EZ or 990-N). The beginning of the year controls. Tax years beginning in 2007 file the 2007 form. Tax years beginning in 2008 file on the 2008 form.
2. **Failing to either attach Schedule B** to list “substantial contributors” or to mark the box on page 1 of Form 990 indicating that Schedule B is not required (either because there were no “substantial contributors,” or because Schedule B does not apply to your type of organization) The IRS is VERY touchy about this. Get it right. If you don't attach schedule B, you'd better mark that box! Refer to the Schedule B instructions and read carefully.
3. **Balance sheet ending net assets do not agree with ending net assets on page 1**, part 1. This is unlikely to result in a penalty, but it is an embarrassing error because it indicates either ignorance or sloppy work.
 - For Form 990 EZ, page 1, line 21 must equal line 27, column B.
 - For Form 990, Part I, line 22 must equal Part X, line 34, column B.
4. **Failure to list the officers, directors, and key employees**, their compensation and benefits, and the number of hours per week that they worked. Even UNPAID officers directors and volunteer key employees must be listed. You must list the average number of hours they worked each week, even for volunteers. It is no longer acceptable to just write in “as needed.” Many organizations do not want to disclose the compensation and benefits of their officers, directors

and key employees. Failure to do so opens you up to having the IRS assess penalties for filing an incomplete return. The penalties will continue to accrue until the information is provided.

Note: Personal addresses are not required to be disclosed. You may use the organization's business address for each officer, director, and key employee listed.

5. **Failure to show any expenses in the “fundraising” column** of the statement of functional expenses (Part IX of the 2008 Form 990). If you have contribution revenue listed as a source of income, you need to allocate some of your expenses to fundraising. The IRS feels that if you are getting contributions, you must be incurring some expenses related to the fundraising. I know that this isn't always the case. Nevertheless, make it a point to identify some expenses that are allocable to fundraising. Usually a portion of postage or printing or an allocation of a portion of the phone bill or a part of someone's salary can be allocated to fundraising expenses.
6. **Improper reporting of proceeds from fundraising.** An organization cannot show “net” proceeds from a fundraising campaign. Contributions must be stated at the gross amount on page 1, line 1, and fundraising expenses must be fully disclosed. The IRS does not want organizations to hide fundraising expenses. Some organizations will raise \$10,000 in a campaign and pay \$7,000 of that money to a professional fundraiser in fees. It is not proper to disclose only the \$3,000 net amount realized.
7. **Failure to prepare Schedule A.** All section 501(c)(3) organizations MUST prepare and attach Schedule A to Form 990 or Form 990-EZ. Yes, Schedule A also applies to Form 990-EZ. Many organizations do not realize they have to prepare Schedule A. If the IRS notices, they will send a notice and a penalty. If a considerable amount of time has passed since the return was filed, the penalty can be quite large.
8. **Failure to mark a box in Part I on Schedule A** indicating why the organization is NOT a private foundation (and therefore why it has public charity status). This information comes from the organization's IRS determination letter.
9. **Failure to properly complete the Support Schedule.** Many organizations leave the Support Schedule blank. All 501(c)(3) organizations must complete the Support Schedule to calculate their public support fraction.

10. **Note:** *Generally, only 501(c)(3) organizations are required to file Schedule A. It does not apply to c4, c5, c6, c7, etc. This is because only c3 organizations are subject to the public support test, which is the purpose of Schedule A. Though less common, organizations exempt under 501(e), (f), (k), (n) and nonexempt charitable trusts described in section 4947(a)(1), are also required to prepare Schedule A. Refer to the Schedule A instructions, as Schedule A has had major revisions for 2008.*

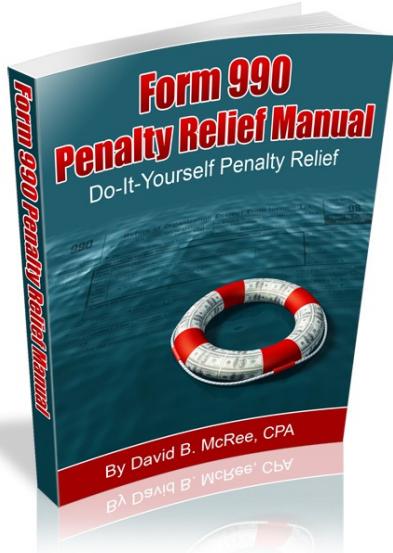
11. **Inappropriately reporting income as taxable unrelated business income (UBI).** CPA's do this all the time, especially with "advertising" income. There are numerous exceptions and exclusions for income that might be considered taxable UBI. Preparers of Form 990 and 990-EZ should become familiar with ALL of those exceptions, especially when dealing with all volunteer organizations. Paying tax on income that is not taxable is like assessing a penalty on yourself! There is a list of exclusions and exceptions in the Form 990 instructions.

12. **Failure to file an extension of time to file.** It never ceases to amaze me how often an organization "thought" that the CPA filed the extension but never bothered to verify that an extension was actually filed. This often happens when there is a change in CPA's. The new CPA just assumes that the prior CPA filed the extension and the client assumes no responsibility for it. Big mistake. Organizations should monitor their due dates and DEMAND a copy of the extension and proof of timely filing. Engagement letters should address who is to file an extension, should one be required.

Remember, the IRS treats an incomplete return the same as a return filed late. Don't leave yourself open to attack by the IRS. Prepare and file a complete return. These 12 tips represent the most significant and most common errors made by preparers, however the tips list is not all-inclusive, nor is it designed to be. Be sure to read the IRS instructions to Form 990, Form 990-EZ, Schedule A, and Schedule B thoroughly.

*These tips were prepared by David B. McRee, a Certified Public Accountant licensed to practice in the state of Florida. They are intended to be general tips, not specific legal or accounting advice tailored to your situation. Contact David McRee, CPA by sending email to cpa@form990help.com.
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- 45 pages** of explanations, techniques, special language, laws, and successful sample letters
- How the IRS calculates late filing penalties.
- What the IRS says about penalty abatement.
- What the Law says about penalty abatement.
- What to do immediately** when your organization receives a late filing penalty notice.
- What "reasonable cause" is.
- "**Mitigating factors**" and how they can save you.
- Learn about "events beyond the filer's control".
- How to **successfully blame your CPA** or other agent.
- How you can **show that you acted in a responsible manner** by using the IRS's own language.
- Tips from the IRS Penalty Manual.
- How, exactly, to analyze your situation, structure your letter and develop your argument.
- What to do if you are a CPA**, attorney, or other advisor and your actions caused the late filing.
- Other nonprofit penalties that can be removed (abated) for reasonable cause.

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