

**Author:**

**Cordelia A. Glenn**  
+1.412.355.6701  
cordelia.glenn@klgates.com

**Other Tax-Exempt Organization  
Services Contacts:**

**Lance W. Behnke**  
+1.206.370.8380  
lance.behnke@klgates.com

**Shannon G. Guthrie**  
+1.214.939.5890  
shannon.guthrie@klgates.com

**Kathryn G. Henkel**  
+1.214.939.5475  
kathryn.henkel@klgates.com

**Susan Mussman Schwartz**  
+1.412.355.8658  
susan.schwartz@klgates.com

**Carolyn Gilmer Shaw**  
+1.704.331.7480  
carolyn.shaw@klgates.com

K&L Gates comprises approximately 1,700 lawyers in 28 offices located in North America, Europe and Asia, and represents capital markets participants, entrepreneurs, growth and middle market companies, leading FORTUNE 100 and FTSE 100 global corporations and public sector entities. For more information, visit [www.klgates.com](http://www.klgates.com).

## The New Form 990: Seven Things You Can Do Now To Prepare

### 1. Educate Your Board and Management Team Regarding the New Form 990

- Bring your board up to speed on the changes and alert them to the extent of board and management involvement that will be required. Your annual meeting or board retreat would be an ideal time to do this.
- Ensure that your management team is aware of the scale of the response and is “tasked” to comply. Consider a monthly compliance schedule.
- Consider a trial run to identify and correct potential problem areas and start to develop narrative explanations.

### 2. Develop or Fine-Tune Your Mission Statement and Program Service Descriptions

- Ensure that your mission statement captures the full range of your exempt activities and has been approved by the board.
- Review and/or revise your program service descriptions to reflect how you are accomplishing your mission and verify that you are tracking expenses, grants, and revenues of each program service.
- This will set the stage for all of the information in the Form 990.

### 3. Adopt, Review and/or Revise:

- Conflict of interest policy and annual disclosure statement
- Whistleblower policy
- Document retention and destruction policy
- Procedures for determining compensation of CEO/Executive Director and key employees
- Policy for evaluation of joint ventures with taxable entities
- Policies regarding disclosure of Form 1023, Form 990, Form 990-T, governing documents, conflict of interest policy and financial statements
- Process for monitoring use of grant funds by grantees

#### 4. Using the New Definitions, Identify and Inventory:

- Related organizations, disregarded entities, and joint ventures taxed as partnerships
- Current and former officers and directors
- Current and former key employees
- Current and former highest compensated employees
- Substantial contributors
- Grant selection committee members
- Disqualified persons

#### 5. Develop and Implement an Annual Questionnaire for Directors, Officers, Key Employees, and Other Interested Persons That You Have Identified

This document should provide explanations and elicit information from appropriate persons sufficient to determine the existence of and properly report:

- Grants or assistance received from your organization
- Direct and indirect business transactions with your organization
- Compensation paid by related organizations
- Family and business relationships among directors (including common board memberships)
- Number of independent directors

#### 6. Work with Legal Counsel to Identify and Assess:

- Transactions with interested persons, including excess benefit transactions, loans, grants or assistance, and direct and indirect business transactions
- Restructure problematic arrangements, if possible.
- Compensation practices and benefit packages that may draw unwanted IRS attention
- Compliance with state charitable solicitation and gaming laws

#### 7. Consider Formation of Separate Audit Committee & Examine Relationship with Auditor

- Examine roles and responsibilities of audit committee and bring them in line with best practices.
- Assess independence of auditor.

K&L Gates comprises approximately 1,700 lawyers in 28 offices located in North America, Europe and Asia, and represents capital markets participants, entrepreneurs, growth and middle market companies, leading FORTUNE 100 and FTSE 100 global corporations and public sector entities. For more information, visit [www.klgates.com](http://www.klgates.com).

K&L Gates comprises multiple affiliated partnerships: a limited liability partnership with the full name K&L Gates LLP qualified in Delaware and maintaining offices throughout the U.S., in Berlin, in Beijing (K&L Gates LLP Beijing Representative Office), and in Shanghai (K&L Gates LLP Shanghai Representative Office); a limited liability partnership (also named K&L Gates LLP) incorporated in England and maintaining our London and Paris offices; a Taiwan general partnership (K&L Gates) which practices from our Taipei office; and a Hong Kong general partnership (K&L Gates, Solicitors) which practices from our Hong Kong office. K&L Gates maintains appropriate registrations in the jurisdictions in which its offices are located. A list of the partners in each entity is available for inspection at any K&L Gates office.

This publication is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer.

©1996-2008 K&L Gates LLP. All Rights Reserved.