

# Blazek & Vetterling

CERTIFIED PUBLIC ACCOUNTANTS

Dear Clients,

This email news suggests a method to collect information required to complete new Form 990 Schedule L (see attached) that may need to be included in your organization's 2008 Form 990 to report any transactions with *Interested Parties*. We recommend you study the form and consider sending this questionnaire (see attached) to your directors, officers, and other persons with substantial influence over financial decisions, or those called *Interested Parties* to obtain details about any transaction(s) that need to be reported. The answers to Questions 12(b) and 12(c) of Core Part VI (see attached) should be coordinated with Schedule L. We understand that the typical Conflict of Interest Policy provides a system for annual disclosure of any conflicts; however, the above-mentioned questionnaire solicits information not only about the existence of a conflict, but also details about transactions that actually occurred.

Due to the sensitivity of this subject, we suggest this email be shared with your executive staff and officers of the board of directors. We also recommend you work with your organization's legal counsel to implement this enhanced procedure.

Jody Blazek

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## E-MAIL NEWS

### 2008 Form 990

#### Schedule L for Transactions with Interested Persons

A 990 filer that has certain financial transactions or arrangements with its *Interested Persons* must file Schedule L. This schedule combines information requested in prior Form 990s in different places - an attachment to the balance sheet (Part IV) for loans payable and receivable, amount of penalties in Part VI, Questions 89a-d relating to excess benefit transactions, and related party business transactions in Schedule A, Part III. Importantly, it also enhances the information requested.

**Who is an Interested Party?** Essentially, persons who govern the organization and those related to or doing business with those that govern may be treated as *Interested Parties*. The definition of Disqualified Persons for excess benefit purposes applies to all parts. Parts II, III, and IV add more persons to the list. *Disqualified persons* are:

- Governing officials - directors, trustees, non-board members serving as officers, and those with substantial influence, including an executive director, chief financial officer, or untitled person with influence;
- Family members of the above individuals - spouse, siblings (whole or half), ancestors, children, grandchildren, great-grandchildren, and the spouse of any family member;
- Business entity controlled more than 35% by one of the above parties.

**Part I - Excess Benefit Transactions:** Excess benefit transactions of any amount must be reported and are subject to penalties. The amount found to be excessive (e.g., too much compensation or too high a price paid for property) must be returned to the organization. The instructions request that the disqualified person's name, not just his or her title, be entered. Question 89 on the 2007 return only asked for the total penalties imposed with no names. It is very important your organization complete our Intermediate Sanction Checklist each year to identify and avoid such transactions. (For §501(c)(3) & (4) organizations only.)

**Part II – Loans to and from Interested Persons:** The seven facts entered in this part are different from the prior balance sheet attachment for loans except for columns (c) and (d). There is no longer a request for payment terms or collateral for the loan. Columns (f) and (g) instead ask fiduciary-responsibility type questions. Did the governing body approve of the loan and, if so, was the obligation evidenced in writing? All loans outstanding at year end in any amount must be reported.

- Loans to be reported include “salary and other advances and receivables” unless made under an accountable plan.
- Pledged donations and unpaid accrual compensation are not reported. Receivables due from an official for exempt function revenue, such as registration for a seminar, incurred in connection with the organization's “ordinary course of business” also is not reported.

**Part III – Grants or Assistance Benefiting Interested Persons:** Monetary grants and awards or goods, services, or use of facilities (regardless of amount,) provided to benefit an interested person must be reported. Interested persons for this purpose include the disqualified persons listed above plus a substantial contributor (need not be named) and members of the grant selection committee. To identify such parties, a reasonable efforts process - distribution of an annual questionnaire to each current or former official required to be reported in Core Part VI -- can be relied upon.

**Part IV – Business Transactions Involving Interested Persons:** This part is not new for §501(c)(3) organizations and replaces and is similar to Schedule A, Part III, line 2 of the current form. All 990 filers must now provide information about certain business transactions throughout the year between the organization and interested persons. Again, there is a reasonable efforts process allowed to identify the parties involved. Fortunately, the instructions establish individual transaction and aggregate transaction reporting thresholds:

- (1) Payments with respect to a particular transaction must be reported if they exceed the greater of \$10,000 or 1% of the organization's revenue.
- (2) Payments with respect to a particular person must be reported if the aggregate of all payments between the organization and the person exceed \$100,000 for the year.
- (3) Compensation payments paid to a family member of certain persons must be reported if they exceed \$10,000.

Completion of this part is prompted by question 28 in Core Part IV. During the tax year, did any person who is a current or former officer, director, trustee, or key employee:

- a. Have a direct business relationship with the organization (other than as an officer, director, trustee, or employee), or an indirect business relationship through ownership of more than 35% in another entity (individually or collectively with other person(s) listed in Part VII, Section A)? If "Yes," complete Schedule L, Part IV.
- b. Have a family member who had a direct or indirect business relationship with the organization? If "Yes," complete Schedule L, Part IV.
- c. Serve as an officer, director, trustee, key employee, partner, or member of an entity (or a shareholder of a professional corporation) doing business with the organization? If "Yes," complete Schedule L, Part IV.

**Prepared by Jody Blazek and David Nelson**

**December 8, 2008**

# Transactions with Interested Parties Questionnaire

Name of organization \_\_\_\_\_

Name of interested party \_\_\_\_\_

*This annual questionnaire must be completed and signed by our directors, officers, key employees, and other persons with substantial influence over financial decisions in accordance with the Conflict of Interest Policy. The responses include not only a description of relationships that could result in reportable transactions, but also the amount(s) if any occurred.*

**FUTURE BUSINESS TRANSACTIONS:** The following is a list of all entities:

(1) in which I have a financial interest (directly or indirectly) through business, family members, or investment, which, during the year, may have a transaction or arrangement for the purchase of goods and services or payment of compensation, with the Organization or with any entity or individual with which the Organization has an interest.

(2) in which I am an officer, director, manager or influential person, if I anticipate that such organizations will do business with the Organization in the coming fiscal year.

Please describe the nature, dates, and amounts of each business transaction that I anticipate will occur: Respond N/A if you have no transactions to disclose:

\_\_\_\_\_  
\_\_\_\_\_

**LOANS, GRANTS OR AWARDS:** Describe any loan(s) to or from you or an entity in which you or your family have a financial interest and the Organization. Include the purpose of the loan, original principal amount and balance due. Enter N/A, if none.

\_\_\_\_\_  
\_\_\_\_\_

List the name of any person related to you (including you) that did or will receive a grant or award or other assistance from the Organization during the year. Enter N/A if none.

\_\_\_\_\_  
\_\_\_\_\_

**OTHER TRANSACTIONS:** The following is a description of all business transactions involving the Organization in the past fiscal year (1) in which I had a financial interest (direct or indirect) or (2) that involved an entity or organization in which I hold a position as an officer, director, manager or other influential person.

Provide a brief description of each transaction and a description of your interest in the transaction. Enter N/A if you have no transactions to disclose.

\_\_\_\_\_  
\_\_\_\_\_

In completing this questionnaire, I have reviewed the Organization's conflicts of interest policy and hereby agree to comply with the policy to assure that our organization maintains its qualification as a Federal tax-exempt organization.

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Signature of interested party

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Date

**Part VI Governance, Management, and Disclosure** (Sections A, B, and C request information about policies not required by the Internal Revenue Code.)

**Section A. Governing Body and Management**

		Yes	No
For each "Yes" response to lines 2-7 below, and for a "No" response to lines 8 or 9b below, describe the circumstances, process, or changes in Schedule O. See instructions.			
<b>1a</b>	Enter the number of voting members of the governing body . . . . .	<b>1a</b>	
<b>b</b>	Enter the number of voting members that are independent . . . . .	<b>1b</b>	
<b>2</b>	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee? . . . . .	<b>2</b>	
<b>3</b>	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person? . . . . .	<b>3</b>	
<b>4</b>	Did the organization make any significant changes to its organizational documents since the prior Form 990 was filed?	<b>4</b>	
<b>5</b>	Did the organization become aware during the year of a material diversion of the organization's assets?	<b>5</b>	
<b>6</b>	Does the organization have members or stockholders? . . . . .	<b>6</b>	
<b>7a</b>	Does the organization have members, stockholders, or other persons who may elect one or more members of the governing body? . . . . .	<b>7a</b>	
<b>b</b>	Are any decisions of the governing body subject to approval by members, stockholders, or other persons? . . . . .	<b>7b</b>	
<b>8</b>	Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following:		
<b>a</b>	the governing body? . . . . .	<b>8a</b>	
<b>b</b>	each committee with authority to act on behalf of the governing body? . . . . .	<b>8b</b>	
<b>9a</b>	Does the organization have local chapters, branches, or affiliates? . . . . .	<b>9a</b>	
<b>b</b>	If "Yes," does the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with those of the organization? . . . . .	<b>9b</b>	
<b>10</b>	Was a copy of the Form 990 provided to the organization's governing body before it was filed? All organizations must describe in Schedule O the process, if any, the organization uses to review the Form 990 . . . . .	<b>10</b>	
<b>11</b>	Is there any officer, director or trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O . . . . .	<b>11</b>	

**Section B. Policies**

		Yes	No
<b>12a</b>	Does the organization have a written conflict of interest policy? If "Yes": . . . . .	<b>12a</b>	
<b>b</b>	Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts? . . . . .	<b>12b</b>	
<b>c</b>	Does the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this is done . . . . .	<b>12c</b>	
<b>13</b>	Does the organization have a written whistleblower policy? . . . . .	<b>13</b>	
<b>14</b>	Does 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? . . . . . Describe the process in Schedule O.	<b>15b</b>	
<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," has the organization adopted a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable Federal tax law, and taken steps to safeguard the organization's exempt status with respect to such arrangements? . . . . .	<b>16b</b>	

**Section C. Disclosure**

- 17** List the States with which a copy of this Form 990 is required to be filed. ....
- 18** IRC Section 6104 requires an organization to make its Form 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you make these available. Check all that apply.  
 own website     another's website     upon request
- 19** Describe in Schedule O whether (and if so, how), the organization makes its governing documents, conflict of interest policy, and financial statements available to the public.
- 20** State the name, physical address, and telephone number of the person who possesses the books and records of the organization: .....

**SCHEDULE L**  
**(Form 990 or 990-EZ)**

Department of the Treasury  
Internal Revenue Service

**Transactions with Interested Persons**

▶ To be completed by organizations that answered "Yes" on Form 990, Part IV, lines 25a, 25b, 26, 27, 28a, 28b, or 28c, or Form 990-EZ, Part V lines 38b or 40b.

OMB No. 1545-0047

**2008**

**Open To Public Inspection**

Name of the organization

Employer identification number

**Part I Excess Benefit Transactions (501(c)(3) and (c)(4) organizations only)**

To be completed by organizations that answered "Yes" on Form 990, Part IV, lines 25a or b, or Form 990-EZ, Part V, line 40b.

1	(a) Name of disqualified person	(b) Description of transaction	(c) Corrected?	
			Yes	No

- 2 Enter the amount of tax imposed on the organization managers or disqualified persons during the year under section 4958 . . . . . ▶ \$ \_\_\_\_\_
- 3 Enter the amount of tax, if any, on line 2, above, reimbursed by the organization . . . . . ▶ \$ \_\_\_\_\_

**Part II Loans to and from Interested Persons**

To be completed by organizations that answered "Yes" on Form 990, Part IV, line 26, or Form 990-EZ, Part V, line 38b.

(a) Name of interested person and purpose	(b) Loan to or from the organization?		(c) Original principal amount \$	(d) Balance due \$	(e) In default?		(f) Approved by board or committee?		(g) Written agreement?	
	To	From			Yes	No	Yes	No	Yes	No
<b>Total</b> . . . . . ▶				\$						

**Part III Grants or Assistance Benefiting Interested Persons**

To be completed by organizations that answered "Yes" on Form 990, Part IV, line 27.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of grant or type of assistance

**Part IV Business Transactions Involving Interested Persons**

To be completed by organizations that answered "Yes" on Form 990, Part IV, lines 28a, b, or c.

(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