

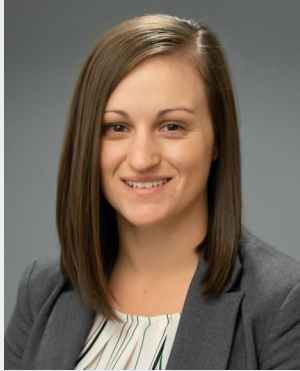
FORVISTM

Get To Know Your
Credit Union
Forms 990 & 990-T

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Meet the Presenters



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Managing Director



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Introduction

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FORVIS is a trademark of FORVIS, LLP, registration of which is pending with the U.S. Patent and Trademark Office.

Save the Date

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2023 Financial Services Virtual Symposium

You're Invited / Virtual Event
November 15 & 16
9 a.m.–1 p.m. CT

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You're Invited!

Join **FORVIS** and other industry professionals for the 2023 Financial Services Virtual Symposium, where we'll provide guidance on topics redefining the financial landscape.

Featuring presentations on the following topics, among others:

- Industry Outlook
- Credit Risk
- Accounting & Tax Update
- Regulatory Compliance



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Agenda

- Form 990 Overview
- Common Errors
- Unrelated Business Income
- Other Items

Form 990 Overview

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Background of Tax Exemption

- Federally-chartered credit unions (IRC §501(c)(1))
 - Instrumentalities of the federal government
 - No annual Form 990 filing requirement
 - Not subject to unrelated business income tax
- State-chartered credit unions (IRC §501(c)(14))
 - Required to file annual Form 990
 - Subject to unrelated business income tax
- Tax exemption under IRC §501 is specific to federal income tax & does not exempt credit unions from other types of taxes (payroll, property, sales)

Form 990

- Form 990 is an “informational return” not a “tax return”
 - Form 990 must be complete & accurate
 - Form 990 must be available for public inspection
 - Form 990 must be filed electronically
- There are substantial penalties for non-compliance
 - Late filing penalties
 - Revocation of exempt status for those failing to file for three consecutive years

Public Disclosure

- Maintain a public disclosure copy of Form 990
- Form 1024 & attachments also (exception if you did not have a copy on July 15, 1987)
- Form 990 is available on Guidestar (www.guidestar.org)

18 Section 6104 requires an organization to make its Forms 1023 (1024 or 1024-A, if applicable), 990, and 990-T (section 501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.

Own website Another's website Upon request Other (*explain on Schedule O*)

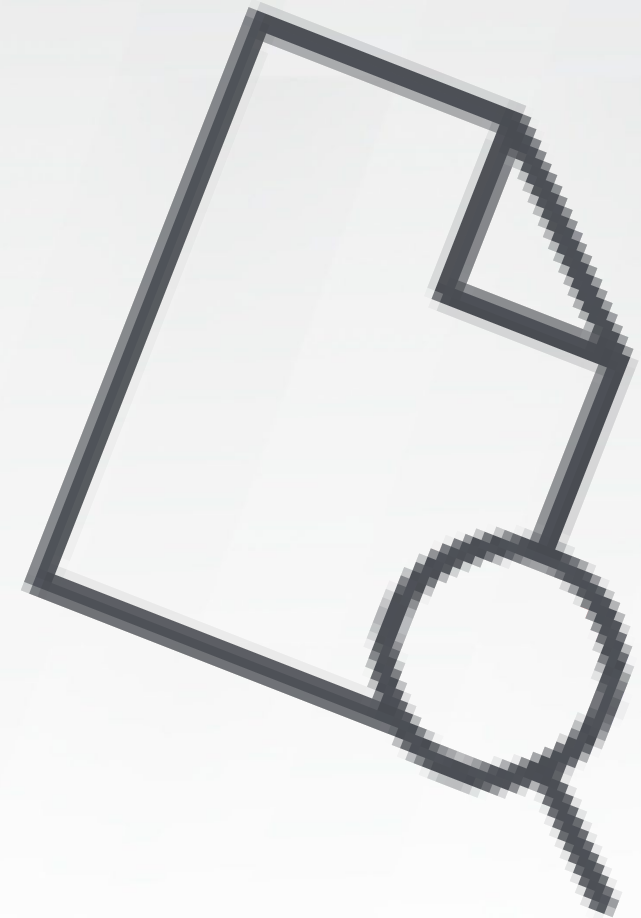
19 Describe on Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year.

IRS Organization Search

- Replaces EO Select Check
- Images of newly filed 990s
 - Added monthly
- Mobile friendly
- Determination letters issued after 1/1/14
- <https://www.irs.gov/charities-non-profits/tax-exempt-organization-search>

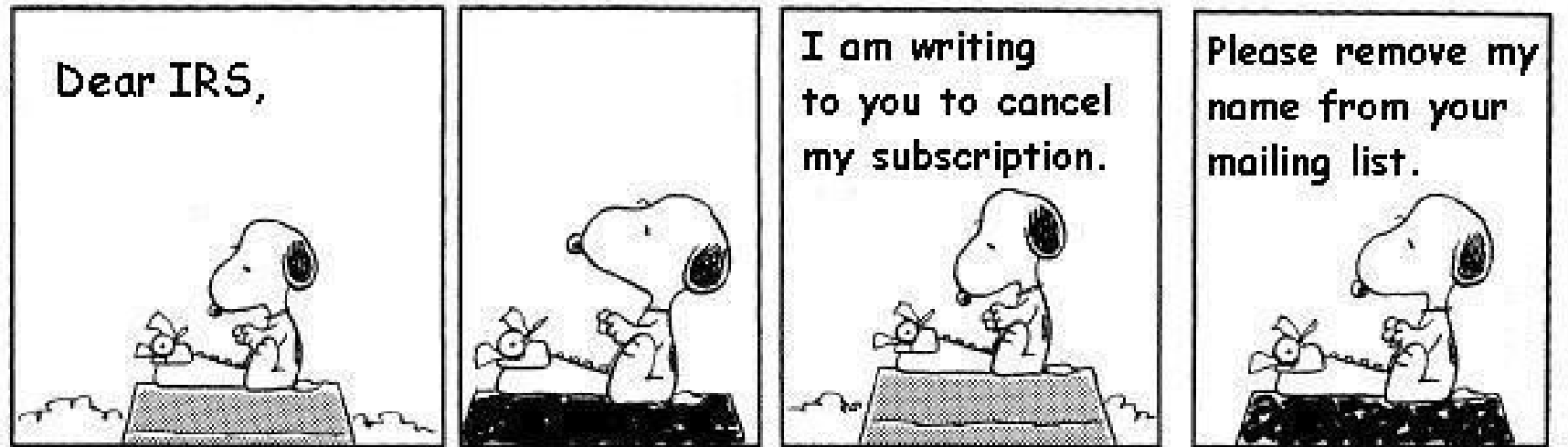
Tax Exempt Organization Search

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Who Is Looking at Form 990?

- Credit Union Members
- Congress
- IRS
- Media
- General public
- Vendors
- State Attorneys General
- Other Credit Unions
- Other watchdog groups



Core Form

- **Part III: Program Service Accomplishments**
 - Describes in detail the types of programs the organization conducts – what do you want your members to know?
- **Part IV: Checklist of Required Schedules**
 - Various questions to help pinpoint exactly how many additional schedules will be attached
- **Part V: Statements Regarding Other IRS Filings & Tax Compliance**
 - Questions about foreign banking, the need to file a 990-T, items the IRS will need to know about
- **Part VI: Governance, Management & Disclosure**
 - Various questions & disclosures that provide more detail into who manages the organization & policies in place (all best practices)
- **Part VII: Compensation of Officers, Directors, Key Employees, Highest Compensated Employees & Independent Contractors**
- **Parts VIII, IX, X: Financials**

Schedules

- Schedule C: Lobbying Activities
- Schedule D: Supplemental Financial Statements
- Schedule I: Grants & Other Assistance
- Schedule J: Compensation Information
- Schedule L: Transactions with Interested Persons
- Schedule O: Supplemental Information
- Schedule R: Related Organizations

Common Errors

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Common Reporting Errors

- Missing applicable schedules
 - Answers to Part IV, Checklist of Required Schedules shows which schedules should be attached.
 - IRS can deem missing schedules an incomplete return & assess late filing penalties.
 - Note Part IV, Line 38 must be “yes” & Schedule O must contain applicable narratives.

38	Did the organization complete Schedule O and provide explanations on Schedule O for Part VI, lines 11b and 19? Note: All Form 990 filers are required to complete Schedule O	38		
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Common Reporting Errors

- Board Members & Independence
 - Number of voting board members at year-end
 - Independence impaired if:
 - Receiving any W-2 compensation
 - Receiving 1099 of \$10,000 or more
 - Schedule L transactions in excess of specified thresholds reported for organizations owned more than 35% by the board member, providing compensation to a relative of the board member

Common Reporting Errors

- Part VII, Section A, Compensation
 - Fiscal year filers report compensation using data from the calendar year ending within the fiscal year
 - Use W-2 & 1099
 - Deferred compensation (ER portion) & nontaxable benefits (EE+ER portions) should be reported
 - All voting board members serving during the year should be listed, & officers of the board are checked as both director & officer
 - List top management official & top financial official as officers

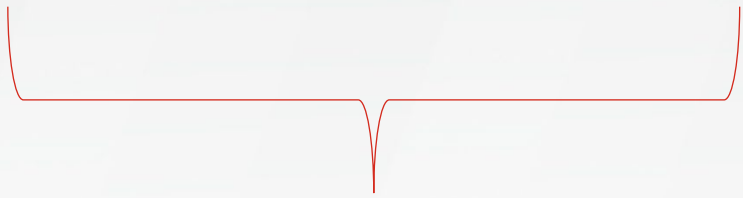
(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation 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) Officer of the Board		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						
(2) Board member (not an Officer)		<input checked="" type="checkbox"/>								
(3) CEO/Executive Director				<input checked="" type="checkbox"/>						
(4) CFO				<input checked="" type="checkbox"/>						
(5) Key employee					<input checked="" type="checkbox"/>		W-2 must be more than > \$150,000			
(6) 5 Highest compensated other employees						<input checked="" type="checkbox"/>				
(7)										

Part II Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees. Use duplicate copies if additional space is needed.

For each individual whose compensation must be reported on Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions, on row (ii). Do not list any individuals that aren't listed on Form 990, Part VII.

Note: The sum of columns (B)(i)–(iii) for each listed individual must equal the total amount of Form 990, Part VII, Section A, line 1a, applicable column (D) and (E) amounts for that individual.

(A) Name and Title		(B) Breakdown of W-2 and/or 1099-MISC and/or 1099-NEC 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				
1	(i)							
	(ii)							
2	(i)							
	(ii)							



Breakdown of W-2 box 1 or 5
(whichever is higher)

Common Reporting Errors

- Part VII, Section B, Independent Contractors
 - List five highest compensated independent contractors that received more than \$100,000 of compensation
 - Should be reported using calendar-year data
 - A 1099 report may not include all vendors
 - Incorrectly reporting utility companies

Common Reporting Errors

- Reporting Political Campaign & Lobbying Activities
 - Schedule C reporting requirement
 - Consider dues paid to other organizations
 - Chamber of Commerce
 - Credit Union PACs
- Loans with Interested Persons, *i.e.*, Board Members & Officers
 - Schedule L reporting requirement
 - Keep in mind this is a public document
 - Loans from a Credit Union made to an interested person on the same terms as offered to other members of the credit union are not required to be reported on Schedule L

Common Reporting Errors

- Related Organizations
 - Have you checked to see if the Credit Union Foundation is related?
 - Common board?
 - Partnerships & Corporations the CU owns greater than 50%

Form 990-T

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Unrelated Business Income

- UBI defined under Regulations §1.513-1(a)
- Three-part test
 - Is the activity a trade or business?
 - Activity carried on for the production of income from sale of goods or services
 - Is the activity regularly carried on?
 - Questions the frequency & continuity of the activity comparable to for-profit taxable entities
 - Is the activity substantially related to the exempt purposes?
 - Must have a substantial relationship to achieve the entity's exempt purpose
 - A source of funding for other exempt activities is not enough

Unrelated Business Income

- Tax Memo issued 3/24/14
- Bellco Credit Union v. U.S.
- Community First Credit Union v. U.S.
- Specifically outlined activities UBI or not UBI

Unrelated Business Income

- Income-producing activities substantially related
 - Sale of checks/fees from a check printing company
 - Debit card program interchange fees
 - Credit card program interchange fees
 - Interest from credit card loans
 - Sale of collateral protection insurance
 - Sale of credit, life, credit disability insurance or GAP auto insurance to members

Unrelated Business Income

- Income-producing activities subject to UBI
 - Automobile warranties
 - Dental insurance
 - Cancer insurance
 - Accidental death & dismemberment
 - Life insurance
 - Health insurance

Unrelated Business Income

- Income-producing activities subject to UBI
 - ATM “per transaction” fee from non-members
 - Credit life & credit disability insurance sold to non-members
 - GAP auto insurance sold to non-members
 - All other insurance products, unless a royalty agreement

Unrelated Business Income

- Debt-Financed Property
 - Property held to produce income; &
 - Acquisition, indebtedness any time during the year
 - Exception for exempt purpose use
 - Examples
 - Interest income earned on bonds purchased on margin
 - Rental income from building with a mortgage
- Rental income with personal property

Unrelated Business Income

- Deductions
 - To be “directly connected” with a trade or business, an item of deduction must have a proximate & primary relationship to carrying on of the unrelated trade or business generating the gross income
 - Dual-use facilities – expenses, depreciation, & similar items attributable to such facilities must be allocated between the two uses on a reasonable basis
 - Indirect expenses must be allocated among the separate unrelated trade or business

UBI Siloing

- Tax Cuts & Jobs Act
- IRC §512(a)(6)
 - Group activities using NAICS codes
 - Most activities reported together
- Loss Activities
- Schedule A

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SCHEDULE A (Form 990-T)		Unrelated Business Taxable Income From an Unrelated Trade or Business			OMB No. 1545-0047
Department of the Treasury Internal Revenue Service		Go to www.irs.gov/Form990T for instructions and the latest information.			2022
		Do not enter SSN numbers on this form as it may be made public if your organization is a 501(c)(3).			Open to Public Inspection for 501(c)(3) Organizations Only
A Name of the organization		B Employer identification number			
C Unrelated business activity code (see instructions)		D Sequence: _____ of _____			
E Describe the unrelated trade or business					
Part I Unrelated Trade or Business Income		(A) Income	(B) Expenses	(C) Net	
1a	Gross receipts or sales				
b	Less returns and allowances			c Balance	1c
2	Cost of goods sold (Part III, line 8)				2
3	Gross profit. Subtract line 2 from line 1c				3
4a	Capital gain net income (attach Schedule D (Form 1041 or Form 1120)). See instructions				4a
b	Net gain (loss) (Form 4797) (attach Form 4797). See instructions				4b
c	Capital loss deduction for trusts				4c
5	Income (loss) from a partnership or an S corporation (attach statement)				5
6	Rent income (Part IV)				6
7	Unrelated debt-financed income (Part V)				7
8	Interest, annuities, royalties, and rents from a controlled organization (Part VI)				8
9	Investment income of section 501(c)(7), (9), or (17) organizations (Part VII)				9
10	Exploited exempt activity income (Part VIII)				10
11	Advertising income (Part IX)				11
12	Other income (see instructions; attach statement)				12
13	Total. Combine lines 3 through 12				13
Part II Deductions Not Taken Elsewhere		See instructions for limitations on deductions. Deductions must be directly connected with the unrelated business income.			
1	Compensation of officers, directors, and trustees (Part X)				1
2	Salaries and wages				2
3	Repairs and maintenance				3
4	Bad debts				4
5	Interest (attach statement). See instructions				5
6	Taxes and licenses				6
7	Depreciation (attach Form 4562). See instructions		7		
8	Less depreciation claimed in Part III and elsewhere on return		8a		8b
9	Depletion				9
10	Contributions to deferred compensation plans				10
11	Employee benefit programs				11
12	Excess exempt expenses (Part VIII)				12
13	Excess readership costs (Part IX)				13
14	Other deductions (attach statement)				14
15	Total deductions. Add lines 1 through 14				15
16	Unrelated business income before net operating loss deduction. Subtract line 15 from Part I, line 13, column (C)				16
17	Deduction for net operating loss. See instructions				17
18	Unrelated business taxable income. Subtract line 17 from line 16				18

Form 990-T Common Errors

- Net Operating Loss
 - Pre 2017
 - Post 2018
 - 80% limitation
- Charitable deductions
- Form 8925 – Employer-Owned Life Insurance Contracts
- E-filing requirement
- Electronic payments

Other Items

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Excise Tax on Executive Compensation

- Compensation over \$1 million in remuneration
- Excess parachute payments
 - Form 990, Part V

c	Enter the amount of reserves on hand	13c			
14a	Did the organization receive any payments for indoor tanning services during the tax year?	14a			
b	If "Yes," has it filed a Form 720 to report these payments? If "No," provide an explanation in Schedule O.	14b			
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 If "Yes," see instructions and file Form 4720, Schedule N.	15			
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			

Form 990 (2018)

Excise Tax on Executive Compensation Common Errors

- Excise Tax on Executive Compensation - IRC §4960
 - Including federal credit unions
 - Not tracking covered employees
 - Reporting based on fiscal year
 - Not including excess parachute payments
 - Not paying timely

Example 1

- ABC Credit Union provides the following compensation to its CFO
 - Base compensation – \$900,000
 - Bonus & incentive compensation – \$50,000
 - Deferred compensation from a 457(f) plan vesting – \$500,000
 - Car allowance – \$10,000

Example 1 (Continued)

- Total remuneration for the year is \$1,460,000
- Excess remuneration threshold is \$1,000,000
- Excess remuneration is \$460,000
- Excess tax liability is \$96,600

Split Dollar Life Insurance

- New planning strategy with tax on compensation over \$1 million
 - Employer-owned
 - Employee-owned
- Schedule L Reporting
 - Part II
 - Part VI
- Schedule J & Part VII reporting

Part II Loans to and/or From Interested Persons.
 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)												
(2)												
(3)												
(4)												
(5)												
(6)												
(7)												
(8)												
(9)												
(10)												
Total						\$						

Example 2

- ABC Credit Union provides the following compensation to its CFO
 - Base compensation – \$900,000
 - Bonus & incentive compensation – \$50,000
 - Split dollar life insurance – \$500,000
 - Interest on split dollar life insurance policy – \$5,000
 - Car allowance – \$10,000

Example 2 (Continued)

- Total remuneration for the year is \$965,000
- Excess remuneration threshold is \$1,000,000
- Excess remuneration is \$0
- Excess tax liability is \$0

Compensation Planning Opportunities

- Structure compensation under \$1 million limit
 - Bonus
 - Severance
- Review vesting dates
- Consider related organizations
- Consider split dollar life insurance plans

Potential Credits

- Employee Retention Credit
- Inflation Reduction Act – Energy Credits



Questions?

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