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For Immediate Release

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NONPROFITS FACE TOUGHER GOVERNANCE REGULATIONS

Dallas, Texas - Julie Fry's feature in Dallas Business Journal.

Not-for-profit hospitals and other nonprofits will face tougher scrutiny of their governance boards, executive compensation and conflicts of interests by the **Internal Revenue Service**.

That's due to a major overhaul of the 990 tax form for 2008 that will be finalized by year-end. It is the first major revision of the tax forms for nonprofits in 30 years, said **Julie Fry, chief operating officer of Salmon, Sims, Thomas and Associates**, a Dallas accounting and consulting firm that specializes in nonprofits.

The changes reflect the IRS' and federal legislators' desire to keep a more watchful eye over nonprofits business practices — an outgrowth of stepped up public disclosure rules for public companies during the past few years.

The new 990 form and its associated schedules are still being tweaked, but the full brunt of those changes, which were revealed by the IRS in August, have caused "consternation and rancor throughout the nonprofit community," said David Rosenberg, an attorney-partner for Thompson and Knight LLP who specializes in tax-exempt organizations.

In particular, a new section (Part VI, Governance, Management and Disclosure) that now requires detailed accounting of board governance has been an issue for some, he said.

Fry estimates the costs for tax preparation for nonprofits in their first year with the new tax forms will go up an average of 25% to 50%. For this tax year, only the largest nonprofits, with gross receipts of at least $1 million or assets of $2.5 million, will be hit with the changes. Smaller charities will follow suit during the next few years.

The IRS' requirement that a detailed breakdown and accounting of a nonprofit's governance structure, its board of directors, is a particular concern, Rosenberg said.

What many nonprofits have questioned is the legal basis for the IRS to regulate this area. Some nonprofits might challenge these rules in court in the next year, he said.

Nonprofit governance issues always have been regulated by the state attorney general's office and not the IRS, Rosenberg said.

"The IRS position is that proper governance policies are essential to the tax rules for nonprofits," but there are no IRS tax codes or regulations on this, he said. "(The IRS) just sort of jumped into this area with both feet and it's sort of caught everyone by surprise."

But the new reporting rules have the support of federal legislators, such as the Senate Finance Committee, who have criticized nonprofits' governance structures and called for more transparency, said Keith Kehrer, a partner at Bryan Cave LLP in St. Louis

In addition to more thorough accounting of executive compensation, nonprofits will also have to detail information about affiliated organizations, for-profit subsidiaries, joint ventures and other companies they do business with so that the IRS can ferret out conflicts of interest.

Jan Pruitt, president of the **North Texas Food Bank**, said the new rules will help provide better governance of nonprofits and more transparency for donors. She hopes more donors will turn to the 990s to see that their dollars are being put to good use.

"It will be a snapshot into the organization," she said.

New rules

The new 990s for nonprofits for 2008 will require detailed breakdowns of:

- Executive compensation, such as bonuses, deferred compensation, first-class air travel, housing allowance, health club fees or travel for companions.
- How those compensation amounts were determined.
- Whether steps were taken to form a compensation committee, bereft of conflicts of interest; to consult a compensation expert; and to do an analysis of comparative salaries.
- Partnerships, joint ventures and listing of affiliated nonprofits or organizations that the nonprofit does business with.
- Hospitals in 2009 must provide detailed accounting of their charity care and community benefits to justify their tax-exempt status.

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