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The New 990 Tax Form: More Data, More Headaches

By Paul Fain

Private colleges must now disclose far more about what they pay their chief executives, thanks to the first major changes in federal tax-reporting requirements for nonprofits in three decades. New details are available about a wide range of perks, like university-owned homes, as well as more information about how trustees set pay levels.

That's the good news, depending on your perspective. But the souped-up 990 tax form, which arrived for the 2008 reporting period, also brought widespread confusion and inconsistencies.

"The form has a lot of unintentional ambiguity in it," says Marcus S. Owens, a Washington-based lawyer and former director of the Internal Revenue Service's tax-exempt division, adding that colleges "are having difficulty with that."

Indeed, the tax document created more than a few headaches across higher education. Answering all the new questions was time-consuming and expensive. Boston University, for example, hired a real-estate firm to assess the value of its presidential residence.

Mistakes were common on the forms, with some college officials putting numbers in the wrong columns. Others may have taken advantage of the confusion by playing dumb and not filling out every blank properly.

For the most part, however, the new 990 is all about that big buzzword: transparency. And whether colleges like it or not, more disclosure could help them over the long run in responding to increasing public scrutiny about how they spend money.

Because the form is more comprehensive, 2008 is essentially a "year zero" for looking at long-term trends in presidential pay. Future years will yield good comparative figures, but the past generally doesn't apply.

"It's like a whole new vocabulary," says Virginia P. Sikes, a Philadelphia-based tax lawyer.

Presidential Homes

The new 990's instructions, even when followed, are vague enough to allow for a wide range of responses, particularly in the narrative sections where colleges are asked to provide extra details. For example, the IRS for the first time requires a dollar value for nontaxable benefits received by campus executives. But learning what went into that amount depends on the candor of the college. Some said a lot. Most didn't.

The value of presidential homes, in particular, is all over the map. A handful of institutions gave detailed descriptions of the estimated annual rental value of the university-owned homes where their presidents are required to live and throw hundreds of official university events.

Those amounts are counted as compensation by the IRS, a change in reporting that is not consistent with *The Chronicle*'s methodology for surveying presidential pay at public universities. (Dollar values are included for housing allowances but not for university-owned homes.)

For example, Columbia estimated that the Manhattan home where President Lee C. Bollinger lives would have cost $325,000 to rent in 2008. J. Robert Kerrey's presidential residence at the New School was valued at $320,000, and the home of Robert A. Brown, president of Boston University, was listed at $257,000. The figures aren't particularly surprising, given the sky-high price of real estate around those campuses.

Boston University hired a real-estate firm to appraise its presidential home, located in the suburb Brookline, and included the estimated cost of utilities and maintenance in the total, says Joseph P. Mercurio, the university's executive vice president. The $257,000 nontaxable benefit pushed Mr. Brown's total compensation to just over $1-million.

Mr. Mercurio says the university's conservative, forthcoming approach to reporting compensation is part of its effort to "be in the forefront of best practices."

Most colleges said far less about their presidential homes. Some listed large nontaxable benefits, and disclosed that a home was part of the mix, but didn't give a value for it. The category can include various benefits, like health insurance, and some colleges only counted the portion of the home used for official business. Others had relatively small amounts in the nontaxable column, and may have instead counted their presidential residences as taxable pay, or perhaps paid a housing stipend instead. But there is no way to say for sure, at least by looking at 990 forms.

Yale University's president, Richard C. Levin, received only $20,726 in nontaxable benefits as part of his $1.5-million total compensation in 2008. Yale's tax form explained that two "officers" were provided university residences for personal use, and those homes were treated as taxable compensation. But the form didn't say who those officers were, and a university spokesman says Yale will not disclose that information, either. However, he says Mr. Levin was not one of the two officers.

Pricey Perks

Most of the high-profile pay scandals in higher education revolve around perks, rather than base salaries. And the new form clearly takes cues from those controversies, with check boxes for discretionary spending accounts; social-club dues; first-class travel; and maid, chauffeur, and chef services.

The check boxes don't come with accompanying dollar figures, however. But they do ask whether chief executives follow reimbursement policies and substantiate expenses. That inclusion will be a big help for accountants and presidential assistants, experts say.

"It's a gift to all the staff who have to ask for documentation from their bosses," says Eve R. Borenstein, a tax lawyer and expert on the 990.

She says she doubts the IRS will eventually ask for dollar figures in those check-box categories. Colleges will move toward voluntarily saying more about perks and compensation broadly, she says, as they grow accustomed to the new form.

Ms. Sikes agrees that colleges should disclose more, saying that if there is a large number in a category like nontaxable benefits, it's best to say what it is, because people will ask.

Experts have differing views on how long colleges will take to iron out kinks with handling the tax forms. Ms. Borenstein says she saw much more standardized, thorough reporting from her clients on the 2009 form, which won't be publicly available until early next year.

Mr. Owens, however, says this could take decades, noting that higher education needed a long time to figure out the 990's previous iteration.

"They're just starting back at square one," he says, "with a heftier set of instructions."