



September 13, 2007

Internal Revenue Service
Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Ave., N.W.
Washington, DC 20224

Re: Draft Redesigned Form 990

The American Symphony Orchestra League respectfully submits these comments in response to the draft redesigned Form 990 released by the Internal Revenue Service (IRS) for public comment on June 14, 2007. Founded in 1942, and chartered by Congress in 1962, the American Symphony Orchestra League leads, encourages, and supports America's orchestras while communicating to the public the essential value and cultural importance of orchestras in their communities and the vitality of the music they perform.

The League's membership encompasses nearly 1,000 member symphony, chamber, youth, and collegiate orchestras of all sizes, and links a national network of thousands of instrumentalists, conductors, managers, board members, volunteers, staff members, and business partners. Orchestras exist in all 50 states, in virtually every community. We estimate that there are approximately 1,800 orchestras in the United States, with annual budgets ranging from less than \$50,000 to more than \$70 million. As members of the nonprofit charitable sector, orchestras depend upon private philanthropy and civic support, and are committed to high standards in public accountability.

We are grateful to the IRS for this opportunity to comment. We support the Service's goals of enhancing transparency, promoting tax compliance, and minimizing the burden on the filing organizations. The American Symphony Orchestra League is an active member of Independent Sector, the leadership forum for charities, foundations, and corporate giving programs. We concur with the comments submitted by Independent Sector, which comprehensively respond to the proposed Form 990 revisions, and provide the following brief comments as a supplement.

Core Form: Summary Page

The proposed summary report would require several out-of-context comparative percentages of expenses and revenue and other financial activity as "efficiency" indicators. In particular, the revised Form would require reporting total expenditures as a percentage of net assets. Such percentages may vary greatly for a single orchestra from year-to-year

and among orchestras in a single year. Orchestras that are building resources toward construction of a new hall or other significant long-term projects will likely report expenditures as a lower percentage of net assets in a given year. Large multi-year grants may also have a distorted impact.

The Service has suggested that it aims to boost transparency through Form 990 revisions that will provide a “realistic picture of the organization and its operations, along with the basis for comparing the organization to similar organizations.” We are not aware that any “ideal” percentage has been proven to correlate to an ideal of orchestra “efficiency,” nor do we regard expenditures as a percentage of net assets as an accurate reflection of the public service provided by an orchestra in any given year. Hence, these calculations will not further the Service’s aim to provide useful comparative information.

We strongly recommend removing percentage calculations from the draft Form 990 summary page.

Schedule D: Supplemental Financial Statements

The draft revised core Form 990 prompts organizations to complete Schedule D Part X if the organization “maintain(s) collections of works of art, historical treasures, or other similar assets for public exhibition, education, or research in furtherance of public service rather than financial gain.” While it is likely obvious that museums will be impacted by this reporting requirement, we would like to point out that this requirement may also extend to others in the nonprofit sector, including orchestras. The purpose of the proposed questions regarding collections is unclear, and the draft reporting requirements may present an unintended burden to filing organizations.

The use of historically significant music-related collections and material is of interest to a broad range of orchestras. The League serves nearly 1,000 member symphony, chamber, youth, and collegiate orchestras of all sizes. Of these members, many maintain historical collections of manuscripts, photographs, and other material, and 30 orchestras in communities large and small have identified a specific individual that serves as an archivist or historian. Beyond this specific archival activity, most orchestras maintain a music library, and more than 550 orchestras have identified at least one individual that carries the responsibility of being the orchestra librarian.

Musicians, scholars, and the public rely on original manuscripts and supporting material to reveal the artistic underpinnings of existing compositions and inspire the creative works of emerging artists. When collected by orchestra archives, music schools, music libraries, or other cultural institutions, original musical works and related materials produced by artists can be safely preserved and made available to the public.

Many of these assets are difficult to value and are not traditionally capitalized by orchestras. Practices for documenting the collections held by orchestras vary from institution to institution. We join the broader cultural community and the nonprofit sector in urging the IRS to drop this portion of Schedule D.

Thresholds for Filing Requirements

We thank the IRS for the opportunity to comment on the current thresholds for requiring organizations to file. Under the current rules, organizations with revenue of \$100,000 or more must file the full Form 990, and organizations with \$25,000 or more in revenue must file the Form 990-EZ. While organizations with less than \$25,000 in revenue are not currently required to annually report to the IRS, as of 2008 these organizations must file the Form 990-N e-postcard, or risk losing their tax-exempt status.

The IRS has asked whether the current minimum threshold for filing the Form 990-EZ should be increased to \$50,000 or a higher level. We heartily endorse raising the minimum threshold for filing the Form 990-EZ, as it would relieve smaller organizations of the filing burden, while allowing them to be on record by filing the Form 990-N. As the current filing limit has not been changed in over 25 years, the value in current dollars would now exceed twice the original \$25,000 amount. We would also recommend regular indexing of the thresholds for both 990-EZ and full 990 filing.

We would also like to take this opportunity to commend the IRS Advisory Committee on Tax-Exempt and Government Entities for recommending, on June 13, 2007, that the IRS establish a voluntary compliance program for organizations that have not filed past Form 990 information returns. The proposed compliance program would allow organizations to submit missing Forms 990, along with any taxes due, without paying penalties for late filing. We encourage the IRS to act on this recommendation. A voluntary compliance program will be a helpful complement to the Form 990-N requirements that take effect in 2008, and would assist compliance as a revised Form 990 is implemented.

Timing for Implementing the Revised Form 990

The IRS has indicated that it plans to implement the revised Form 990 for returns reporting on activities for Fiscal Year 2008. While we commend the Service for undertaking this substantial effort to clarify the reporting process for nonprofit organizations, and to improve the transparency of nonprofit activity, this rapid introduction of a new Form would pose serious challenges to nonprofit organizations. The process of comprehending the new reporting requirements, and adjusting record-keeping accordingly, will require time. We encourage the Service to allow more time for nonprofits to be fully informed of the changes to the reporting process and to adequately plan for compliance with new IRS requirements.

Thank you for the opportunity to comment on the draft redesigned Form 990 and related schedules.

Sincerely,



Henry Fogel
President & CEO