

## Tax News & Views Health Care Edition

### IRS advisory committee on tax-exempt and government entities releases its annual report

The Internal Revenue Service (“IRS”) Advisory Committee on Tax Exempt and Governmental Entities (“ACT”) released its annual report on June 17, 2015. The ACT is a group of external stakeholders who advise the IRS on operational policy, programs and procedural improvements with respect to employee plans, tax-exempt organizations, tax-exempt bonds, and federal, state, local, and Indian Tribal governments. The ACT also enables the IRS to receive regular input on the development and implementation of IRS policy concerning these communities. This year, the ACT’s 2015 Report of Recommendations focused on the following topics:

- **Employee Plans:** Analysis and Recommendations Regarding 403(b) Plans
- **Exempt Organizations:** The Redesigned Form 990: Recommendations for Improving its Effectiveness as a Reporting Tool and Source of Data for the Exempt Organization Community
- **Federal, State, and Local Governments:** FSLG Education and Outreach – Review and Recommendations
- **Indian Tribal Governments:** Report on Recommendations for Outreach and Training – A Revision to the Indian Tax Desk Guide
- **Tax-Exempt Bonds:** Doing More With Less—Balancing Resources and Needs

The Exempt Organizations section of the report addresses the redesigned Form 990. For the 2008 tax filing year, the IRS significantly redesigned the Form 990, which is the annual informational return required to be filed by most exempt organizations. The revised form was intended to enhance transparency, promote compliance, and minimize the burden on filing organizations. In the report, the ACT stated their focus was on “revisiting the Form 990 in light of several years of exempt organizations’ preparing, filing and effectively “living with” the new reporting and transparency provided by the enhanced Form 990 and 990-EZ, as well as the Form 990-N, which prior to 2007 was not required to be filed by smaller exempt organizations.” Although the redesigned Form 990 has undoubtedly improved transparency of an exempt organization’s activities and financial information, the ACT believes there may be improvements that still can be made and frustrations that can be addressed with further adjustments.

To prepare for its report, the ACT surveyed users of the Form 990, including representatives of exempt organizations that file a Form 990, Form 990-EZ or Form 990-N, state and local government officials (charity officials and others), donors, advisors to donors, advisors to grant makers, practitioners (including attorneys and accountants), researchers, independent charity rating agencies, and IRS Exempt Organizations Division managers regarding their views on the information returns and the filing process. Nearly 1,900 individuals participated in the survey. Participants responded to questions about Form 990 and its effectiveness, electronic filing of the return, uses of the Form 990 and its data, and assistance with completion of the Form 990.

Based on the survey and discussions with focus groups, the ACT’s specific recommendations are:

1. The IRS Exempt Organizations Division should encourage and support a Congressional mandate to require electronic filing of the Form 990 series and should also take interim steps to encourage and provide incentives for voluntary e-filing of the Form 990 series for exempt organizations that are not subject to the mandatory e-filing requirements. The IRS should recommend to the Department of Treasury the elimination of the \$10 million asset threshold for electronic filing of the Form 990 found in the Internal Revenue Code Section 6011 regulations.
2. The IRS Exempt Organizations Division should convene a task force comprised of representative stakeholders to determine which parts and schedules of the current Form 990 and related instructions should be updated, enhanced, and/or deleted in order to allow a more clear understanding, better accuracy, enhanced consistency of reporting by the various Form 990 filers.
3. The IRS should consider requesting additional information from Form 990-N filers. This will be especially important given the relatively new Form 1023-EZ application process, which will result in more recognized tax-exempt organizations that will not have had their activities specifically reviewed by the IRS and which will likely file a Form 990-N due to their smaller size. In addition, because filing a Form 990-N likely will be the filing organization’s only contact with the IRS, the agency should engage in more education and outreach as part of the Form 990-N filing process.



#### Find it Fast

[IRS advisory committee on tax-exempt and government entities releases its annual report](#)

[Delinquent FBAR submission procedures](#)

[US Supreme Court Rules in Favor of Administration](#)

[Did you know?](#)

A full copy of the [annual report](#) is available on the IRS website.

### Delinquent FBAR submission procedures

The IRS recently issued guidance for taxpayers who are delinquent in filing the Report of Foreign Bank and Financial Accounts ("FBAR") (FinCEN Form 114, previously TD F 90-22.1). FBARs are due annually on June 30 for all taxpayers to report certain foreign bank and financial accounts. The IRS outlined the submission procedures for filing delinquent FBARs. Taxpayers who do not need to use either the Offshore Voluntary Disclosure Program or the Streamline Filing Compliance Procedures to file delinquent or amended tax returns to report and pay additional tax, but who have not filed a required FBAR, are not under a civil examination or a criminal investigation by the IRS, and have not already been contacted by the IRS about the delinquent FBARs should file the delinquent FBARs according to the FBAR instructions which are summarized below.

The IRS instructs taxpayers to follow these steps to resolve delinquent FBARs:

1. Review the FBAR instructions
2. Include a statement explaining why the taxpayer is filing the FBARs late
3. File all FBARs electronically at FinCEN
4. On the cover page of the electronic form, select a reason for filing late

If the taxpayer is unable to file electronically, the IRS instructs the taxpayer to contact FinCEN's Regulatory Helpline to determine possible alternatives to electronic filing.

The IRS will not impose a penalty for the failure to file the delinquent FBARs if the taxpayer properly reported on their U.S. tax returns, and paid all tax on, the income from the foreign financial accounts reported on the delinquent FBARs, and the taxpayer has not previously been contacted regarding an income tax examination or a request for delinquent returns for the years for which the delinquent FBARs are submitted.

### US Supreme Court rules in favor of administration

On June 25, 2015 the United States Supreme Court ruled 6-3 in favor of the Administration to permit federal premium assistance tax credits under the Affordable Care Act (ACA) to continue to be made available through 34 federally-facilitated Exchanges, in addition to Exchanges established by the states, to help individuals purchase Exchange coverage. The Department of Health and Human Services (HHS) operates federally-facilitated Exchanges in states that have not established their own Exchanges under the ACA. Of the 7.3 million people who enrolled via

ACA Exchanges in the open enrollment period for 2015 in states with federally-facilitated Exchanges, 87% were determined eligible for premium assistance tax credits.

In the majority opinion, Chief Justice John Roberts wrote that "the Act's context and structure compel the conclusion that [Internal Revenue Code] Section 36B allows tax credits for insurance purchased on any Exchanges created under the Act. Those credits are necessary for the Federal Exchanges to function like their State Exchange counterparts, and to avoid the type of calamitous result that Congress plainly meant to avoid." The Supreme Court based its decision on a reading of the statute and Congressional intent to resolve the underlying issue in the case. Thus, the Supreme Court's decision is not based on the Administration's regulatory interpretation of the statute.

In comments in the Rose Garden, President Obama said, "After multiple challenges to this law before the Supreme Court, the Affordable Care Act is here to stay." Speaker of the House John Boehner (R-OH) said, "ObamaCare is fundamentally broken, increasing health care costs for millions of Americans. Today's ruling doesn't change that fact. Republicans will continue to listen to American families and work to protect them from the consequences of ObamaCare. And we will continue our efforts to repeal the law and replace it with patient-centered solutions that meet the needs of seniors, small business owners, and middle-class families."

The decision in the case marks the second time that the Supreme Court has ruled on a challenge to a major coverage provision of the ACA. The life sciences and health care sectors have been awaiting the Court's decision with great anticipation given its potential impact on the health care marketplace. The American Hospital Association, America's Health Insurance Plans, the Pharmaceutical Research and Manufacturers of America, and other health care industry groups filed briefs with the Supreme Court supporting the Administration's position.

### Did you know?

#### Empowerment Zone designations remain in effect through December 31, 2014

The IRS issued a news release on June 15, 2015 ([IR-2015-88](#)) to announce that all empowerment zone designations remained in effect through the end of 2014. Empowerment Zones are certain urban and rural areas where employers and other taxpayers qualify for special tax incentives. The announcement is relevant for organizations claiming tax incentive credits on their 2014 tax returns. For more information and complete lists of empowerment zone locations, see Form 8844, *Empowerment Zone Employment Credit*.

### AICPA provides comments on Form 990 to IRS

The American Institute of Certified Public Accountants (“AICPA”) recently sent a letter to the IRS providing comments and recommendations for changes to the Form 990 and instructions. The comments were developed by the AICPA Exempt Organizations Taxation Technical Resource Panel and approved by the AICPA Tax Executive Committee. The Exempt Organizations Taxation Technical Resource Panel is comprised of practitioners who serve tax-exempt organizations and are experienced with both the nuances of the Form 990 and the challenges that arise for taxpayers in trying to complete it. A full copy of the letter is available on the AICPA website.

### Deloitte Thoughtware

[Deloitte Center for Health Solutions](#). The source for health care insights: The Deloitte Center for Health Solutions (DCHS) is the research division of Deloitte’s Life Sciences and Health Care practice. The goal of DCHS is to inform stakeholders across the health care system about emerging trends, challenges, and opportunities.

[Health Care Current](#). Weekly insights to keep you informed and ahead. This weekly series explores breaking news and developments in the U.S. health care industry, examines key issues facing life sciences and health care companies and provides updates and insights on policy, regulatory and legislative changes.

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#### Federal Tax

#### ***New IRS rules for accounting method changes: What companies need to know now*** July 16 2:00 PM ET

In January, for the first time in 18 years, the IRS issued new and significantly different guidance for tax accounting method changes. The new rules likely impact your company’s current and future years’ tax compliance and planning. Learn how this recently issued guidance could affect your company’s tax planning and compliance objectives for 2014 and beyond.

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#### Tax Operations

#### ***The evolving role of tax leadership: Understanding and acting on new expectations*** July 22 2:00 PM ET

As businesses have evolved through various transformation initiatives in recent years, their expectations of the tax department and its leadership have grown in number and scope. How effectively are you responding to these changes? Explore issues and opportunities likely to arise as you effect change in your tax department.

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