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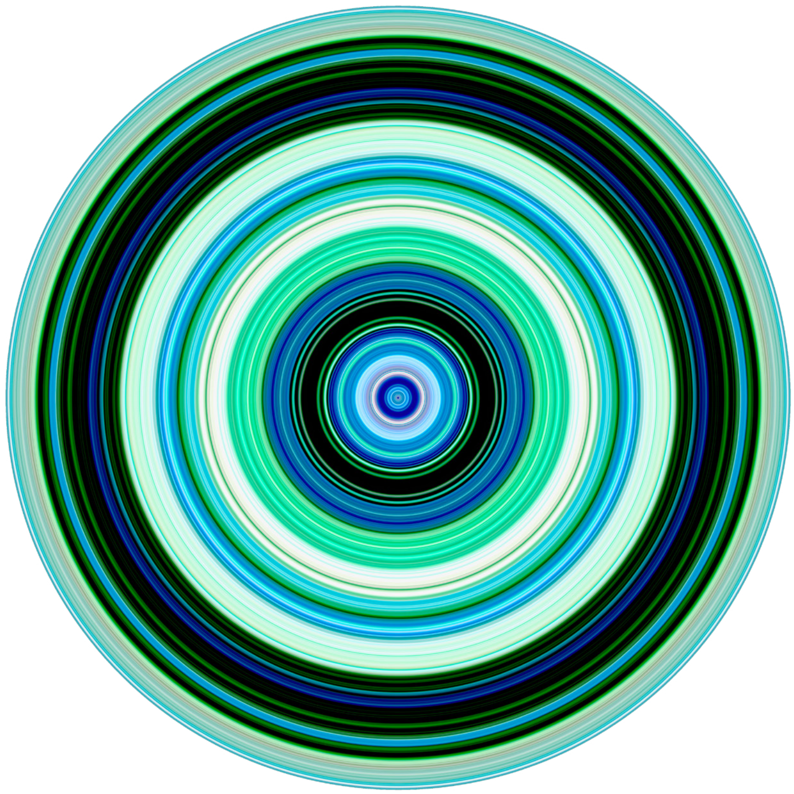

Tax News and Views
Health Care Edition

IRS revokes hospitals exemption

In the recent Private Letter Ruling 201731014, the Internal Revenue Service ("IRS") revoked the Internal Revenue Code Section ("IRC Sec.") 501(c)(3) status of a hospital organization for failure to comply with the IRC Sec. 501(r) requirements to conduct a community health needs assessment ("CHNA"), adopt a Implementation Strategy and make these widely available to the public.

The hospital organization in question was a "dual status" hospital in that it was a county-operated hospital that had independent IRC Sec. 501(c)(3) status. The hospital organization's executive team met with a consulting firm that recommended conducting a CHNA as part of complying with the Treasury Regulation Section ("Treas. Reg. Sec.") 501(r)-3, but the CHNA project was not undertaken in an effort to comply with this regulation. However, the hospital organization did complete a CHNA to comply with certain Medicare requirements to maintain its "critical care access facility" designation. The hospital organization did not make its CHNA available to the public via a website. However, it did have a copy available if and when requested by the public.

Find it Fast

While the hospital organization did act on many of the recommendations that arose from the Implementation Strategy Report issued as part of the CHNA, it did not draft or adopt a separate written Implementation Strategy.

The IRS ruled that the failure to adopt an Implementation Strategy and make its CHNA widely available to the public were egregious failures to comply with IRC Sec. 501(r) due to the hospital organization's lack of intent to comply. Also, note that the hospital executive team did not appear to object to the revocation as the hospital had dual status as a government hospital as well.

Tax court denies a partnership's $33 million charitable deduction

The Tax Court denied a partnership's claim for a $33 million charitable contribution deduction based on its findings that the partnership failed to substantially comply with the reporting requirements.

A partnership purchased the remaining interest in a property for $2.95 million. Over a year later the partnership assigned the remainder interest in the property to a university. The partnership claimed a $33 million charitable contribution deduction.

The Tax Court found that the partnership failed to substantiate the amount of its deduction. The partnership's Form 8283, Noncash Charitable Contributions, did not contain information on the "Donor's cost or other adjusted basis". The omission of the donor's basis prevented the appraisal from achieving its intended purpose and could not be considered a "fully completed appraisal summary;" therefore, the partnership was not substantially in compliance with Treas. Reg. Sec. 1.170A-13(c)(4)(ii)(E).

Tax court finds tax-exempt country club's non-member revenue lacked a profit motive

The Tax Court ruled that a tax-exempt country club is unable to offset non-member sales against investment income as the taxpayer lacked a profit motive for the non-member sales.

The Taxpayer is an IRC Sec. 501(c)(7) organization that operated a golf course, pool, tennis courts and dining facilities. Members paid through dues, assessments, food minimums and other miscellaneous fees. Non-members pay a surcharge to use the facility. The Taxpayer had been reporting fees from non-members as unrelated business income ("UBI") and offsetting direct expenses (in the form of cost of goods sold) and allocating indirect expenses (such as salaries and wages, employee benefits, repairs and maintenance, depreciation and general and administrative expenses) based on the ratio of non-member sales to total sales.

Taxpayer amended its 2010 Form 990-T and originally filed its Forms 990-T for 2011 and 2012 offsetting investment income against non-member sale losses for UBI purposes consistent with Portland Gulf Club v. Commissioner, 497 U.S. 154 (1990), which allows for investment income to offset non-member losses as long as there is a profit motive related to the non-member sales.

Under Portland Gulf Club v. Commissioner expenses in excess of unrelated business income are only deductible to the extent the IRC Sec. 501(c)(7) organization has a motivation to profit from its non-member sales. The court goes on to say, profit motive can be proven by the excess of gross receipts over direct and indirect expenses. The Taxpayer was unable to establish a profit motive due to the fact that gross receipts were not in excess of the allocated direct and indirect expenses. The Tax Court found that the Taxpayer was unable to offset investment income against non-member sales due to this lack of profit motive.

The Tax Court also imposed IRC Sec. 6662 accuracy-related penalties for negligence against the Taxpayer finding a lack of due care in the preparation of these tax returns.

Did you know?

IRS Delays Section 385 Documentation Regulations
The Treasury has issued Notice 2017-36 which provides for a twelve month delay in the application of the documentation rules set forth in Treasury Regulation Section 1.385-2. Please see IRS Notice 2017-38.

IRS Extends Voluntary Reporting of Catastrophic Health Plans
The IRS has extended a voluntary reporting option through 2017, for health insurance providers offering high deductible plans through the health plan exchanges. There is currently no reporting requirement related to catastrophic health coverage until 2018. Please see IRS Notice 2017-41.

IRS Issues Final Regulations on Health Insurance Premium Tax Credit
Effective July 24, 2017, the IRS adopted the temporary regulations from July of 2014, with one technical correction as final. Please see the Final Regulations.

Deloitte Dbriefs

Deloitte Dbriefs are live webcasts that give you valuable insights on important developments affecting your business. Register for the following webcasts or view archived recordings by clicking on the respective hyperlinked button below.

Tax Controversy

A primer on IRS advice and guidance processes

September 12 | 2 p.m. ET | 18:00 GMT

For anyone not familiar with the inner workings of tax administration, the processes for requesting advice and interpreting guidance from the IRS may seem puzzling. What types of advice and other guidance does the IRS provide and what are the processes for requesting advice from the IRS? Learn about various types of IRS advice and guidance that every taxpayer and tax practitioner will want to be familiar with.

Register

Life Sciences & Health Care

Driving innovation in life sciences: What is next for developing breakthrough therapies?

September 19 | 1 p.m. ET | 17:00 GMT

New innovations could dramatically change health care, especially relating to chronic and life-threatening conditions. How can biopharma and medtech companies leverage such innovations to advance breakthrough therapies and provide better patient-centered care? Learn about Deloitte's RWE Benchmark Survey and how organizations can effectively move toward patient-centered care.

Register

Tax Accounting & Provisions

Year-end updates, recent developments, and a look back at 2017 hot topics

September 27 | 2 p.m. ET | 18:00 GMT

It's important to stay ahead of tax reporting changes and associated issues your organization should be considering. What financial reporting matters may be important for you as you approach year end? Gain valuable insights on the latest developments and their impact on financial reporting for taxes.

Register

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