



Tax News and Views Health Care Edition

Tax Reform Update

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Hospital Loses Exemption for Leasing to For-Profit

In a recent appeals determination, the IRS has revoked the tax exemption of a hospital that allowed a for-profit company to lease and operate its hospital facility as a mechanism to keep it open. The exemption was retroactively revoked back to 2011. The rationale for the loss of exemption is that the IRS determined the hospital failed the organizational test as resources were not devoted primarily to exclusive charitable purposes.

The hospital was originally organized as a IRC Sec. 501(c)(3) tax-exempt community hospital for the provision of medical care regardless of race, religion or ability to pay. The hospital became not financially viable and transferred control of the operations to the board of directors. The hospital board entered into an agreement with a for-profit to lease its acute care facility (including the land, property and

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equipment) to the for-profit under the hospital's name and subsequently turned over management control to a for-profit that specialized in managing rural hospitals. The for-profit management company agreed to provide charity care in the same manner as the hospital previously provided. The change to the hospital's operations was reported to the IRS via the Form 990.

The IRS noted that the operations of the hospital has substantially changed since its application for exemption. While the hospital attempted to ensure exempt purposes were being met by mandating a certain amount of charity care, the hospital still had ceded complete control over operations to a for-profit entity and maintained only an advisory role. The IRS did recognize that there was an argument that the arrangement served an exempt purpose by continuing to provide services to the rural community. The IRS cited Revenue Rulings 70-313 and 80-309 as examples of situations where leases to provide medical care in rural communities were found to constitute exempt purposes, the IRS also looked to cases and rulings involving joint ventures with for-profit entities. However, in this situation the hospital did not provide sufficient facts to determine whether this situation was analogous but the IRS noted that no control over the operations was demonstrated.

IRS Issues Guidance to its Auditors on Rental Income UBIT

The IRS has issued internal guidance to its auditors regarding when rental income is not excluded from unrelated business income ("UBI"). The Issue Snapshot instructed auditors to consider the following factors in determining whether rental income qualified for the exclusion from UBI under IRC Section 512(b)(3):

- Does the return show rental income and indicate a mortgage as well;
- After touring the building were there signs that the building was being rented and if so inquire as to what areas are debt-financed;
- Review documentation from the taxpayer regarding rental/lease agreements showing the income was from real property;
- Review the documentation to determine if there is debt-financing; and
- Review any service agreements to determine if services were provided in connection with the rental income.

Did you know?

401(K) Contribution Limits

Contribution limits for 401(K) and other various retirement plans will rise to \$18,500 in 2018.

See <https://www.irs.gov/pub/irs-drop/n-17-64.pdf>.

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Tax Operations

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December 4 | 2 p.m. ET | 19:00 GMT

Robotic process automation (RPA) is an opportunity for tax to address inefficiencies and gain leverage in repetitive and time-consuming processes. How can tax join in the efforts or lead the charge to identify effective areas to apply this technology? Participants will gain insights on this emerging technology and learn ways to assess its use and effectively deploy it.



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Life Sciences & Health Care

A look ahead to 2018: Transforming the journey of care

December 6 | 1 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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