Deloitte.

Vol. 12 No. 14
April 2015

Tax News & Views Health Care Edition

IRS releases Rev. Proc. 2015-21 – Correction and disclosure of failures under Section 501(r)

On March 10, 2015 the Internal Revenue Service (IRS) released Revenue Procedure 2015-21 which provides guidance regarding the correction and disclosure procedures for hospital organizations to follow so that certain failures to meet the requirements of Section 501(r) will be excused.

Background

The Patient Protection and Affordable Care Act enacted Internal Revenue Code (IRC) Section 501(r) on March 23, 2010. IRC Section 501(r) requires a charitable hospital organization to meet the requirements related to the community health needs assessment (CHNA), financial assistance policy, limitations on charges, and billings and collections policies and practices. On December 29, 2014, final regulations were released to provide guidance regarding the requirements for charitable hospital organizations under Section 501(r) and the consequences for failing to meet any of the requirements.

Revenue Procedure 2015-21

Revenue Procedure 2015-21 adopts most of the proposed correction and disclosure procedures that were set out in Notice 2014-3 (published on December 31, 2013) which had included a draft revenue procedure.

Under the Section 501(r) final regulations, there are two levels of noncompliance that require correction.

The first level of noncompliance are "errors" that are minor and either inadvertent or due to reasonable cause. The hospital must correct such omission or error as promptly after discovery as is reasonable given the nature of the omission or error. For example, say that a hospital's CHNA report is unavailable on a Website for a short period of time due to an inadvertent technological malfunction. As soon as the malfunction is discovered, the hospital fixes the problem and re-posts the CHNA to the website. This would be considered an "error" that was minor and was corrected in a reasonable period of time. Per the IRS guidance, "errors" must be corrected; however they do not need to be disclosed. Therefore, they are not subject to the correction and disclosure procedures per Revenue Procedure 2015-21.

The second level of noncompliance are "failures" that are not willful or egregious. Any failure to meet a Section 501(r) requirement, that is neither willful nor egregious, may be excused if it is corrected and disclosed in accordance with Revenue Procedure 2015-21. The hospital's corrective action should a) include restoration of the affected individuals, b) be reasonable and appropriate for the failure, c) occur as promptly after discovery as is reasonable, and d) include implementation or modification of safeguards to ensure the failure is not repeated. The hospital must also disclose the failure on the Form 990 for the tax year in which the failure is discovered. The disclosure must include the following:

1. Description and cause of failure, name of hospital facility, date of failure and date of discovery, number of occurrences, estimate of number of individuals affected and dollar amounts involved.
2. Description of correction, method of correction, date of correction, description of restoration of individuals.
3. Description of practices or procedures that the hospital revised or established to minimize recurrence of failure.

If a hospital organization is not required to file a Form 990, it must disclose the above information on its website to comply with the revenue procedure.

Hospitals should also be mindful that any failures to meet the requirements of Section 501(r)(3), regarding the CHNA, will result in an excise tax of $50,000 being imposed under section 4959.

Work Opportunity Tax Credit extension for 2014

The IRS released Notice 2015-13 which provides transition relief for employers claiming the Work Opportunity Tax Credit (WOTC). The Tax Increase Prevention Act of 2014, enacted on December 31, 2014, extended the WTOC through December 31, 2014. The credit applies to employers hiring individuals of targeted groups and qualified tax-exempt organizations hiring qualified veterans. Specifically, the notice provides employers additional time beyond the 28-day deadline for submitting Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity Credit, to Designated Local Agencies.

Find it Fast

Background

The WOTC provides a credit to employers that hire individuals who are members of targeted groups, including certain qualified veterans. Before an employer may claim the WOTC, the employer must obtain certification that the hired individual is a targeted group member. Certification is obtained from a Designated Local Agency, such as a state employment security agency. An employer must submit Form 8850 to the agency not later than 28 days after the individual begins work for the employer. A reduced WOTC is available to qualified tax-exempt organizations, hiring qualified veterans, as a credit against the employer share of social security tax.

Transition Relief

The WOTC was extended retroactively for 2014. Therefore, employers need additional time to comply with the certification requirements which are normally due within 28 days of an individual's work start date. Accordingly, a taxable employer that hired a member of a targeted group, or a qualified tax-exempt organization that hired a qualified veteran, on or after January 1, 2014 and before January 1, 2015 will be considered to meet the certification requirement if it submits the completed Form 8850 to the appropriate Designated Local Agency to request certification not later than April 30, 2015.

Annual notification requirement for supporting organizations

As a reminder, effective as of December 28, 2012, all Type III supporting organizations must meet an annual notification requirement, which includes a written notice addressed to a principal officer of the supported organization. The written notice must describe the type and amount of all support provided to the supported organization during the tax year. A copy of the supporting organization's most recently filed Form 990 and governing documents must be attached to the notice. The annual notification must be provided by the last day of the fifth month following the end of the taxable year. For 2014 calendar year-end organizations, the due date for the notice is May 31, 2015. If the 2014 Form 990 has not been filed by May 31, 2015, then a copy of the 2013 Form 990 may be provided with the notice. For additional information, refer to the final regulations published under IRC Section 509(a)(3).

Did you know?

IRS issues progress update on Form 1023-EZ

The IRS recently released a progress update on Form 1023-EZ, a streamlined application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code, which is available for use by certain smaller organizations. The streamlined application was debuted in July 2014. The IRS reported that by using the streamlined concepts that formed the basis of the Form 1023-EZ, the IRS reduced the inventory of applications by 91 percent between April 2014 and September 2014. On average, it now takes the IRS less than 30 days to process a Form 1023-EZ. The IRS will continue to monitor the filings and use of the Form 1023-EZ. The Exempt Organizations unit will implement a post-determination compliance program in early fiscal year 2016 by conducting correspondence examinations of a random sample of organizations that obtained exempt status through the filing of a Form 1023-EZ. The examinations will allow the IRS to determine the compliance of newly exempt small organizations after they have been in operation for a year or more.

FAQs on tangible property final regulations

The IRS issued a list of Frequently Asked Questions (FAQs) regarding the tangible property final regulations which were issued on September 17, 2013. The FAQs address how to apply the final regulations and also how to make certain related elections such as the de minimis safe harbor election and the capitalization election.

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.

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.

International Tax

Embedding Tax-Efficiency Planning in Your Procurement Model *April 30, 2015, 2:00 PM ET*

As multinational companies continue to focus on driving bottom-line savings, an important area of consideration is the way they leverage their procurement function. How may you improve cost savings through tax-efficient procurement models? Learn where tax planning may be effectively embedded in an evolving procurement model.

Register or View archive

Contacts

Please contact your local Deloitte Tax LLP provider for more information on our services.

Fran Bedard — Nashville
fbedard@deloitte.com
+1 615 259 1811

Lori Boyce — Detroit
lboyce@deloitte.com
+1 313 396 3324

Jeff Frank — Indianapolis
jdfrank@deloitte.com
+1 317 656 6921

Margaret Grinnell — Chicago
mgrinnell@deloitte.com
+1 312 486 9025

William Homer — Philadelphia
whomer@deloitte.com
+1 215 299 4642

Christine Kawecki — Jericho
ckawecki@deloitte.com
+1 516 918 7138

Frank Neczypor — Boston
fneczypor@deloitte.com
+1 617 437 2728

Diana McCutchen — Costa Mesa
djmccutchen@deloitte.com
+1 714 436 7702

Mary Rauschenberg — Chicago and Washington National Tax
mrauschenberg@deloitte.com
+1 312 486 9544

Steve Rovner — Tampa
srovner@deloitte.com
+1 813 273 8355

John W. Sadoff, Jr. — Atlanta
jsadoff@deloitte.com
+1 704 887 1810

Jim Sowar — Cincinnati
jsowar@deloitte.com
+1 513 784 7242

Yvette Woods — McLean
ywoods@deloitte.com
+1 703 251 1420

Sharon Zorbach — San Jose
szorbach@deloitte.com
+1 408 704 2063