

Tax News & Views Health Care Edition

IRS issues report to Congress on hospitals

In January 2015, the IRS issued a report to Congress on private tax-exempt, taxable and government-owned hospitals. The report is mandated by the Patient Protection and Affordable Care Act of 2010 which provides that the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, must submit to Congress an annual report on the following:

- Information with respect to private tax-exempt, taxable and government-owned hospitals regarding:
 - Levels of charity care provided
 - Bad debt expenses
 - Unreimbursed costs for services provided with respect to means-tested government programs
 - Unreimbursed costs for services provided with respect to non-means-tested government programs
- Information with respect to private tax-exempt hospitals regarding costs incurred for community benefit activities

The report contains information for calendar year 2011, the first complete year for which data from both departments was available. Some information in the report was gathered from the Department of Health and Human Services' Centers for Medicare and Medicaid Services. Specifically, information was collected from Medicare Cost Report data for 2011.

In addition, the IRS Statistics of Income (SOI) Division provided information collected from Form 990, Schedule H "Hospitals." For 2011, SOI data included information from 2,469 non-governmental hospital filers. In aggregate, the hospitals provided 9.67% total community benefit, consisting of 2.32% charity care, 3.1% unreimbursed Medicaid and other means-tested government programs, and 4.24% other community benefits.

New IRS procedure for disclosure of determination letters

On March 16, 2015, the IRS issued a news alert regarding changes to the disclosure of determination letters issued by the Exempt Organizations Rulings & Agreements function in Washington, DC (National Office). In the past, the IRS shared exemption letters processed in Washington with some members of the press. Due to changes in the approval process starting in 2014, applications for exemption are no longer processed in the National

Office. The National Office is currently working on a few remaining applications and when a final disposition is made, the National Office will provide determination letters or denial letters, as applicable, for those organizations in the Electronic Reading Room as well as to the members of the media. The IRS continues to release redacted copies of denial letters it issues to organizations. Denial letters also are released through the electronic reading room.

Although determination letters will no longer be released to the public, the IRS provides a list of all Section 501(c)(3) organizations that have received a favorable determination letter on the EO Select Check tool. The IRS also provides additional information on all organizations exempt from tax on the Exempt Organizations Business Master File Extract page.

A paper copy of an application and/or a determination letter of an exempt organization may be requested from the Internal Revenue Service by submitting Form 4506-A, "Request for Public Inspection or Copy of Exempt or Political Organization IRS Form."

Company formed to research, manufacture and sell pharmaceuticals is denied exemption

In letter ruling 201510059, the IRS denied tax-exemption to a company formed to research, manufacture and sell pharmaceutical products. The company's Articles of Incorporation stated that it was organized to provide affordable pharmaceuticals to the poor and to manufacture early cancer detection tests, natural immunity boosters and conduct rural health advocacy. The company is a successor of two for-profit entities also owned by the company's founder and president. The for-profit companies had been conducting herbal supplement and cancer testing businesses since 1998.

The IRS ruled that the company engaged in the substantial non-exempt activities of selling herbal products and cancer testing kits at market prices and operated in a manner similar to private commercial entities. The IRS also stated that the company's activities do not relieve the poor and distressed because it sells services and products for the same fees regardless of the affordability of its clients to pay. Also, the IRS found that the clinical trials and research



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conducted by the company was not “scientific” but rather was “applied” research for the production of commercial drugs, which is not an exempt research activity. Therefore, the IRS concluded that the company did not qualify for exemption under Section 501(c)(3).

Did you know?

Patient-centered outcome research fee increases 4 percent

The patient-centered outcome research fee is increasing 4 percent, according to the IRS. The fee is increasing to \$2.08 from \$2 for each individual covered under plan years ending after October 1, 2014 but before October 1, 2015. The fee is imposed on issuers of specified health insurance policies and plan sponsors of applicable self-insured health plans. The fee is paid by filing Form 720, “Quarterly Federal Excise Tax Return.”

Correction to final regulations under Section 501(r)

At a recent program sponsored by Georgetown Law Continuing Legal Education, a Treasury official announced that a correction will be made to final regulations (T.D. 9708) under Section 501(r). In addition to the Section 501(r) requirements, the regulations also address the information reporting requirements for hospitals

under Section 6033. As currently written, the final regulations require hospitals to report certain information regarding the community health needs assessment and implementation strategy for tax returns filed after December 29, 2014. However, the Treasury official (referenced above) stated that the language will be amended to say the requirements will be effective for returns filed for “tax years ending after December 29, 2014.”

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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Multistate Tax

Controversies, MTC Audits, and Transfer Pricing Audits: Manage Them Before They Manage You May 5 2:00 PM ET

State tax audits and resulting controversies often lead companies down challenging paths. What can tax executives do to anticipate and stay in front of such issues? Explore practical strategies and approaches for addressing the costs and potential disruptions of state tax controversies.

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Global Mobility, Talent & Rewards

Pension Plans for Mobile Employees: Considerations for a Tax-Efficient, Compliant Global Strategy May 6, 2:00 PM ET

Several new laws and regulations, including FATCA, attempt to prevent US taxpayers from sheltering assets abroad. With foreign pensions plans a key focus area, what new requirements and planning opportunities are there for global organizations? Understand your company’s compliance responsibilities and possible ways to reduce associated costs.

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Federal Tax

Quarterly Federal Tax Roundup: A Passthroughs Update May 12, 2015, 2:00 PM ET

The passthroughs area of tax generally focuses on the taxation of partnerships and S corporations and their partners and shareholders, respectively, including contributions, distributions, tax basis and loss considerations, and transfers of owners’ interests. What are some recent technical developments, potential opportunities, and marketplace trends that may impact your company? Learn about the latest developments in the passthroughs area and potential implications for your company.

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Transfer Pricing

Advanced Pricing Agreements and Mutual Agreement Procedures: Adapting to the Times May 13, 2015, 2:00 PM ET

Global transfer pricing controversies are growing and global tax authorities are adapting their Advanced Pricing Agreement (APA) and Mutual Agreement Procedures (MAP) programs for the increased caseload. Accordingly, APAs and MAPs are attractive strategies to address transfer pricing risk and double taxation. Learn how these changes could affect taxpayers' management of transfer pricing risks.

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Tax Operations

Tax Performance Management: A New Framework for Data-Driven Decision Making May 19, 2015, 2:00 PM ET

Forecasting and reporting are largely manual and time-consuming processes in many tax departments. How can a new framework for tax performance management leverage data and technology enablement for improved outcomes across several dimensions? Learn about an exciting new way to unify forecasting, reporting, and analytics.

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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

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