



## New Requirements for 501(c)(3) Hospitals Under the Affordable Care Act

The *Affordable Care Act (ACA)*, enacted March 23, 2010, added new requirements that hospital organizations must satisfy in order to be described in section 501(c)(3), as well as new reporting and excise taxes.

Because many of these provisions are effective for tax years beginning after the date of enactment, revision of the core [Form 990](#), the Form 990 [Schedule H](#) and [instructions](#) has been a priority for the Internal Revenue Service (IRS).

As the IRS develops the new forms and guidance to implement the ACA, the IRS goals will be to:

- allow hospitals to clearly describe their activities and policies;
- minimize burden to the extent possible; and
- capture compliance information as required for adherence with the statute.

### **New Requirements for Charitable 501(c)(3) Hospitals**

Section 501(r), added to the Code by the ACA, imposes new requirements on 501(c)(3) organizations that operate one or more hospital facilities (hospital organizations). Each 501(c)(3) hospital organization is required to meet four general requirements on a facility-by-facility basis:

- establish written financial assistance and emergency medical care policies,
- limit amounts charged for emergency or other medically necessary care to individuals eligible for assistance under the hospital's financial assistance policy,
- make reasonable efforts to determine whether an individual is eligible for assistance under the hospital's financial assistance policy before engaging in extraordinary collection actions against the individual, and
- conduct a community health needs assessment (CHNA) and adopt an implementation strategy at least once every three years. (These CHNA requirements are effective for tax years beginning after March 23, 2012).

The ACA also added new section 4959, which imposes an excise tax for failure to meet the CHNA requirements, and added reporting requirements under section 6033(b) related to sections 501(r) and 4959

[Notice 2010-39](#), 2010 IRB 24 (June 14, 2010) described the new requirements and solicited public comments..

### **Requirements Related to Financial Assistance and Emergency Medical Care**

On June 22, 2012, the Service issued [proposed regulations](#) which provide information on the requirements for charitable hospitals relating to financial assistance and emergency medical care policies, charges for emergency or medically necessary care provided to individuals eligible for financial assistance, and billing and collections. A public hearing on these proposed regulations was held on December 5, 2012.

### **CHNA Requirements**

[Notice 2011-52](#), addresses the CHNA requirements. Hospital organizations may continue to rely on the guidance provided in Notice 2011-52 for CHNAs conducted and implementation strategies adopted up to 6 months after April 5, 2013.

On April 3, 2013, the IRS issued [proposed regulations](#) on the CHNA requirements (formal publication on April 5, 2013). The proposed regulations also discuss the related excise tax and reporting requirements for charitable hospitals and the consequences for failure to satisfy the section 501(r) requirements. Comments and requests for a public hearing must be received by July 5, 2013.

### **Core Form 990 and Schedule H Revisions for Tax Years 2010 and 2011**

[Form 990, Return of Organization Exempt From Tax](#), was redesigned for tax years beginning in 2008 after significant and continued input from the tax-exempt sector, including the tax-exempt healthcare community. Schedule H was developed as part of the redesign of the form.

Form 990, Schedule H, Part V, Section B was added for tax years beginning in 2010. It is intended to provide hospitals with ample opportunities to describe their policies and activities related to compliance with ACA requirements and to explain how they are complying with the new requirements. Further revisions were made in 2011 after public input was considered.

### **New Questions on 501(r) Requirements on a Facility-by-Facility Basis**

Hospital organizations file a single [Schedule H](#) with the organization's Form 990 for tax years 2010 and 2011. Schedule H, Part V, Facility Information has been expanded to include several new sections for tax years 2010 and 2011:

- Section A: The filer will list the hospital facilities it operated during the tax year.
- Section B: The filer will report separately on the activities, policies and practices of each of its hospital facilities listed in Section A. Since non-hospital healthcare facilities are not required to meet the requirements of section 501(r), hospital organizations do not need to complete Section B for any of its non-hospital health care facilities listed in Part V, Section C.
- Section C: The filer will list its non-hospital health care facilities that it operated during the tax year.

**Note:** Only Part V, Section B of the Form 990 Schedule H requires separate reporting for each individual hospital facility. All other portions of Schedule H will be completed on an organization-wide basis.

### **New Questions on Section 501(r) Requirements in Part V, Section B**

Form 990, Schedule H, Part V, Section B was revised for tax years beginning in 2010 and 2011 to include new questions relating to the new section 501(r) requirements of the ACA, and asks for information concerning each hospital facility's financial assistance, emergency medical care, and billing and collection policies.

New questions relating to CHNAs were also added to Schedule H, Part V, Section B, but these questions are optional for tax years 2010 and 2011 because the CHNA requirements of section 501(r) are only effective for tax years beginning after March 23, 2012.

### **TY 2011, Part 5, Section B - Section B is Required**

The IRS considered public input on Part V, Section B and made revisions to Part V, Section B for the 2011 tax year. [Notice 2012-4](#) notifies hospital organizations that are required to file Form 990 for tax year 2011 that they will be required to complete all parts and sections of the Schedule H (except for lines one through seven of Part V, Section B relating to CHNAs, as these are optional for tax year 2011). The IRS anticipates making further revisions in future tax years and welcomes public input as described below.

### **TY 2012, Part 5, Section B - CHNA Questions May Be Required**

Hospital organizations whose 2012 tax years began after March 23, 2012 are required to complete all questions on their 2012 Form 990, Schedule H. Hospital organizations whose 2012 tax years began on or before March 23, 2012 are required to complete all parts and sections of Schedule H for tax year 2012, with the exception of Part V, Section B, lines 1-8 regarding CHNAs.

### **Audited Financial Statements**

If a hospital organization is required to file Form 990 Schedule H, the organization is required to attach a copy of its most recent audited financial statements to its return for tax years beginning after March 23, 2010. Organizations that file electronically are requested to submit their financial statements in Adobe PDF format.

### **Continuing Implementation Efforts**

The IRS continues to seek input from the tax-exempt health care community as we work to refine the Form 990 and Schedule H to reflect the new ACA requirements and fully implement the ACA. As we move forward, the IRS will continue to work closely with the tax-exempt health care sector as we develop reporting requirements and guidance necessary to refine the Form 990 and Schedule H for future years and fully implement the ACA. The IRS welcomes additional input on how to improve Forms 990, 990-EZ and their related Schedules, including Schedule H. Input should be submitted to [Form990Revision@irs.gov](mailto:Form990Revision@irs.gov) or the following address:

Internal Revenue Service  
Attn: Stephen Clarke (Notice 2012-4)  
SE:T:EO  
1111 Constitution Avenue, NW  
Washington, DC 2022

### **For More Information**

For more information about the new requirements for tax-exempt hospitals and other provisions of the Affordable Care Act see:

- [2011 and 2012 Forms 990, Schedules and Instructions](#)
- [Affordable Care Act Tax Provisions](#)
- [Affordable Care Act of 2010: News Releases, Multimedia and Legal Guidance](#)