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Final Exempt Hospital Regs May Result in Extensive Reporting Changes.

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Stephen Clarke, tax law specialist (rulings and agreements), IRS Tax-Exempt and Government Entities Division, outlined changes made to Form 990, "Return of Organization Exempt From Income Tax," for tax year 2013, including the creation of a new part V, section C of Schedule H, which provides for narrative responses to check-box questions in part V, section B, on such things as community health needs assessments and discounted care.

Speaking during a breakout session at the Western Conference on Tax-Exempt Organizations in Los Angeles organized by Loyola Law School, Clarke said the Schedule H changes for tax year 2013 are similar in scope to those made for 2012.

"Once the 501(r) regulations are finalized, we'll make more extensive changes to reflect those regulations," he told Tax Analysts.

Because the guidance has been proposed and is not final, the IRS has held off on making some changes until those regulations are finalized, he said.

The hospital schedule isn't the only one that will likely see regulation-driven changes, Clarke said. Schedule A, which section 501(c)(3) organizations use to indicate they are public charities and not private foundations, clarifies the requirements for functionally integrated and nonfunctionally integrated Type III supporting organizations, including transition rules for how those organizations meet the integral part test for the 2013 tax year, he said.

Temporary and proposed regs (REG-155929-06; 2013-11 IRB 650) released last year that interpreted the 2006 Pension Protection Act's Type III supporting organization provisions provide guidance on how these organizations meet the integral part test for tax year 2014 and later years, he said.

"So you can expect to see on our 2014 Schedule A some significant revisions which we're working hard on to reflect the implementing regs for the 2006 Pension Protection Act," he said.

According to a February TE/GE memo regarding determination letters to Type III supporting organizations and general requirements, organizations seeking classification as a Type III supporting organization must satisfy the integral part test for either a functionally or nonfunctionally integrated supporting organization. There are three ways to satisfy the test, including being the parent of each supported organization, the memo says.

All forms, schedules, and instructions for Forms 990, and a list of changes to them, for the 2013 tax year should be posted online by early next year, Clarke said. Some are available online now, he said.

Donor-Advised Funds

Practitioners shouldn't expect new regulations on donor-advised funds anytime soon, Ruth Madrigal, attorney-adviser, Treasury Office of Tax Legislative Counsel, said during an afternoon session November 21. The project isn't one that can be simply fitted in between section 501(r) hospital regulations and supporting organization regulations or other large projects, she said.

"This is going to be a big project," she said. "It's a complicated project."

"We are finally to a point where I can think about beginning to sit down and talk about donor-advised fund guidance with the IRS," she added. "But it's still going to be a ways off."

Madrigal reminded conference attendees that donor-advised funds were only defined in the code in 2006. Speaking on her own behalf, she said there are good things about donor-advised funds generally. However, she said a few large sponsoring organizations with a lot at risk might be more compliant than a lot of little organizations, which in many cases are run by the donors themselves.

"I worry about small private foundations that have very low balances and don't want to spend the little that they have on administrative expenses, which is what lawyers and accountants are," she said.

by David van den Berg