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IRS Issues Proposed Regs on Community Health Needs Assessment Requirement for Tax-Exempt Hospitals.

The IRS has issued proposed regulations (REG-106499-12) that provide guidance to charitable hospital organizations on the community health needs assessment (CHNA) requirements and related excise tax and reporting obligations. The regs also clarify the consequences for failing to meet these and other requirements for charitable hospital organizations.

Comments and requests for a public hearing must be received by July 5. The regs are proposed to be effective for returns filed on or after the date they are published in the Federal Register as final or temporary regulations.

Section 501(r)(1) imposes four additional requirements that organizations described as hospital organizations must satisfy to be tax exempt under section 501(c)(3), one of which is to conduct a CHNA every three years. In July 2011 Treasury and the IRS issued guidance (Notice 2011-52) on the anticipated regulatory provisions.

As a general rule, the proposed regs provide that a hospital organization operates a hospital facility if it is a partner in a joint venture, limited liability company, or other entity treated as a partnership for federal income tax purposes that operates the hospital facility. A hospital organization also operates a hospital facility under the proposed regs if it does so through a wholly owned entity that is disregarded as separate from the hospital organization for federal tax purposes. A hospital organization is not required, however, to meet the requirements of section 501(r) for any activities unrelated to the operation of a hospital facility.

The proposed regs provide that a hospital organization meets the requirements of section 501(r)(3) in any tax year for a hospital facility it operates only if the hospital facility has conducted a CHNA in that tax year or in either of the two immediately preceding tax years. Also, an authorized body of the hospital facility is required to have adopted an implementation strategy to meet the community health needs identified through the CHNA by the end of the tax year in which the hospital facility conducts the CHNA. The regs include extensive rules for conducting a CHNA and developing implementation strategies.

Under the proposed regs, a hospital facility's omission of required information from a policy or report described in reg. section 1.501(r)-3 or 1.501(r)-4 or error regarding the implementation or operational requirements described in reg. section 1.501(r)-3 through 1.501(r)-6 will not be considered a failure to meet a requirement of section 501(r) if the omission or error was minor, inadvertent, and due to reasonable cause and the hospital facility corrects the omission or error as promptly after discovery as is reasonable given the nature of the omission or error. Also, the IRS will consider for purposes of determining whether revocation of section 501(c)(3) status is warranted the relative size, scope, nature, and significance of any failures to meet the section 501(r) requirements as well as the reasons for the failures and whether the same type of failures have previously occurred. The proposed regs include rules that apply if one hospital facility within a hospital organization fails to meet a section 501(r) requirement during a tax year, even though the hospital

organization as a whole continues to be recognized as a section 501(c)(3) organization.

[http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/New-Requirements-for-501\(c\)\(3\)-Hospitals-Under-the-Affordable-Care-Act](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/New-Requirements-for-501(c)(3)-Hospitals-Under-the-Affordable-Care-Act)

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