

IRS ANNOUNCES THAT PART V, SECTION B OF FORM 990 SCHEDULE H WILL BE OPTIONAL FOR TAX-EXEMPT HOSPITALS FOR TAX YEAR 2010

On June 9, 2011, the Internal Revenue Service ("IRS") released Announcement 2011-37 ("Announcement") indicating the entire Part V, Section B ("Part V.B") of Schedule H to the Form 990 will be optional for tax-exempt hospitals filing for the 2010 tax year. Tax-exempt hospitals are still expected to complete all other parts of Schedule H, including Parts V.A and V.C, and must include their most recent audited financial statements in their 2010 Form 990 if their tax year began after March 23, 2010.



The IRS issued a revised Schedule H earlier this year that included the new Part V.B. Part V.B includes questions related to new requirements described in Section 501(r) of the Internal Revenue Code of 1986, as amended (the "Code"). Code Section 501(r) resulted from the enactment of Section 9007 of the Patient Protection and Affordable Care Act (for more information on Code Section 501(r) and the revised Schedule H, please see our prior bulletins [here](#)). The revised Schedule H made certain sections of Part V.B optional for 2010 filers, including those questions regarding a community needs assessment. The Announcement makes all parts of Part V.B optional.

The Announcement comes in the wake of several criticisms from industry organizations, including the American Hospital Association, regarding the revisions to Schedule H and the method by which the IRS chose to implement the requirements of Code Section 501(r). A major criticism was directed at the decision by the IRS and the Treasury Department to forgo the usual process of issuing proposed regulations and soliciting public comment in favor of revising Schedule H without meaningful input from the tax-exempt hospital community. The IRS explained in the Announcement that it is making Part V.B optional for 2010 filers to give filers more time to familiarize themselves with the types of information the IRS will be collecting related to compliance with Section 501(r) and to address any ambiguities arising from the extensive revisions of the Form 990 and its instructions.

This Announcement in no way affects Announcement 2011-20 that grants automatic extensions to tax-exempt hospitals for their 2010 filings (for more information on Announcement 2011-20, please see our prior bulletin [here](#)). Further, no penalties under Section 6652(c)(1)(A)(ii) of the Code will be assessed for failure to complete any part of Part V.B, and if a tax-exempt hospital receives such a penalty, the Announcement instructs the tax-exempt hospital to call the number on the penalty notice and ask that the penalty be abated.

Even though Part V.B is no longer mandatory for the 2010 tax year, it gives tax-exempt hospitals some insight into what questions the IRS may ask and information the IRS may request to ensure compliance with the new requirements of Code Section 501(r). Thus, tax-exempt hospitals should continue to familiarize themselves with Part V.B so they are prepared to answer the questions asked and respond to other information requested by the IRS sufficient to demonstrate compliance with Code Section 501(r) once Part V.B is finalized.

The full text of the announcement may be viewed at: <http://www.irs.gov/pub/irs-drop/a-11-37.pdf>

Should you need assistance with your organization's evaluation and implementation of Code Section 501(r) compliance and reporting initiatives, or have questions regarding the optional filing of Part V.B, please contact Calvin Chambers at (317) 977-1459  or cchambers@hallrender.com; Thomas Donohoe at (317) 338-2289  or tdonohoe@hallrender.com; or your regular Hall Render attorney.