



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

April 11, 2019

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Grassley:

Thank you for your letter dated February 19, 2019, asking for additional information about how the IRS reviews non-profit hospital compliance with Section 501(r) of the Internal Revenue Code.

As requested, I am enclosing responses to each of your questions.

I hope this information is helpful. If you have additional questions, please feel free to call me, or a member of your staff may call Leonard Oursler, Director, Legislative Affairs, at 202-317-6985.

Sincerely,

Charles P. Rettig

Enclosure

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1. Since your office's April 2018 response, how many additional tax-exempt hospitals has the IRS reviewed for the purpose of determining compliance with § 501(r)?

a. How many of those reviews has the IRS completed?

The Affordable Care Act (ACA) requires the IRS to review, at least once every three years, the community benefit activities of approximately 3,000 charitable hospitals. We review approximately one-third of the hospitals annually.

From February 24, 2018, to February 22, 2019, we completed reviews of 832 tax-exempt hospitals for determining compliance with Section 501(r).

b. How many of those reviews did the IRS close without further action?

Of the 832 completed reviews, 625 were closed without further action.

c. How many of those reviews did the IRS follow up with a compliance check?

Of the 832 completed reviews, 129 were referred for a compliance check. As of February 22, 2019, 89 of the 129 referred for compliance checks were closed, 30 are still open, and 10 have not yet been started.

d. How many of those reviews did the IRS follow up with an examination?

As of February 22, 2019, of the 832 completed reviews, 78 were referred for examination, 17 hospital audits have been closed, 57 are still open, and 4 audits have not yet been started.

e. Of the hospitals that the IRS followed up with either a compliance check or an examination, how many were or appeared to be out of compliance with these requirements?

- i. Community health needs assessment
- ii. Financial assistance policy requirements
- iii. Requirements on charges billed to patients
- iv. Billing and correction policies

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2. How many of those cases that have resulted in examinations have been closed, and what are the results?

Redacted for purposes of Sec. 6103

3. How many hospitals that the IRS reviewed engaged in debt-collection practices involving patients eligible for financial assistance policies (FAPs), as defined by 26 CFR § 1.501(r)-1?
 - a. How many of those hospitals did the IRS find to be noncompliant when it comes to making their FAPs widely publicized under 26 CFR § 1.501(r)-4?

The review of the 832 hospitals described in Answer 1a resulted in 139 referrals for indications of "Healthcare-Financial Assistance Policy Issues." The referrals include 125 for follow-up compliance checks (125 out of 129 referred for compliance checks described in

Answer 1c) and 14 for follow-up examinations (14 out of 78 described in Answer 1d).

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- b. How many of those hospitals did the IRS find to be engaged in extraordinary collection actions in violation of 26 CFR § 1.501(r)-6?

Of the **Re closed hospital examinations described in Answer 2, none resulted in a reported issue for Healthcare-Billing & Collection.**

- c. Of those noncompliant hospitals, describe how the IRS instructed them to come into compliance or otherwise sanctioned them.

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4. A tax-exempt hospital must make a reasonable effort to determine if a patient is qualified to participate in its FAP before taking extraordinary collection action against the patient.
- a. How many hospitals did the IRS review for determining if the hospitals made reasonable efforts to determine the FAP statuses of their patients?
 - b. How many hospitals did the IRS find to have made reasonable efforts to determine FAP status?
 - c. Generally describe some of those efforts that the IRS determined to be reasonable.
 - d. How many hospitals did the IRS find did not make reasonable efforts to determine FAP statuses of their patients?
 - e. Generally describe some of those efforts that the IRS determined were not reasonable.
 - f. What corrective action, if any, did the IRS take upon finding those efforts unreasonable?

Section 501(r)(6) and its regulations require a hospital organization to ensure that its facilities engage in reasonable efforts to determine

eligibility for financial assistance before engaging in extraordinary collection actions. To date, the IRS has not identified any organization upon review that has not satisfied the requirements of Section 501(r)(6).

5. In the April 2018 response, your office indicated that the IRS issued 99 written advisories to non-profit hospitals about potential noncompliance.
 - a. How has the IRS followed up on those written advisories?
 - b. Of those 99 hospitals, how many has the IRS determined to have, in fact, not been in compliance?
 - c. Of those, what corrective actions have been taken?

The written advisories referred to in our April 2018 response did not rise to the level of significance requiring a referral for a follow-up examination. All hospitals will continue to have the normal ACA review in the three-year cycle referred to in Answer 1.

6. Based on the IRS' May 2018 Report to Congress on private Tax-Exempt, Taxable, and Government-Owned Hospitals at page 13, the total percentage of unreimbursed Medicaid expenses increased 20.6 percent over the course of 2011 through 2014 while the charity-care expenses decreased 16.5 percent over the same period of time.
 - a. Based on the IRS' review of 2015 data, is this trend continuing?

Yes. We expect the forthcoming report to show consistent figures for unreimbursed Medicaid expenses and charity care at cost.

- b. What, to the best of your knowledge, explains this trend?

Footnote 22 (page 7) of the report shows that the calculation of the amount referred to in Table 9 (page 13) as "Unreimbursed Medicaid," which includes data from several sources. Similarly, Footnote 5 (page 4) describes the data included in the calculation of the cost of charity care. As tax administrators, it would be inappropriate for us to speculate on the underlying factors that may contribute to the apparent trends in the economy and healthcare industry.

7. Provide an update on the status of this year's report to Congress on private tax-exempt, taxable, and government-owned hospitals.

On March 21, 2019, we submitted this year's report (for 2015 data) to the Senate Committees on Finance and on Health, Education, Labor, and Pensions, as well as to the House Committees on Ways and Means, on Education and Labor, and on Energy and Commerce.