



## ***PG Alert***

### **Takeaways for Hospitals from the IRS TE/GE Fiscal Year 2020 Program Letter**

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The Tax Exempt & Governmental Entities Division of the Internal Revenue Service (TE/GE) recently released its Fiscal Year 2020 Program Letter and Compliance Program (2020 Letter). In general, TE/GE's compliance program is divided into six portfolio programs: Compliance Strategies; Data-Driven Approaches; Referrals, Claims and Other Casework; Compliance Contacts; Determinations; and Voluntary Compliance and Other Technical Programs. According to the IRS, data compiled from its data-driven approaches is used to identify and address existing and emerging high-risk areas of noncompliance and to guide the agency's decisions on how best to apply its resources.

The 2020 Letter identifies a number of items that are particularly relevant to tax-exempt health care organizations, including:

- ***Hospital organizations with unrelated business income:*** TE/GE is particularly concerned with unrelated business taxable income reported on Form 990-T, *Exempt Organization Business Income Tax Return*, where expenses materially exceed gross income.
- ***Previous for-profit organizations:*** TE/GE is paying close attention to organizations formerly operated as for-profit entities prior to their conversion to Section 501(c)(3) organizations.
- ***Tax-exempt debt concerns:*** TE/GE is interested in learning (1) whether over-funding of interest and sinking funds causes bonds to be arbitrage bonds, and (2) whether the issues of variable rate bonds comply with the applicable rebate and yield restriction rules, as well as whether the bond and investment yields were properly computed and rebate or yield reduction liability (if any) was correctly determined.
- ***Referrals:*** TE/GE continues to pursue referrals it receives from internal and external sources, which allege noncompliance by an exempt organization, and pursue taxpayer and interagency referrals, including information items from sources within and outside the IRS that allege noncompliance or inappropriate claims for overpayment of rebates and tax credits by an exempt organization.
- ***Financial Assistance Policy Compliance:*** TE/GE will continue compliance checks and "soft letters" to determine whether tax-exempt hospital organizations are complying with the financial assistance policy requirements under Section 501(r)(4).

In connection with the 2020 Letter's release, Tamera Ripperda, the recently appointed TE/GE Commissioner, also noted that the IRS intends to introduce a new electronic version of Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*. The new electronic version is intended to enhance efficiency, which would allow, for example, a hospital applicant to jump automatically to the portion of the form applicable to hospitals (i.e., Schedule C) without having to leaf through inapplicable pages.

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