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# Changes to the Form 990 for 2012

March 7, 2013

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## ***In brief***

Each year the IRS revises the Form 990, Return of Organization Exempt From Income Tax, and the accompanying instructions. Changes to the form and instructions for tax year 2012 add clarity and also alter specific reporting requirements in a number of ways that range from subtle to significant. As in prior years, reporting of tax exempt bonds in Schedule K and hospital reporting in Schedule H were areas of focus for the IRS for tax year 2012. Notable changes were also made to core form instructions on reporting income and assets attributable to joint ventures, reporting supplemental financial information in Schedule D, and reporting certain foreign activities in Schedule F.

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## ***In detail***

### **General Instructions**

#### ***Short Year Returns***

The instructions to the 2012 Form 990 provide that if the organization's short year began in 2012 and ended before December 31, 2012, it may use either the 2011 Form 990 or the 2012 Form 990 to file for the short year. In contrast, the instructions to the 2011 Form 990 provided that if the organization's short year began in 2011 and ended before December 31, 2011, it should use the 2010 Form 990 to file for the short year.

The instructions also clarify that a short period return cannot be filed electronically unless it is a final return for which the "Terminated" box is checked in Item B of the Form 990 Heading.

### ***Financial Statements***

The instructions clarify that only hospital organizations should attach their most recent audited financial statements to Form 990.

### ***Part IV - Checklist of Required Schedules***

#### ***Lines 15 and 16 - Foreign Grants***

The instructions clarify when an organization should complete Schedule F, Parts II and III, based on grants or other assistance to foreign organizations or individuals. The 2012 instructions provide that an organization should check "Yes" on Line 15 if it reported in Part IX more than \$5,000 in grants and other assistance to any foreign organization or entity, or to a US organization or individual *for the purpose of providing*

*grants or other assistance to a designated foreign organization or organizations.*

The 2011 instructions provided that an organization should answer "Yes" to Line 15 if the organization reported more than \$5,000 in grants or other assistance to any organization or individual located outside the United States, or to any organization or entity located inside the United States *for foreign activity.*

The 2012 instructions provide that an organization should check "Yes" on Line 16 if it reported in Part IX more than \$5,000 aggregate in grants and other assistance to any foreign organization or entity and to US organizations or individuals *for the purpose of providing grants or other assistance to a designated foreign organization or organizations.*

***Lines 33 and 34 - Related Organizations***

The instructions clarify that related S corporations, as well as related C corporations, should be reported in Schedule R, Part IV.

***Part VI - Governance, Management, and Disclosure******Line 3 - Delegation of Management Duties***

The instructions specify that an organization that answers "Yes" to Part VI, Line 3, should provide the following information in Schedule O:

- The name(s) of the management company or companies or other person(s) performing management duties;
- A description of the services provided to the organization;
- Any of the organization's current or former officers, directors, trustees, key employees, and highest compensated employees who were compensated by the management company; and
- The amounts of compensation such as individuals received from the management company.

***Line 18 - Public Disclosure of Forms 1023, 1024, 990, and 990-T***

The form now includes a new checkbox, "Other (explain in Schedule O)," in addition to "Own website," "Another's website" and "Upon request."

***Part VII - Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors******Section A, Column (B) - Average Hours Devoted to the Organization***

The form provides space for reporting of average hours per week worked for related organizations. Hours worked for related organizations were reported in Schedule O on the 2011 form.

***Section A, Column (F) - Other Compensation***

The instructions provide an example of how to report benefits provided through a self-insured medical reimbursement plan.

***Section B - Independent Contractors***

The instructions clarify that insurance providers should not be reported as independent contractors.

***Part VIII - Statement of Revenue and Part X, Balance Sheet******Amounts from Joint Ventures***

The 2011 instructions provided that an organization should report its distributive share of the income and assets of a joint venture in accordance with the Form 1065, Schedule K-1, for the joint venture's tax year ending with or within the organization's tax year. In March 2012, the IRS indicated that instructions requiring Schedule K-1 reporting of joint venture financial information would be optional for 2011. The 2012 instructions do not require organizations to report this information using Schedules K-1; rather, organizations may report according to their books and records.

***Part VIII - Statement of Revenue******Amounts Reported on Form 1099-K***

The instructions clarify how amounts received by payment card and third party network transactions should be reported.

***S Corporation Allocations***

The instructions clarify that a section 501(c)(3) organization that is an S corporation shareholder must treat all allocations of income from the S corporation as unrelated business income and that gain on the disposition of S corporation stock is also treated as unrelated business income.

***Part IX - Statement of Functional Expenses******Line 11g - Fees for Services (Non Employees) - Other***

The instructions require that if the amount on Line 11g exceeds 10% of total functional expenses, the organization must list the type and amount of each Line 11g expense in Schedule O.

***Part XI and Schedule D, Part XI - Reconciliation of Net Assets to Audited Financial Statements***

Part XI of the Core Form 990 has been expanded to include new lines formerly included in Schedule D, Part XI, for net unrealized gains (losses) on investments, donated services and use of facilities, investment expenses, and prior period adjustments. Schedule D, Part XI has been removed.

***Glossary***

The "Disqualified person" definition is revised to clarify that if the 5-year disqualification period ended within the organization's tax year, it may treat the person as disqualified for the entire year.

"Program-related investments" was removed from the definition of "Grants and other assistance"

"Professional fundraising services" definition was revised to include preparation of applications for grants or other assistance.

### **Schedule A - Public Charity Status**

#### ***Part I, Line 11h, Column (vii) - Supporting Organizations***

The instructions clarify that monetary support to a supported organization may include making payments to or for the use of members of the charitable class benefited by the supported organization, and to 501(c)(3) public charities operated, supervised, or controlled directly by or in connection with the supported organization.

#### ***Part II - Support Schedule***

The instructions clarify that Medicare and Medicaid payments are treated as gross receipts from patients rather than as contributions from the government payer for purposes of the public support test.

### **Schedule B - Contributors**

#### ***Aggregated Contributions***

The instructions clarify that a filing organization must include each contribution included on Form 990, Part VIII, Line 1, in calculating a contributor's total contributions and determining whether that contributor must be reported on Schedule B.

#### ***Pledges of Noncash Contributions***

The instructions clarify that if an organization that uses an accrual method of accounting reports a pledge of noncash property in Form 990, Part VIII, Line 1, it must include the value of that contribution in determining whether the contributor must be reported in Schedule B even if the

organization did not receive the property during the tax year.

### **Schedule D - Supplemental Financial Statements**

#### ***Part I - Donor Advised Funds and Similar Accounts***

The instructions clarify that donor advised funds are not limited to funds or accounts that meet definition of "funds" under generally accepted accounting principles.

The instructions clarify that aggregate grants from donor advised funds and other similar funds or accounts include both grants outside the organization and transfers within the organization.

#### ***Part X - Other Liabilities***

The instructions clarify that organizations required to complete Part X must provide the text of the note in, or footnote to, its financial statements regarding the organization's liability for uncertain tax positions, regardless of country-specific accounting standards (e.g., GAAP or IFRS).

#### ***Part XI- Reconciliation of Net Assets to Financial Statements***

As described above, Schedule D, Part XI, has been eliminated. Part XI of the Core Form 990 is used for reconciliation of changes in net assets from Form 990 to audited financial statements.

### **Schedule F - Activities Outside the United States**

#### ***Program-Related Investments***

The instructions now specify that activities conducted outside of the United States include program-related investments. Program-related investments are no longer included under the definition of "grants and other assistance."

The book value of program-related investments must be included in Part I, Column (f).

#### ***Part II- Grants and Other Assistance to Organizations Outside the US***

The instructions clarify that if a grant recipient has no foreign office, then the region where the grant funds were or will be used should be recorded in Column (c).

### **Schedule H - Hospitals**

#### ***Part III - Bad Debt, Medicare, & Collection Practices***

The instructions to Section A, Line 4, provide that hospital organization may either provide the footnote from the organization's audited financial statements on bad debt expense in Part IV or, alternatively, report the page number(s) on which the footnote or footnotes appear in the organization's financial statements (which must be attached to the return).

#### ***Part V - Facility Information***

The instructions clarify that a hospital organization may treat multiple buildings operated under a single state license as a single hospital facility for purposes of reporting in Schedule H.

The instructions under Part V, Section B, were changed to provide that if a hospital organization that operates more than one hospital facility is able to check the same checkboxes for all Part V, Section B, for more than one hospital facility, it may file a single Section B for all facilities in that facility reporting group.

New Line 8(a) was added to require a hospital organization to disclose if it was liable for the \$50,000 excise tax under section 4959 for failure to conduct a community health needs assessment and adopt an implementation strategy as required

under 501(r)(3). If the organization answers "Yes" to Line 8(a), then it must answer 8(b), regarding whether it filed a Form 4720, Return of Certain Excise Taxes under Chapters 41 and 42 of the IRC. The organization must report the total amount of excise tax the organization reported on Form 4720 in Line 8(c). Note: questions about community health needs assessments (Lines 1 through 8) are optional for any tax year beginning before March 24, 2012.

Line 21 (2011 Line 20) asks whether the hospital facility charged more than the amounts generally billed to individuals who had insurance covering such care to an individual who was FAP-eligible. The instructions clarify that the hospital facility may check "No" if it charged more than the amounts generally billed to an individual who had not submitted a complete FAP application to the hospital facility as of the time of the charge, and the hospital facility corrected the bill within a reasonable period of time after learning the individual was eligible.

### ***Schedule J - Compensation Information***

#### ***Part II - Officers, Directors, etc. Compensation Detail***

Organizations are now required to report the titles of individuals listed in Schedule J, Part II, Column A.

The instructions clarify that in addition to earnings, losses in a substantially vested nonqualified defined contribution plan subject to section 457(f) must be included in Column (B)(iii).

The instructions for Column (C) provided a fourth example regarding the reporting of accrued deferred compensation under a nonqualified defined benefit plan.

### ***Schedule K - Tax-Exempt Bonds***

#### ***Part III - Private Business Use***

The instructions to Line 4 include additional information on how the average annual percentage of private business use is determined.

New Line 7 asks whether the bond issue meets the private security or payment test.

New Line 8a asks whether there has been a sale or disposition of any of the bond-financed property to a nongovernmental person other than a 501(c)(3) organization. If Line 8a is answered "Yes", the organization is required to enter the percentage of bond-financed property sold or disposed of in Line 8b and indicate whether there was any remedial action taken pursuant to IRS regulations in Line 8c.

New Line 9 asks whether the organization established written procedures to ensure that all nonqualified bonds of an issue are remediated in accordance with the requirements under IRS regulations.

#### ***Part IV - Arbitrage***

If the organization answers "No" to Line 1, indicating Form 8038-T has been filed for a bond issue, the organization now must provide additional information about arbitrage rebate requirements in new Lines 2a-c.

New Line 7 requires an organization to indicate whether the organization has established written procedures to monitor compliance with the arbitrage, yield restriction and rebate requirements of section 148. An organization should answer "Yes" only if the procedures applied to the bond issue during the 12-month period used to report on the bond issue.

### ***Schedule L - Transactions with Interested Persons***

#### ***Part I - Excess Benefit Transaction***

Organizations are now required to identify the relationship between the disqualified person and the organization in new Column (b).

#### ***Part II - Loans to and/or From Interested Persons***

New Columns (b) and (c) were added to require the organization to identify the relationship between the interested person and the organization and to describe the purpose of the loan.

#### ***Part III - Grants or Assistance Benefiting Interested Persons***

New Columns (d) and (e) were added for organizations to describe the type of assistance provided to interested persons and the organization's purpose in providing assistance to the interested person.

#### ***Part IV - Business Transactions Involving Interested Persons***

The instructions clarify that where a bank is an interested person, deposits into or withdrawals from a bank account in the ordinary course of business on the same terms as the bank offers to the general public are not business transactions that must be reported.

The instructions also clarify when a nonprofit organization is more than 35% controlled for the purposes of Part IV.

### ***Schedule R - Related Organizations***

#### ***Relationships***

The 2012 instructions clarify what information a section 501(c)(9) voluntary employees' beneficiary association (VEBA) must report with respect to Sponsoring Organizations and Contributing Employers.

***Control***

The instructions provide three additional examples concerning constructive control through attribution rules under section 318.

***Part IV - Organizations Taxable as a Corporation or Trust***

New Column (i) requires organizations to indicate whether related organizations taxable as corporations or trusts are section 512(b)(13) controlled entities.

***Part V - Transactions with Related Organizations***

New Line 1f requires organizations to indicate whether they received dividends from related organizations.

Click [here](#) for 2012 Form 990 and instructions.

### ***Let's talk***

For a deeper discussion of how this issue might affect your business, please contact:

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