

# Client Alert

Latham & Watkins  
Tax Department

## IRS Announces Temporary Exemption from Certain Form 990 Reporting Requirements for Certain Tax-Exempt Hospitals

The Internal Revenue Service has announced that Part V, Section B of Schedule H to Form 990 (Section B) is optional for certain tax-exempt hospital organizations (hospital organizations) for the 2010 tax year.

The recently enacted Patient Protection and Affordable Care Act (the Affordable Care Act) added several requirements that Section 501(c)(3) hospital organizations must satisfy in order to maintain their tax-exempt status. In particular, the Affordable Care Act added Section 501(r) to the Internal Revenue Code which requires hospital organizations to:

- Prepare certain "community health needs assessments" on a periodic basis
- Adopt or maintain a "financial assistance policy" meeting certain requirements
- Limit amounts charged to certain low income service recipients for necessary services
- Comply with various new rules regarding the use of certain billing and collection procedures

For more information about these requirements, please see our previous publication, *Recent Legislative Changes Affecting Tax-Exempt Hospitals*, available at [http://www.lw.com/upload/pubContent/pdf/pub3448\\_1.pdf](http://www.lw.com/upload/pubContent/pdf/pub3448_1.pdf).

In response to the Affordable Care Act, Section B was added to the Form 990 information return generally required to be filed with the IRS on an annual basis by tax-exempt organizations. Section B is intended to allow the IRS to determine a hospital organization's compliance with the requirements of Internal Revenue Code Section 501(r).

IRS Announcement 2011-37 provides that Section B will be optional for the 2010 tax year. The Announcement also provides that no penalties will apply to hospital organizations that opt not to complete Section B when filing their 2010 Form 990s. All other parts of Schedule H, including Sections A and C of Part V must still be completed. In addition, hospital organizations with taxable years beginning after March 23, 2010 are required to submit their most recent audited financial statements regardless of whether Section B is completed.

The entire text of Announcement 2011-37 is available on the IRS website at <http://www.irs.gov/pub/irs-drop/a-11-37.pdf>. Tax-exempt entities to which Announcement 2011-37 applies are advised to consult their tax advisors regarding the applicability and effect of Announcement 2011-37 in light of their specific circumstances.

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For further information regarding Announcement 2011-37, please contact David Kahn or Samuel Greenberg at +1.213.891.1234, or any of the attorneys listed below.

**David O. Kahn**

+1.213.891.8675  
david.kahn@lw.com  
Los Angeles

**Samuel T. Greenberg**

+1.213.891.8587  
samuel.greenberg@lw.com  
Los Angeles

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**Abu Dhabi**

Villiers Terblanche  
+971.2. 495.1700

**Barcelona**

Jordi Domínguez  
+34.93.545.5000

**Beijing**

Allen C. Wang  
+86.10.5965.7000

**Boston**

David O. Kahn  
+1.617.948.6000

**Brussels**

Howard Rosenblatt  
+32.2.788.6000

**Chicago**

Diana S. Doyle  
+1.312.876.7700

**Doha**

Villiers Terblanche  
+974.4406.7700

**Dubai**

Villiers Terblanche  
+971.4.704.6300

**Frankfurt**

Hans-Jürgen Lütt  
Anders Kraft  
+49.69.6062.6000

**Hamburg**

Tobias Klass  
Götz T. Wiese  
+49.40.4140.30

**Hong Kong**

Joseph A. Bevash  
+852.2522.7886

**Houston**

C. Timothy Fenn  
+1.713.546.5400

**London**

Daniel Friel  
+44.20.7710.1000

**Los Angeles**

Samuel R. Weiner  
Pardis Zomorodi  
+1.213.485.1234

**Madrid**

Jordi Domínguez  
+34.91.791.5000

**Milan**

Fabio Coppola  
+39.02.3046.2000

**Moscow**

Christopher J. Allen  
+7.495.785.1234

**Munich**

Thomas Fox  
Stefan Süß  
+49.89.2080.3.8000

**New York**

**New Jersey**  
David S. Raab  
Lisa G. Watts  
+1.212.906.1200

**Orange County**

David W. Barby  
+1.714.540.1235

**Paris**

Olivia Rauch-Ravisé  
+33.1.40.62.2000

**Riyadh**

Mohammed Al-Sheikh  
+966.1.207.2500

**Rome**

Fabio Coppola  
+39.06.98.95.6700

**San Diego**

Laurence J. Stein  
+1.619.236.1234

**San Francisco**

Kirt Switzer  
+1.415.391.0600

**Shanghai**

Rowland Cheng  
+86.21.6101.6000

**Silicon Valley**

Kirt Switzer  
+1.650.328.4600

**Singapore**

Mark A. Nelson  
+65.6536.1161

**Tokyo**

Hisao Hirose  
+81.3.6212.7800

**Washington, D.C.**

Joseph D. Sullivan  
Cheryl M. Coe  
+1.202.637.2200