



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

Date: April 20, 2018

Number: **201829017**
Release Date: 7/20/2018

Tax Year Ending:

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:
(Phone)
(Fax)

UIL: 501.03-00

CERTIFIED MAIL – RETURN RECEIPT

Dear _____ :

This is a final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(3) effective October 1, 20XX. Your determination letter dated April 28, 19XX is revoked.

The revocation of your exempt status was made for the following reason(s):

Organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) must be both organized and operated exclusively for exempt purposes. A hospital organization must also comply with IRC 501(r) in order to be treated as described in IRC 501(c)(3). You are not in compliance with any of the provisions imposed under IRC 501(r). You are a "dual status" hospital which is a governmental hospital that is also exempt under IRC 501(c)(3). You will retain your status as a governmental hospital upon the loss of your status as exempt under IRC 501(c)(3).

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment

by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

**United States Tax Court
400 Second Street, N.W.
Washington, D.C. 20217**

**U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20439**

**U.S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, D.C. 20001**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

**Maria Hooke
Director, EO Examinations**

**Enclosure:
Publication 892**



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations

Date: September 18, 2017

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact / ID Number:

Employee ID:

Contact numbers:

Telephone:

Fax:

Manager's Name / ID Number:

Employee ID:

Manager's Contact Number:

Response Due Date:

United Parcel Service – Proof of Delivery

Dear _____ :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

Phone:
Fax:

For additional information

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Maria Hooke
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 20XX

Issue:

Whether the tax-exempt status of _____ should be revoked for its failure to comply with provisions of Internal Revenue Code § 501(r).

Facts:

_____, _____ or _____, is a governmental hospital and an internal revenue code (IRC) § 501(c)(3) exempt organization as well. IRS records show they submitted Form 1023 seeking tax-exempt status under IRC § 501(c)(3) during April of 19XX. Per the application the entity was created jointly by the City of _____, _____ and _____ County, _____. The governing document is a hospital contract between the parties which addresses the establishment and funding of the hospital jointly, 0% each, by the municipalities. Article X of the hospital contract states the hospital will be supervised, governed by a five-member Board of Trustees. Each municipality will appoint two trustees with the fifth trustee being appointed jointly by the municipalities.

The entity's initial determination letter was issued April 28, 19XX granting exemption under IRC § 501(c)(3). Upon expiration of the advance ruling period a final determination letter was issued June 30, 19XX stating they were not a private foundation because they are described in IRC § 170(b)(1)(A)(iii) as a hospital.

_____ was founded in 19XX as _____ Hospital. During 20XX major renovations were made to the hospital which included the addition of three new patient floors, a new surgical intensive care unit, new private short stay surgery rooms, new private heart catheterizations rooms, new surgery recovery positions, new operating rooms, and new medical office suites. In 20XX _____ opened its newly constructed 0 square foot addition which included a new Emergency Department, Cardiology area, Lab area and centralized registration. _____, a 0 bed acute care facility, is a general medical and surgical hospital serving residents in _____ County, the five surrounding counties in northeast _____, and three counties in southern _____. The entity's operations have more than doubled during its existence.

_____ workforce, in excess of 0 persons, has nearly doubled over the past decade making them the number one employer in _____ County. The employees are held to a high standard of behavior as they are critical in _____ quest to provide quality care to their patients.

_____ states on its website they are committed to improving the health of the communities they serve by providing the highest quality care and patient experience imaginable. To achieve this goal _____ employs over 0 doctors who provide expertise in more than 0 medical specialties. Their emergency room operates 24 hours daily and they own or are affiliated with at least 0 clinics the provide that following services:

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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- **Behavioral Health** - Behavioral Health is a 0 bed inpatient adult and senior psychiatric unit located on the Floor North at , consisting of 0 geropsychiatry beds and 0 adult beds.
- **Cancer treatment** - The Cancer Center at offers state-of-the-art radiation therapy technology and imaging, which allows us to collaborate and focus on your care and treatment. We offer the latest advances in cancer care and complete information on prevention, screenings and cancer care education.
- **Endocrinology**
- **Heart and Vascular** - The Critical Care Unit is a 0 bed unit that combines coronary and intensive care. This unit cares for patients whose condition requires critical and medical nursing intervention.
- **Nephrology**
- **Orthopedic Center**
- **Pediatrics**
- **Plastic Surgery**
- **Radiology**
- **Rehabilitation**
- **Respiratory Care**
- **Sleep Lab**
- **Surgical Services**
- **Women's Health**
- **Wound and Hyperbaric Center**
- **Critical Care**
- **Emergency Medical Services** - EMS is a state licensed advanced life support ambulance service that was founded in 19XX and was the first nationally recognized EMT service in the state. EMS employs 0 paramedics and EMT's that respond to over 0 calls annually.
- **Home Health and Hospice**
- **Laboratory Services**
- **Express Care**

was selected for examination for possible deficiencies relative to IRC § 501(r) which imposes additional requirements on hospitals identified as tax-exempt under IRC § 501(c)(3) per provisions of the Affordable Care Act (ACA). does not have a Form 990 filing requirement by virtue of its status as a governmental entity; however, that does not preclude its adherence to statutes enacted in response to the ACA for IRC § 501(c)(3) hospitals.

Since the entity is not required to file Form 990, information reported on Schedule H of that return was sought from other sources. A review of the entity's website did not provide the data, nor was there a link or indication of where the data was located. Other searches were performed which also resulted in § 501(r) data not being located; therefore, the searches performed identified

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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deficiencies relevant to the ACA requirements and IRC § 501(r). Specifically, preliminary review of the entity did not locate its:

- Community Health Needs Assessment, CHNA, on website, nor was there a link or instructions identifying where the CHNA was located.
- Implementation Strategy (IS) addressing the CHNA
- Financial Assistance Policy (FAP)
- Emergency Medical Care Policy (EMCP)
- Billing and Collection Procedures

Letter 3611 was mailed to , along with several Information Document Requests, IDRs, to obtain information relative to the items noted above. When there was no response to the correspondence mailed to , telephone calls were made to administrative personnel to discuss the documents submitted to them. When none of the personnel contacted answered the calls, messages were left requesting a call from the CEO, CFO, and Director of Finance. The Director of Finance contacted the agent and subsequently a phone call was received from the CEO, . After speaking with , he became the main contact for the entity.

did state had a CHNA prepared to identify the needs in their community and found they were already addressing issues identified in the CHNA. did not complete an Implementation Strategy, nor have they complied with the other provisions of IRC § 501(r). The CHNA conducted for 20XX was posted on their website at some point subsequent to being contacted about the existence of the document and discussions germane to the ACA requirements.

IRC § 501(r) states a hospital must comply with the items noted above and addressed in the IDRs mailed to to retain tax-exempt status under IRC § 501(c)(3). During discussions with he was advised that IRS records indicate is both a government hospital and an IRC § 501(c)(3) tax exempt hospital. It was explained that governmental hospitals are described as "dual status" entities when they have received a determination letter from the IRS stating they are exempt under IRC § 501(c)(3) as a hospital.

stated he was not aware was exempt under IRC § 501(c)(3). There was discussion regarding why some governmental hospitals prefer to be dual status hospitals. stated none of the reasons discussed are applicable to . They do not offer 403(b) plans as their employees are covered by the retirement plan offered by the state of , they do not need the sales and/or property tax exemption, nor do they receive a discounted rate from the post office.

board had a meeting scheduled and said the issue would be addressed at that time. He subsequently stated that the meeting was held and the board voted to relinquish the 501(c)(3) status of the . He sought guidance on how to terminate their exempt status. Research was conducted and advice sought on the proper procedure to relinquish 501(c)(3)

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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status before contacting . Discussions were held with the CEO and it was determined the best solution was revocation of the entity's 501(c)(3) status.

Law:

IRC § 501(r):

(r) Additional requirements for certain hospitals.--

(1) In general.--A hospital organization to which this subsection applies shall not be treated as described in subsection (c)(3) unless the organization--

- (A) meets the community health needs assessment requirements described in paragraph (3),
- (B) meets the financial assistance policy requirements described in paragraph (4),
- (C) meets the requirements on charges described in paragraph (5), and
- (D) meets the billing and collection requirement described in paragraph (6).

(2) Hospital organizations to which subsection applies.--

(A) In general.--This subsection shall apply to--

(i) an organization which operates a facility which is required by a State to be licensed, registered, or similarly recognized as a hospital, and

(ii) any other organization which the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under subsection (c)(3) (determined without regard to this subsection).

(B) Organizations with more than 1 hospital facility.--If a hospital organization operates more than 1 hospital facility--

(i) the organization shall meet the requirements of this subsection separately with respect to each such facility, and

(ii) the organization shall not be treated as described in subsection (c)(3) with respect to any such facility for which such requirements are not separately met.

(3) Community health needs assessments.--

(A) In general.--An organization meets the requirements of this paragraph with respect to any taxable year only if the organization--

(i) has conducted a community health needs assessment which meets the requirements of subparagraph (B) in such taxable year or in either of the 2 taxable years immediately preceding such taxable year, and

(ii) has adopted an implementation strategy to meet the community health needs identified through such assessment.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 20XX

(B) Community health needs assessment.--A community health needs assessment meets the requirements of this paragraph if such community health needs assessment--

- (i) takes into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health, and
- (ii) is made widely available to the public.

(4) Financial assistance policy.--An organization meets the requirements of this paragraph if the organization establishes the following policies:

- (A) Financial assistance policy.**--A written financial assistance policy which includes--
 - (i) eligibility criteria for financial assistance, and whether such assistance includes free or discounted care,
 - (ii) the basis for calculating amounts charged to patients,
 - (iii) the method for applying for financial assistance,
 - (iv) in the case of an organization which does not have a separate billing and collections policy, the actions the organization may take in the event of non-payment, including collections action and reporting to credit agencies, and
 - (v) measures to widely publicize the policy within the community to be served by the organization.

(B) Policy relating to emergency medical care.--A written policy requiring the organization to provide, without discrimination, care for emergency medical conditions (within the meaning of section 1867 of the Social Security Act (42 U.S.C. 1395dd)) to individuals regardless of their eligibility under the financial assistance policy described in subparagraph (A).

(5) Limitation on charges.--An organization meets the requirements of this paragraph if the organization--

- (A)** limits amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the financial assistance policy described in paragraph (4)(A) to not more than the amounts generally billed to individuals who have insurance covering such care, and
- (B)** prohibits the use of gross charges.

(6) Billing and collection requirements.--An organization meets the requirement of this paragraph only if the organization does not engage in extraordinary collection actions before the organization has made reasonable efforts to determine whether the individual is eligible for assistance under the financial assistance policy described in paragraph (4)(A).

(7) Regulatory authority.--The Secretary shall issue such regulations and guidance as may be necessary to carry out the provisions of this subsection, including guidance relating to what constitutes reasonable efforts to determine the eligibility of a patient under a financial assistance policy for purposes of paragraph (6).

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 20XX

26 C.F.R. § 1.501(r)-1, Treas. Reg. § 1.501(r)-1

§ 1.501(r)-1 Definitions.

Currentness

(a) Application. The definitions set forth in this section apply to §§ 1.501(r)-2 through 1.501(r)-7.

(b) Definitions—(1) Amounts generally billed (AGB) means the amounts generally billed for emergency or other medically necessary care to individuals who have insurance covering such care, determined in accordance with § 1.501(r)-5(b).

(2) AGB percentage means a percentage of gross charges that a hospital facility uses under § 1.501(r)-5(b)(3) to determine the AGB for any emergency or other medically necessary care it provides to an individual who is eligible for assistance under its financial assistance policy (FAP).

(3) Application period means the period during which a hospital facility must accept and process an application for financial assistance under its FAP submitted by an individual in order to have made reasonable efforts to determine whether the individual is FAP-eligible under § 1.501(r)-6(c).

(4) Authorized body of a hospital facility means—

(i) The governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization that operates the hospital facility or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body;

(5) Billing and collections policy means a written policy that includes all of the elements described in § 1.501(r)-4(b)(4)(i).

(6) Date provided means, in the case of any billing statement, written notice, or other written communication that is mailed, the date of mailing. The date that a billing statement, written notice, or other written communication is provided can also be the date such communication is sent electronically or delivered by hand.

(9) Emergency medical care means care provided by a hospital facility for emergency medical conditions.

(10) Emergency medical conditions means emergency medical conditions as defined in section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(11) Extraordinary collection action (ECA) means an action described in § 1.501(r)-6(b)(1).

(12) Financial assistance policy (FAP) means a written policy that meets the requirements described in § 1.501(r)-4(b).

(17) Hospital facility means a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. Multiple buildings operated under a single state license are considered to be a single hospital facility.

(24) Plain language summary of the FAP means a written statement that notifies an individual that the hospital facility offers financial assistance under a FAP and provides the following additional information in language that is clear, concise, and easy to understand:

(vi) A statement of the availability of translations of the FAP, FAP application form, and plain language summary of the FAP in other languages, if applicable.

(29) Widely available on a Web site means—

(i) The hospital facility conspicuously posts a complete and current version of the document on—

(A) The hospital facility's Web site;

(B) If the hospital facility does not have its own Web site separate from the hospital organization that operates it, the hospital organization's Web site; or

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 20XX

(C) A Web site established and maintained by another entity, but only if the Web site of the hospital facility or hospital organization (if the facility or organization has a Web site) provides a conspicuously-displayed link to the Web page where the document is posted, along with clear instructions for accessing the document on that Web site;

(ii) Individuals with access to the Internet can access, download, view, and print a hard copy of the document from the Web site—

(A) Without requiring special computer hardware or software (other than software that is readily available to members of the public without payment of any fee);

(B) Without paying a fee to the hospital facility, hospital organization, or other entity maintaining the Web site; and

(C) Without creating an account or being otherwise required to provide personally identifiable information; and

(iii) The hospital facility provides individuals who ask how to access a copy of the document online with the direct Web site address, or URL, of the Web page where the document is posted.

26 C.F.R. § 1.501(r)-2, Treas. Reg. § 1.501(r)-2

§ 1.501(r)-2 Failures to satisfy section 501(r).

Currentness

(a) Revocation of section 501(c)(3) status. Except as otherwise provided in paragraphs (b) and (c) of this section, a hospital organization failing to meet one or more of the requirements of section 501(r) separately with respect to one or more hospital facilities it operates may have its section 501(c)(3) status revoked as of the first day of the taxable year in which the failure occurs. In determining whether to continue to recognize the section 501(c)(3) status of a hospital organization that fails to meet one or more of the requirements of section 501(r) with respect to one or more hospital facilities, the Commissioner will consider all relevant facts and circumstances including, but not limited to, the following:

(1) Whether the organization has previously failed to meet the requirements of section 501(r), and, if so, whether the same type of failure previously occurred.

(2) The size, scope, nature, and significance of the organization's failure(s).

(3) In the case of an organization that operates more than one hospital facility, the number, size, and significance of the facilities that have failed to meet the section 501(r) requirements relative to those that have complied with these requirements.

(4) The reason for the failure(s).

(5) Whether the organization had, prior to the failure(s), established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements.

(6) Whether the practices or procedures had been routinely followed and the failure(s) occurred through an oversight or mistake in applying them.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 20XX

(7) Whether the organization has implemented safeguards that are reasonably calculated to prevent similar failures from occurring in the future.

(8) Whether the organization corrected the failure(s) as promptly after discovery as is reasonable given the nature of the failure(s).

(9) Whether the organization took the measures described in paragraphs (a)(7) and (a)(8) of this section before the Commissioner discovered the failure(s).

(b) Minor omissions and errors—(1) In general. A hospital facility's omission of required information from a policy or report described in § 1.501(r)-3 or § 1.501(r)-4, or error with respect to the implementation or operational requirements described in §§ 1.501(r)-3 through 1.501(r)-6, will not be considered a failure to meet a requirement of section 501(r) if the following conditions are satisfied:

(i) Such omission or error was minor and either inadvertent or due to reasonable cause.

(ii) The hospital facility corrects such omission or error as promptly after discovery as is reasonable given the nature of the omission or error. Such correction must include establishment (or review and, if necessary, revision) of practices or procedures (formal or informal) that are reasonably designed to promote and facilitate overall compliance with the requirements of section 501(r).

(4) Reasonable cause. For purposes of this paragraph (b), the fact that a hospital facility has established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements prior to the occurrence of an omission or error is a factor tending to show that the omission or error is due to reasonable cause.

(c) Excusing certain failures if hospital facility corrects and discloses. A hospital facility's failure to meet one or more of the requirements described in §§ 1.501(r)-3 through 1.501(r)-6 that is neither willful nor egregious shall be excused for purposes of this section if the hospital facility corrects and makes disclosure in accordance with rules set forth by revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin. For purposes of this paragraph (c), a "willful" failure includes a failure due to gross negligence, reckless disregard, or willful neglect, and an "egregious" failure includes only a very serious failure, taking into account the severity of the impact and the number of affected persons. Whether a failure is willful or egregious will be determined based on all of the facts and circumstances. A hospital facility's correction and disclosure of a failure in accordance with the relevant guidance is a factor tending to show that the failure was not willful.

(d) Taxation of noncompliant hospital facilities—(1) In general. Except as otherwise provided in paragraphs (b) and (c) of this section, if a hospital organization that operates more than one hospital facility fails to meet one or more of the requirements of section 501(r) separately with respect to a hospital facility

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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during a taxable year, the income derived from the noncompliant hospital facility ("noncompliant facility income") during that taxable year will be subject to tax

(2) Noncompliant facility income—(i) In general. For purposes of this paragraph (d), the noncompliant facility income derived from a hospital facility during a taxable year will be the gross income derived from that hospital facility during the taxable year, less the deductions allowed by chapter 1 that are directly connected to the operation of that hospital facility during the taxable year, excluding any gross income and deductions taken into account in computing any unrelated business taxable income described in section 512 that is derived from the facility during the taxable year.

Analysis and Government Position:

The ACA, enacted March 23, 20XX added new, mandatory requirements on hospital organizations to retain their exemption under IRC § 501(c)(3). Most of the provisions were effective upon passage of the ACA. The CHNA requirements became effective for tax years beginning after March 23, 20XX and stated the hospital must conduct a CHNA and implementation strategy at least once every three years for tax years beginning after March 23, 20XX. The entity operates on a fiscal year ending September 30th annually. The CHNA would have be conducted no later than its year ended September 30, 20XX for them to be compliant.

The final regulations were issued on December 31, 20XX effective for tax years beginning after December 29, 20XX and states the documents required must be made widely available on website. This policy was not enforceable for the period examined, but was a requirement when the exam was initiated. Therefore, the data requested should have been on website for the current periods and that would have made some of the documents sought for the year under audit automatically available.

IRC § 501(r) states hospitals required to follow its provisions will not be recognized as an entity described in subsection 501(c)(3) unless it meets the criteria enumerated in subsections 501(r)(1)(A), (B), (C), and (D). Those sections state the entity must have a CHNA, FAP, limit the amounts charged for emergency or other medically necessary care provided to patients eligible for assistance under its FAP, prohibit the use of gross charges, and states the hospital cannot engage in extraordinary collection actions before reasonable efforts have been made to determine whether the patient is eligible for assistance under the hospital's FAP.

IRC § 501(r) further states this law is applicable to organization's that operate a facility required to be licensed, registered, or recognized as a hospital and any other organization determined to have the provision of hospital care as its principal function or purpose constituting the basis for its exemption under subsection 501(c)(3).

Treasury Regulations § 1.501(r)-1 provides definitions of terms pertinent to IRC § 501(r). It provides clarity regarding: amounts that can be charged patients; billing policies; FAP applications; governing body of the hospital; and other pertinent items.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 20XX

Treasury Regulations § 1.501(r)-2 states hospitals failing to meet one or more of the requirements of this section could have its 501(c)(3) status revoked effective the first day of the taxable year in which the failure occurs.

The entity does have a website which we reviewed during the pre-audit phase of the examination and as the exam progressed. The website did not meet the final regulations; nor was there any indication the temporary and/or proposed regulations had been followed or met. The entity performed a CHNA which in their opinion identified issues in the community that were being addressed by them, otherwise none of the provisions of the ACA or IRC § 501(r) were followed.

During conversations with the entity and review of their operations, it was established they were not in compliance with the provision of IRC § 501(r); furthermore, they were not aware of their statutory obligation to do so as _____ was not aware of its exemption under IRC § 501(c)(3).

The entity's CEO stated after discussions with the governing body they had discussed termination of the 501(c)(3) status since they were not aware for its existence, nor was a tangible benefit being derived from the status. The entity was established as governmental hospital and has been operating as such. They were concerned about the assessment of penalties due to their lack of compliance.

Upon review of the procedures to terminate, which results in a prospective action and a subsequent request for retroactive termination of the exempt status, along with discussions with counsel, it was determined revocation of their exempt status was applicable and appropriate based upon the facts.

The entity will retain its status as a governmental hospital upon loss of its status as a public charity.

Taxpayer's Position:

The taxpayer has stated they will agree to revocation of their status as an IRC § 501(c)(3) hospital since they would remain a governmental hospital.

Conclusion:

_____ is a hospital that was selected for an examination to determine its compliance with the ACA provisions under IRC § 501(r). The entity is a governmental hospital that is also exempt under IRC § 501(c)(3) of the code. This type entity is referred to as a "dual status" hospital. It was determined the entity is not in compliance with any of the provisions imposed under § 501(r) of the code. The entity stated they were not aware of the § 501(c)(3) exemption and were not availing themselves of benefits afforded under that subsection; therefore, revocation of their exempt status is proposed effective for the year beginning October 1, 20XX as this is the first taxable year failure to comply with § 501(r) was noted.