

Tax Update

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Learning Objectives

- 1 Nonqualified Deferred Compensation Plans – W-2 vs 990
- 2 Tax Credits – Inflation Reduction Act (IRA)
- 3 Form 990 Red Flags & Best Practices

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POLLING

Does your organization have a nonqualified deferred compensation plan?

- A Yes, 457(b) plan
- B Yes, 457(f) plan
- C Yes, both 457(b) and 457(f) plan
- D No or I don't know

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Nonqualified Deferred Compensation (NQDC) Plans

W-2 vs Form 990



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Comparison of NQDC Plans: Deferral and Income Recognition

	457(b) Plan	457(f) Plan
Source of Funds	Employee: Deferral of base salary or Employer: Contribution by Hospital (Additional compensation followed by immediate deferral)	Employer only: Hospital may fund the plan through investments or pay amounts due under the plan out of general funds
Deferral Limit	The lessor of 100% of compensation or annual limit, which is \$23,000 for 2024	Essentially no limitation, but must be subject to a substantial risk of forfeiture
Substantial Risk of Forfeiture	Subject to general risk of creditors	Subject to: (1) general risk of credits and (2) work/other requirements established in plan document
Vesting	100% vested at time of deferral	Vested pursuant to schedule as established in the plan document
Recognition of Taxable Compensation	Year of payment; withhold using supplemental wage rate of 22%; 37% for amounts in excess of \$1 million	Year of vesting (whether or not paid); withhold using supplemental wage rate of 22%; 37% for amounts in excess of \$1 million
W-2 Reportable Compensation: Year of Deferral	Box 1 – N/A Box 3 – Yes, subject to Social Security tax Box 5 – Yes, subject to Medicare tax	Box 1 – N/A Box 3 – N/A Box 5 – N/A
W-2 Reportable Compensation: • Year of Payment – 457(b) Plan • Year of Vesting – 457(f) Plan	Box 1 – Yes, subject to FIT withholding Box 3 – No Box 5 – No	Box 1 – Yes, subject to FIT withholding Box 3 – Yes, subject to Social Security tax Box 5 – Yes, subject to Medicare tax

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Comparison of NQDC Plans: Form 990, Part VII Reporting

Form 990 (2023)Page 7

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Check if Schedule O contains a response or note to any line in this Part VII

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year.

- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation. Enter -0- in columns (D), (E), and (F) if no compensation was paid.
- List all of the organization's **current** key employees, if any. See the instructions for definition of "key employee."
- List the organization's five **current** highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (box 5 of Form W-2, box 6 of Form 1099-MISC, and/or box 1 of Form 1099-NEC) of more than \$100,000 from the organization and any related organizations.
- List all of the organization's **former** officers, key employees, and highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations.
- List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations.

See the instructions for the order in which to list the persons above.

Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee.

(A) Name and title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)	(D) Reportable compensation from the organization (W-2/1099-MISC/1099-NEC)	(E) Reportable compensation from related organizations (W-2/1099-MISC/1099-NEC)	(F) Estimated amount of other compensation from the organization and related organizations
(1) _____		<input type="checkbox"/> Officer <input type="checkbox"/> Director/trustee <input type="checkbox"/> Individual trustee or director <input type="checkbox"/> Institutional trustee <input type="checkbox"/> Key employee <input type="checkbox"/> Highest compensated employee <input type="checkbox"/> Former			



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Comparison of NQDC Plans: Form 990, Part VII Reporting

(A) Name and title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)	(D) Reportable compensation from the organization (W-2/1099-MISC/1099-NEC)	(E) Reportable compensation from related organizations (W-2/1099-MISC/1099-NEC)	(F) Estimated amount of other compensation from the organization and related organizations
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	457(b) Plan	457(f) Plan
General requirement for Part VII	<ul style="list-style-type: none"> • Greater of Form W-2, Boxes 1 and 5 • As benefits accrue unless reportable compensation in year accrued 	<ul style="list-style-type: none"> • Greater of Form W-2, Boxes 1 and 5 • As benefits accrue unless reportable compensation in year accrued
Form 990, Part VII, Section A: Year of Deferral	<ul style="list-style-type: none"> • Column D – Yes, ties to W-2 • Column F – No, unless there are unvested benefits not included in W-2 	<ul style="list-style-type: none"> • Column D – No • Column F – Yes, include benefits as accrued even though not vested
Form 990, Part VII, Section A: Year of Payment/Vesting	<p style="text-align: center;">Year of Payment</p> <ul style="list-style-type: none"> • Column D – No, unless plan participant meets definition of former officer or former key employee • Column F – No, benefits are not accruing 	<p style="text-align: center;">Year of Vesting</p> <ul style="list-style-type: none"> • Column D – Yes, vested amounts (whether or not paid) are included in Form W-2 in year of vesting • Column F – No, unless additional benefits are accruing



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Comparison of NQDC Plans: Form 990, Schedule J, Part II Reporting

- General Requirements for Schedule J, Part II:
 - Combined compensation, reported in Form 990, Part VII, Columns D through F, is greater than:
 - \$150,000 for current trustees, directors, officers, key employees, and highest compensated employees (HCEs)
 - \$100,000 for former officer, key employee, or five HCEs
 - \$10,000 for former trustees and directors
 - Reportable Compensation (Form W-2 or Form 1099-NEC) reported on Form 990, Part VII and Schedule J, Part II must agree

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Comparison of NQDC Plans: Form 990, Schedule J, Part II Reporting

Schedule J (Form 990) 2023 Page 2
Part II Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees. Use duplicate copies if additional space is needed.
 For each individual whose compensation must be reported on Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions, on row (ii). Do not list any individuals that aren't listed on Form 990, Part VII.
Note: The sum of columns (B)(i)-(ii) for each listed individual must equal the total amount of Form 990, Part VII, Section A, line 1a, applicable column (D) and (E) amounts for that individual.

(A) Name and Title	(B) Breakdown of W-2 and/or 1099-MISC and/or 1099-NEC compensation	(C) Retirement and other deferred compensation	(D) Nontaxable benefits	(E) Total of columns (B)(i)-(D)	(F) Compensation in column (B) reported as deferred on prior Form 990
	457(b) Plan		457(f) Plan		
Form 990, Schedule J, Part II: Year of Deferral	<ul style="list-style-type: none"> • Column B(i) – Employee deferral of base pay • Column B(ii) – Hospital contribution, if bonus • Column B(iii) – Hospital contribution, if not bonus • Column F – N/A, W-2 Box 5 compensation generally occurs in year of deferral 		<ul style="list-style-type: none"> • Column B(i) – N/A • Column B(ii) – N/A • Column B(iii) – N/A, not vested • Column C – Yes, accrued until vested • Column F – N/A 		
Form 990, Schedule J, Part II: Year of Payment/Vesting	<p style="text-align: center;">Year of Payment</p> <ul style="list-style-type: none"> • Column B(iii) – No, unless Form W-2, Box 1 amounts are reported for former officer, key employee, or five HCEs • Column C – N/A, benefits are not accruing • Column F – Yes, if included in reportable compensation for former reportable employee 		<p style="text-align: center;">Year of Vesting</p> <ul style="list-style-type: none"> • Column D – Yes, vested amounts (whether or not paid) are included in Form W-2 • Column C – Generally “n/a” but situations exist when new benefits accrue while others vest • Column F – Yes, double reporting on Form 990 will happen under a 457(f) plan 		

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Excise Tax on Excess Compensation

- Compensation paid by an exempt organization to a covered employee in excess of \$1,000,000 is subject to a 21% excise tax (under Sec 4960):
 - Tax is paid by the tax-exempt organization
 - Applies to amounts paid by the exempt organization and related organizations, and is therefore, prorated between the tax-exempt organization and the related organization based on compensation of the applicable employee
 - Compensation includes amounts paid from non-qualified deferred compensation plans, including 457(f) plans
 - Must take into consideration the vesting vs actual distributions made with 457(f) plan and when included in W-2 wages – if compensation is vested in one year and paid in another, there must also be an adjustment made
 - Compensation includes the ‘earnings’ of a 457(b) plan - the change in value of the plan during the calendar year
 - If the plan value increases during the year, those ‘earnings’ are included as compensation
 - If the plan value decreases during the year, it is a loss which carries forward to future years to offset future ‘earnings’ of the 457(b) plan

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Excise Tax on Excess Compensation (Continued)

- Compensation paid by an exempt organization to a covered employee in excess of \$1,000,000 is subject to a 21% excise tax (under Sec 4960):
 - Subtraction for taxable portion of group term life included in W-2 wages, this often gets overlooked or ignored, as it is typically a very small amount
 - Golden parachute payments are also included, but only if the amount is in excess of 3 times a “base amount”
 - Must be for terminating employment, otherwise not a parachute payment
 - The “base amount” is generally equal to the average annual compensation for services performed by the employee for the five most recent tax years ending before the date of separation from employment
 - Must take into consideration if all paid at once; if not, must calculate present value of future payments to be included
 - A “covered employee” is one of the top 5 highest compensated employees of the organization for the taxable year or for any preceding year beginning after December 31, 2017

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POLLING

IRA tax credits are intended to incentivize what kind of spending?

- A Energy-efficient/green spending
- B Space exploration
- C Research and development
- D Not sure

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Inflation Reduction Act (IRA)

Tax Credit Opportunities for Tax-Exempt Organizations



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Inflation Reduction Act (IRA) of 2022

- The IRA provides nonprofit, tax-exempt entities, as well as state, local, & tribal governments, the opportunity to obtain benefits from investments in clean energy.
- To further promote new clean energy investments, the IRA allows these entities to receive certain tax credits as direct payments from the IRS, simplifying access to key incentives & supporting investments to support the environment in their communities
- First time, for tax-exempt hospitals, to have tax parity with for-profit industry counterparts, with clean energy/green tax credits

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Credit Programs Available to Tax-Exempt Organizations

Credit	Code Section
Alternative Fuel Vehicle Refueling Property Credit	30C
Renewable Energy Production Credit	45
New Energy Efficient Home Credit	45L
Carbon Oxide Sequestration Credit	45Q
Zero-Emission Nuclear Power Production Credit	45U
Clean Hydrogen Production Credit	45V
Credit for Qualified Commercial Clean Vehicles	45W
Advanced Manufacturing Production Credit	45X
Clean Electricity Production Credit	45Y
Clean Fuel Production Credit	45Z
Renewable Energy Investment Credit	48
Qualifying Advanced Energy Project Credit	48C
Clean Electricity Investment Credit	48E

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Direct Pay of Tax Credits

- Qualification
 - Property and/or project eligibility
- How to Monetize (Direct Pay)
 - In the past, tax-exempt entities often have no tax liability, so a nonrefundable tax credit might have limited usefulness
 - Inflation Reduction Act (IRA) created a new mechanism called “direct pay” that functions in many ways like a refundable credit
 - Pre-file for registration number based on support gathered in qualification stage; applies to all credits subject to elective/direct pay
 - The election must be made no later than the due date, including extensions, for the tax return of the year in which the election is made (or a date determined by Treasury if the eligible entity is not required to file a return), but in no event earlier than 180 days after the enactment of Section 6417

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Direct Pay of Tax Credits (Continued)

- How to Monetize (Continued)
 - Claim on a timely filed return, including extensions
 - Filed on tax return year property/project is placed in service
 - Amended return or a late filed return is not allowed for a missed election
 - Eligible tax-exempt organization makes a Section 6417 “direct pay” election. The credit will be treated as a payment against tax & refunded to the organization if there is no UBIT
 - Inflation Reduction Act offers an opportunity to turn the credits into cash
 - The credits may be reduced if tax-exempt bonds are used to finance the project

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Credit Amounts

- Most credits have a base credit & bonus credit structure. For example, if you meet the prevailing wages & labor standards, for some credits you can raise the credit by a multiplier of five.
- The amount of the tax credit varies depending on the type of project & program, the date construction of the project begins, the date the project is placed in service, & other factors
- Obtain interim financing, as direct pay for the credits is not instantaneous

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Requirements – Prevailing Wage

- The wage determination is the list of basic hourly wage & fringe benefit rates for each classification of laborers & mechanics in a predetermined geographic area for a particular type of construction. The information can be found at www.sam.gov. If the information is not available, the taxpayer must contact Wage & Hour Division to obtain
- To satisfy the Apprenticeship Labor Hour Requirements, apprentices must work a certain % of the total labor hours based on when construction began of the qualified facility
 - Construction began before January 1, 2023: 10% of total labor hours
 - Construction began after December 31, 2022 & before January 1, 2024: 12.5% of total labor hours
 - Construction begins after December 31, 2023: 15% of total labor hours

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Section 179D

Energy Efficient Commercial Buildings Deduction



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179D Deduction - Introduction

- According to Section 179D(c)
 - New Construction
 - Retrofits – Installation of:
 - “Interior lighting systems,
 - The heating, cooling, ventilation, & hot water systems, or
 - The building envelope”
 - “Must be part of a plan designed to reduce the total energy & power costs with respect [to this property]”
 - “Reference point for % energy cost reduction: Building meeting minimum requirements of “ASHRAE”

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179D Deduction – Eligibility & Cap

- Eligibility – Greatly broadened, newly including designers of buildings owned by (among others)
 - Nonprofit Organizations
 - Private Foundations
 - Hospitals
- Shift from lifetime cap to deduction eligible
 - Every three years if privately owned
 - Every four years if deduction to a party other than the taxpayer
- ASHRAE – building is compared to the same building being constructed to the minimum requirements of a specified ASHRAE Reference Standard
 - The version of the standard depends on the year when the building is placed in service

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179D Deduction - Calculation

- New law applies to property placed in service after 12/31/22
- Deduction does not exceed the product of
 - Square footage of the building &
 - “Applicable dollar value”
- Structure of new deduction: “base” & “bonus” deduction
 - Base – Sliding scale of \$0.50 per square foot for energy savings of 25% & up to \$1 per square foot for energy savings of 50% or greater
 - Bonus – Sliding scale of \$2.50 per square foot for energy savings of 25% & up to \$5 per square foot for energy savings of 50% or greater
 - Wage & apprenticeship requirements, based on % energy reduction
 - Overall – potential increase from \$1.88 (old law) to \$5 (new law)

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How to Monetize

- Historically, tax-exempt & government entities often are unable to utilize deductions, so Congress has allowed most government entities to allocate their deduction to the designer of the building, effectively “selling” the deduction via contract negotiations
 - Architects, engineers, & other designers (general contractors)
- Tax-exempt organizations are now included due to the Inflation Reduction Act
- Parameters need to be established on allocation (sale) of deduction – it is considered a tax asset

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Examples in Tax-Exempt Hospitals



Installing solar panels on the roof of facilities



Building new energy-efficient buildings



Ongoing improvements to existing facilities



Installing charging stations for electric vehicles



Purchase a new fleet of clean vehicles



Energy efficient batteries for energy storage

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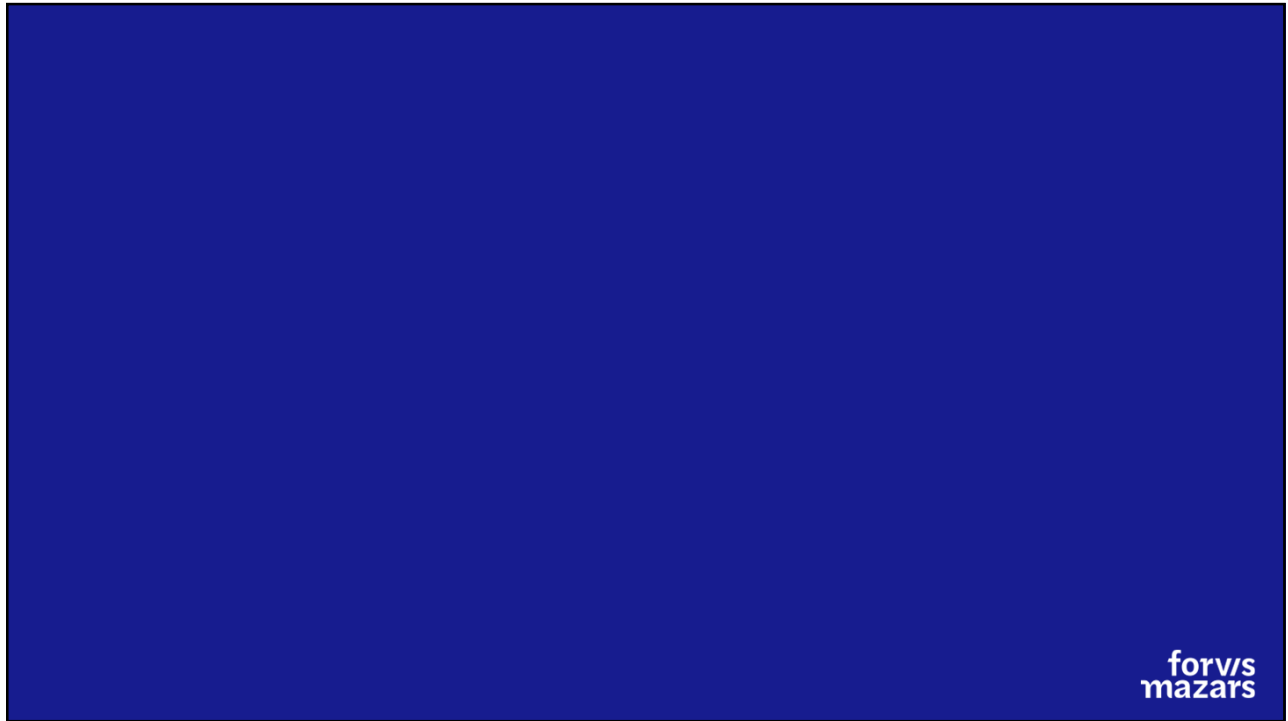
POLLING

The 179D deduction is a refundable tax credit.

- A True
- B False
- C Not sure

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Form 990

Red Flags & Best Practices

A photograph of a female healthcare professional, likely a nurse or doctor, wearing blue scrubs and a stethoscope. She is smiling and looking towards a patient whose back is to the camera. The setting appears to be a clinical or hospital environment.

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Form 990

- Form 990 is an “informational return” not a “tax return”
 - Form 990 must be complete & accurate
 - Form 990 must be available for public inspection
 - Form 990 must be filed electronically

- There are substantial penalties for non-compliance
 - Late filing penalties
 - Revocation of exempt status for those failing to file for 3 consecutive years

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Form 990 – Core Form

- **Part III: Program Service Accomplishments**
 - Describes in detail the mission and types of programs the organization conducts including revenues and expenses
- **Part IV: Checklist of Required Schedules**
 - Various questions to help pinpoint exactly what schedules are required to be attached to the return
- **Part V: Statements Regarding Other IRS Filings & Tax Compliance**
 - Questions about foreign banking, the need to file a 990-T, items the IRS will need to know about
 - Have you completed the appropriate tax forms?
 - Payroll tax issues – appropriate reporting

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Form 990 – Core Form

- Part VI: Governance, Management & Disclosure
 - Various questions and disclosures that provide more detail into who manages the organization and policies in place (all best practices)
 - Are these trick questions? Yes and No
 - Meant to shame – Do you have X policy?
 - Why is the IRS asking about governance?
- Part VII: Compensation of Officers, Directors, Key Employees, Highest Compensated Employees & Independent Contractors
- Part VIII, IX, X: Financials

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Form 990 Red Flags

- Missing Information
 - Form 990, Part IV – Checklist of Required Schedules triggers other schedules
 - Schedules A & O are always required
 - Missing Required Schedules is considered an incomplete return

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Form 990 Red Flags

- Form 990, Part IV, Line 3
 - Political Activities Prohibited
 - Different from Lobbying
 - Prohibited from engaging in any political campaign activity
 - Subject to Excise Taxes
 - Could Jeopardize Tax-Exempt Status
 - Only insubstantial lobbying activity is allowed by 501(c)(3) entities

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Form 990 Red Flags

- Form 990, Part IV, Line 25a-b
 - Excess Benefit Transactions
 - Excess value given to disqualified persons
 - Disqualified persons are people with substantial influence

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Form 990 Red Flags

- Form 990, Part V, Line 3b
 - Unrelated Business Income
 - Required to file 990-T if Gross Income is over \$1,000, even if there is a net loss
 - Sidenote: Don't forget your state filings

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Form 990 Red Flags

- Form 990, Part V, Line 15
 - Compensation over \$1,000,000
 - Triggers excise tax under Section 4960
 - File Form 4720
 - Considered Reg Flag if checked Yes and Form is not filed
 - Excluded from excise tax: persons providing medical services
- Form 990, Part VI, Line 5
 - Significant Diversion of Assets
 - Unauthorized conversion of assets
 - Embezzlement, fraud, theft
 - Could result in excess benefit transaction

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Public Disclosures

- Form 990 & 990-T available to public
- All Schedules except Schedule B are included
- Who is looking at your Form 990?
 - Congress
 - IRS
 - Media
 - General Public
 - Donors
 - Vendors
 - State Attorney General
 - Other non-profits in your industry
 - Other watchdog groups
 - Future employees
 - Your Board (hopefully!)

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Good Governance Practices

- Review of the Form 990 by the Board
- Written Conflict of Interest Policy
- Written Whistleblower Policy
- Written Document Retention & Destruction Policy
- Documented process for compensation determination for officers & key employees

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Common Reporting Errors

- 990-N eligibility
 - \$50,000 gross receipts
 - 3-year average
 - 509(a)(3) supporting organization cannot file

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Common Reporting Errors

- “Trick” questions
 - Did you endorse candidates for office?
 - Did you file Form 8282 when required?
 - Did you complete Schedule O?

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Common Reporting Errors

- Missing applicable schedules
 - Answers to Part IV, Checklist of Required Schedules shows which schedules should be attached
 - IRS can deem missing schedules an incomplete return and assess late filing penalties
 - Note Part IV, line 38, must be “yes” and Schedule O must contain applicable narratives

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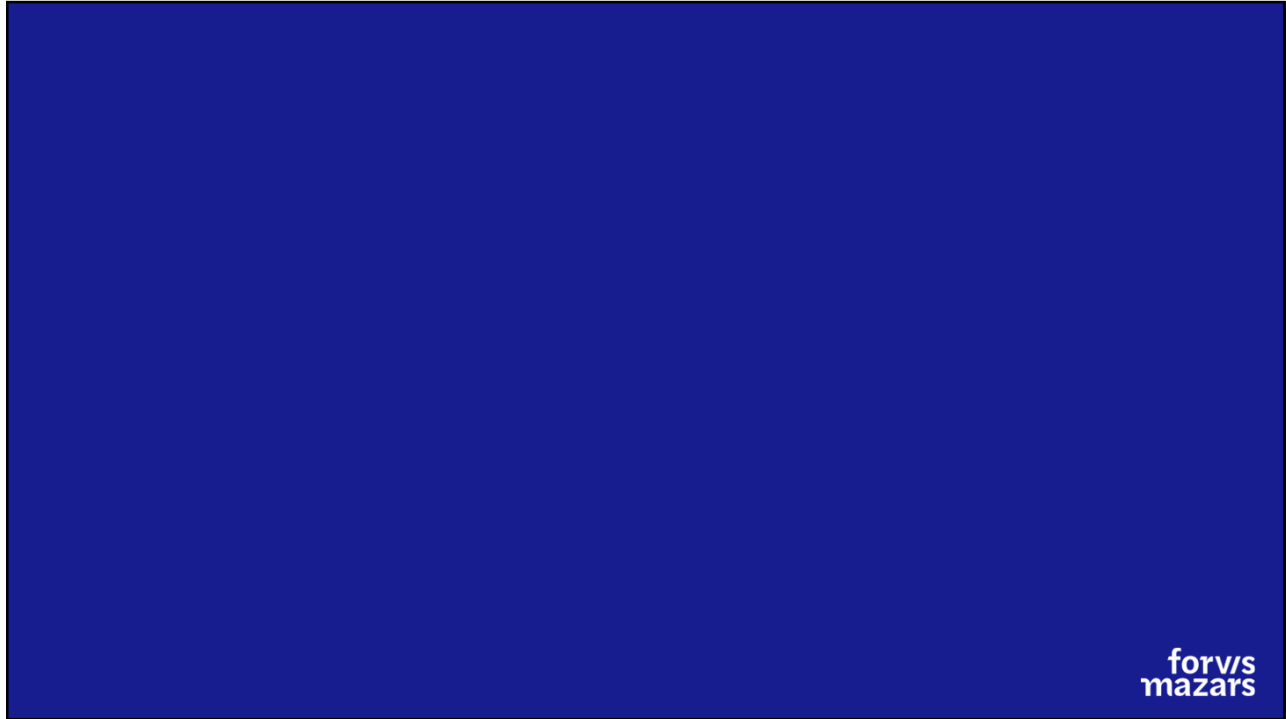
POLLING

The IRS considers the following written policies as best practices: conflict of interest, whistleblower, and document retention/destruction.

- A True
- B False
- C Not sure

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Common Reporting Errors

- Part I Summary
 - Briefly describe the organization's mission of most significant activities
- Part III, Line 1
 - Briefly describe the organization's mission – should be board approved mission
- Part III, Line 4 – Program Service Accomplishments
 - Organization should have something different in each section or missed opportunity to highlight what you do for the community

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Common Reporting Errors

- Board Members and Independence
 - Number of voting board members at year end
 - Independence impaired if:
 - Receiving any W-2 compensation
 - Receiving 1099 of \$10,000 or more
 - Schedule L transactions in excess of specified thresholds reported for organizations owned more than 35% by the board member, providing compensation to a relative of the board member

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Common Reporting Errors

- Part VII, Section A, Compensation
 - Fiscal year filers report compensation using data from the calendar year ending within the fiscal year
 - Use W-2 and 1099
 - Deferred compensation (ER portion) and nontaxable benefits (EE+ER portions) should be reported
 - All voting board members serving during the year should be listed, and officers of the board are checked as both director and officer
 - At the least - list top management official and top financial official as officers

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Common Reporting Errors

(A) Name and title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC/1099-NEC)	(E) Reportable compensation from related organizations (W-2/1099-MISC/1099-NEC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
(1) Officer of the Board		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
(2) Board Member (not an officer)		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
(3) CEO/Executive Director		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
(4) CFO		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
(5) Key Employee		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	W-2 > \$150,000		
(6) 5 Highest Compensated Other Employees		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	W-2 > \$100,000		
(7) Must not have been employed/in position during calendar year within the tax year		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Over threshold		

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Common Reporting Errors – Compensation Issues

- Private Inurement
 - Excessive compensation paid to a disqualified person, an insider
 - This doctrine does NOT prohibit transactions between a public charity and the insiders – rather, the doctrine requires that these transactions be tested against a standard for reasonableness
- Intermediate Sanctions/Excess Benefit Transactions
 - Public charity overpays an insider or enriches an insider by exceeding fair market value of what the organization receives in return
 - Rebuttable presumption of reasonableness

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Common Reporting Errors

- Part VII, Section B, Independent Contractors
 - List five highest compensated independent contractors that received more than \$100,000 in compensation for services provided
 - Should be reported using calendar year data
 - A 1099 report may not include all vendors

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Common Reporting Errors

- In-kind donated services
 - Donations of advertising, rent, use of facilities/equipment, compensation
 - Included in financial statements, but should be excluded from both revenue and expenses on the Form 990
 - Do not report as noncash on Schedule B, Schedule of Contributors, or Schedule M, Noncash Contributions

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Common Reporting Errors

- Fundraising events
 - Revenue and Expenses missing non-cash donations
 - Contributions vs Gross Receipts
 - Not tracking separately to aid with Schedule G reporting

Fundraising events include:	Fundraising events do not include:
<ul style="list-style-type: none"> • Dinners/dances, • Door-to-door sales of merchandise, • Concerts, • Carnivals, • Sports events, and • Auctions. 	<ul style="list-style-type: none"> • Sales or gifts of goods or services of only nominal value • Raffles or lotteries in which prizes have only nominal value, and • Solicitation campaigns that generate only contributions. <p>Proceeds from these activities are considered contributions and should be reported on line 1f.</p>

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Common Reporting Errors

- Anonymous donors
 - Only report as “anonymous” on Schedule B, Schedule of Contributors, if nobody at the organization knows the identity
 - Donors are still anonymous to the public, as the names and addresses of contributors are not subject to public disclosure

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Common Reporting Errors

- Specific to Hospitals - Schedule H
 - Part I
 - Does the organization have a financial assistance policy (FAP)?
 - Lines 3a and 3b – duplicate questions on Part V, Line 13a
 - Did your FAP provide for free or discounted care to the medically indigent?
 - Line 7 – Provides a breakdown of the hospital's community benefits at cost
 - This is what watchdogs are keeping an eye on
 - At least 5% is the goal
 - If abnormally low or abnormally high – dig further

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Common Reporting Errors

- Specific to Hospitals - Schedule H
 - Part II
 - Community Building Activities – demonstrates promotion of health to community served in more detail
 - Part III
 - Bad Debt, Medicare, & Collection Practices
 - Describe bad debt expense
 - Medicare shortfall – describe extent to which any shortfall reported should be treated as community benefit
 - Did the organization have a written debt collection policy during the year?

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Common Reporting Errors

- Specific to Hospitals - Schedule H
 - Part V
 - Did the hospital facility conduct a CHNA? Did the CHNA include all required sections?
 - Was the CHNA made “widely available to the public”?
 - Did the hospital facility adopt an implementation strategy?
 - List of needs not being addressed, along with explanation of why they are not being addressed
 - Methods for applying for financial assistance under FAP
 - Was the FAP made “widely available to the public”?

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Common Reporting Errors

- Specific to Hospitals - Schedule H
 - Part V (continued)
 - Did the hospital have a separate billing and collections policy in place, or did the FAP explain all actions taken upon nonpayment?
 - Actions permitted BEFORE making reasonable efforts to determine an individual’s FAP eligibility
 - Extraordinary Collection Actions (ECAs)
 - Did the hospital facility have a written policy relating to emergency medical care?
 - How did the hospital facility determine max amounts charged to FAP-eligible individuals?
 - Did the hospital charge any FAP-eligible individual more than amounts generally billed (AGB) to individuals who had insurance?

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Common Reporting Errors

- Specific to Hospitals - Schedule H
 - Part VI – “Supplemental Information”
 - The more information reported for these items, the better
 - Needs assessment – describe how the hospital assesses health care needs of the community OUTSIDE of the CHNA
 - Patient education of eligibility for assistance
 - Community information
 - Promotion of community health – how the organization “furthers its exempt purpose” by promoting the health of the community

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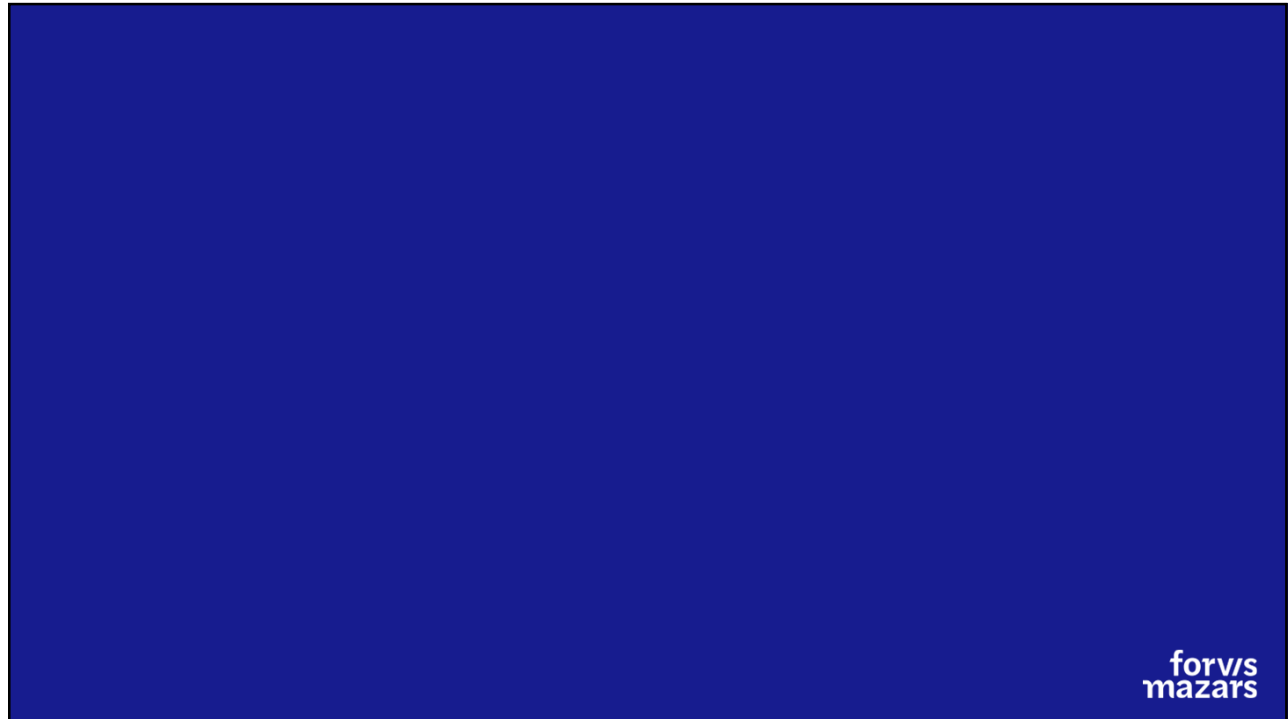
POLLING

In ‘How the Grinch Stole Christmas’, when the Grinch found the true meaning of Christmas, the Grinch’s small heart grew _____ sizes that day.

- A Five
- B Three
- C Two
- D Ten



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Common Tax-Exempt Entity Tax Compliance Risks

- Public Support Test
- Filing required returns
- Private inurement/private benefit
- Conflict of Interest
- Unrelated Business Income Tax
- Intermediate Sanctions
- State/Local exemption
- Donor substantiation
- Worker classifications
- Noncash contributions receipt requirements
- Qualified sponsorships
- Political activity
- Lobbying activity
- Compensation to volunteers (1099 compliance)
- Remote workers – state compliance
- Expense reimbursements

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Recent IRS Enforcement

- Compliance Checks versus Examinations
- “Bad answers” on the Form 990
- Compensation over \$1,000,000 reported on Form 990 with no Form 4720 filed (no excise tax paid)
- Hospitals – continued focus on 501(r)
 - IRS is required to review internally every 3 years
 - Form 990 & organization website
 - Deeper look at documents on website
- Unrelated Business Income
- Employment tax & notices
- Employee retention credit

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Thank You!

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