

EMERGING ISSUES IN NFP TAX COMPLIANCE

SECTION 501(r)



AGENDA

- IRS 2016 Workplan
- Data Driven IRS Exams
- Unrelated Business Income Tax
- Other Items of Interest
- IRC Section 501(r)

2016 IRS WORKPLAN STRATEGIC ISSUE AREAS

Exemption

Protection of
Assets

Tax Gap

International

Emerging
Issues

EXEMPTION

- Non-exempt purpose activity
- Private inurement

Enforced primarily through field exams



PROTECTION OF ASSETS

- Self-dealing
- Excess benefit transactions
- Loans to disqualified persons

Enforced via correspondence audits and field exams

TAX GAP

- Employment tax
- Unrelated Business Income Tax

Enforced through compliance checks,
correspondence audits and field exams

A photograph of a sidewalk with a yellow tactile strip and the words "MIND THE GAP" painted on it. The text is in white, block letters. The sidewalk is made of concrete tiles, and there is a metal grate with circular holes in the foreground. The background is a blurred street scene.

MIND THE GAP

INTERNATIONAL

- Oversight of funds spent outside the US
- FBAR requirements

Enforced through compliance reviews, compliance checks, correspondence audits and field exams



EMERGING ISSUES

**NON-EXEMPT
CHARITABLE TRUSTS**

SECTION 501(r)

- Enforced through compliance reviews, correspondence audits and field exams
- Oversight includes conducting reviews of hospitals' compliance with IRC section 501(r)

DATA DRIVEN IRS EXAMS



- Searchable Form 990s
- 150+ queries developed as selection model for noncompliance areas
- Find questionable areas and audit solely on possible noncompliance issues

DATA DRIVEN IRS EXAMS

- IDR very specific in what auditor looking for
- 90% audit change rate
- Auditing both small and large orgs
- Penalties being assessed
(non-filing of 1099s, etc.)

Current hospital client audited –
favorable results

AUDIT

UNRELATED BUSINESS INCOME TAX

Commercial-type businesses being provided (UBI unless provided substantially below cost)

Allocations when expenses shared between exempt function and unrelated activities

Favorable “exploitation” rule

OTHER ITEMS OF INTEREST

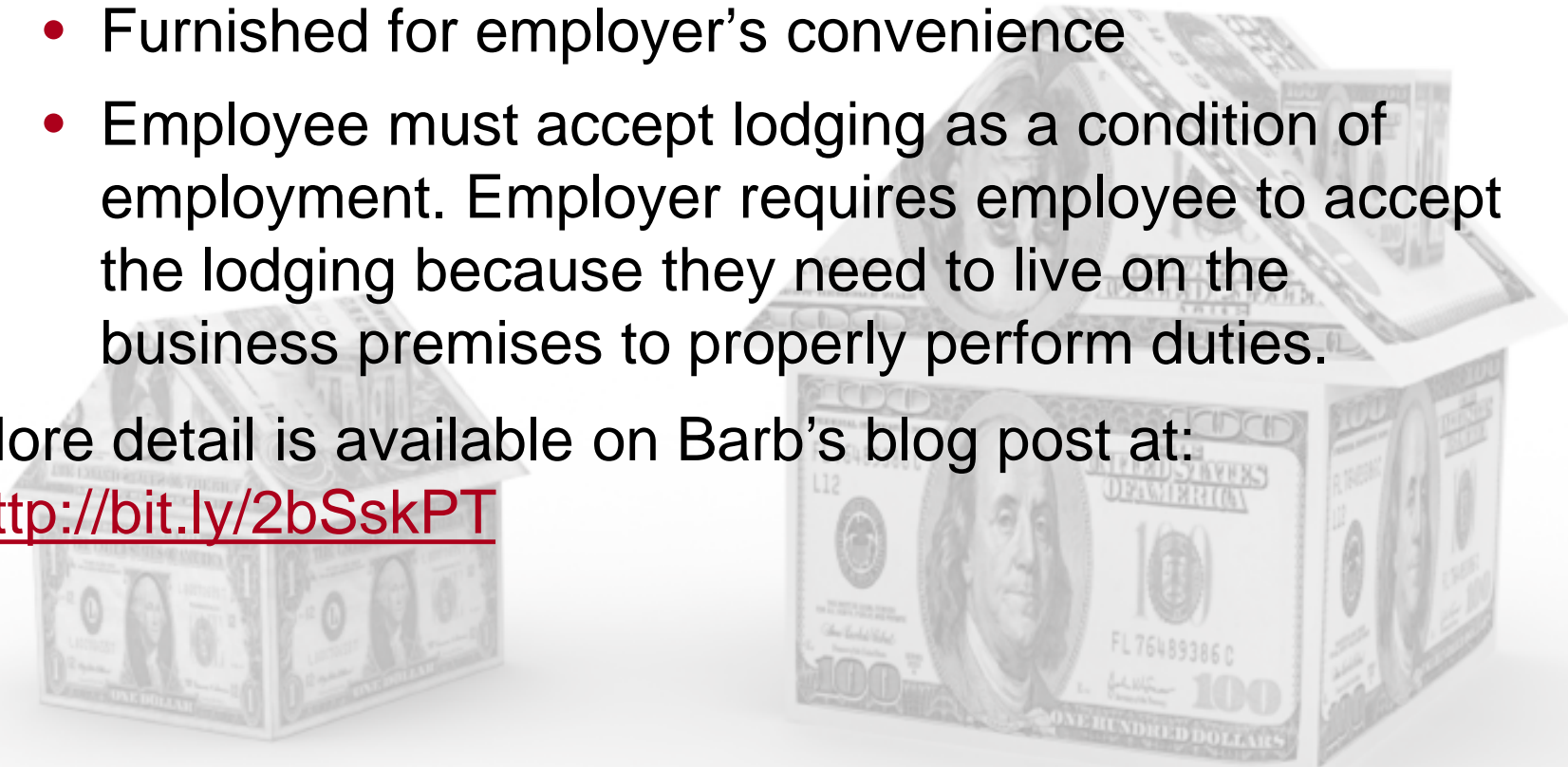
- Excise taxes on supporting organizations
- Excess benefit transactions
- Reporting insider transactions – Schedule L
- Governance reporting
Part VI
Lines 1, 2, 3, 11b, 12 & 15
- 501(c)(4) self-declarers now have a notice requirement
- Partnership issues

TEMPORARY HOUSING AND TRAVEL

- IC – travel reimbursement excluded from 1099-Misc
- All benefits taxable unless exclusion applies
- 3 tests for lodging exclusion:
 - Furnished on business premises
 - Furnished for employer's convenience
 - Employee must accept lodging as a condition of employment. Employer requires employee to accept the lodging because they need to live on the business premises to properly perform duties.

More detail is available on Barb's blog post at:

<http://bit.ly/2bSskPT>



IRC SECTION 501(r)

Hospital will no longer be treated as a 501(c)(3) unless it meets 501(r)(3) through 501(r)(6) rules

2010

Enacted via
ACA in
March

2014

Final regs
effective
12/29/2014

2015

Fully comply
by start of first
tax year
beginning after
12/29/2015

IRC SECTION 501(r)

501(r)(3)
Community Health Needs
Assessment (CHNA)

501(r)(4)
Financial Assistance Policy (FAP)
and Emergency Medical Care
Policy

501(r)(5)
Limitations on Charges

501(r)(6)
Billings and Collections

CHNA & FAP: WIDELY AVAILABLE

- Posting written report on hospital's website (or system's) or on another's website if hospital's site has link & instructions
- A CHNA must continue to be made available to the public until date two subsequent CHNA reports are made widely available (both web and paper versions)
- Provide anyone requesting a copy of written report with direct website address or url to access document
- Make paper copy available for public inspection upon request without charge at hospital facility



CHNA: IMPLEMENTATION STRATEGY

Describe how hospital plans to address each significant health need identified in CHNA

- Actions and anticipated impact
- Resources hospital plans to commit
- Planned collaborations

Identify and explain any significant health need hospital does **NOT** intend to address

- Resource constraints
- Other organizations addressing need
- Lack of expertise or competency to be effective
- Low priority need
- Lack of identified effective interventions

Must adopt an IS by 15th day of fifth month after the end of taxable year in which it completes the related CHNA

FAP PLAIN LANGUAGE SUMMARY

Clear, concise, easy-to-understand written statement:

- Brief description of eligibility requirements and assistance offered
- Brief summary of how to apply for assistance under FAP
- URL & physical locations with FAP and FAP application
- Instructions on obtaining FAP and FAP application by mail
- Hospital office phone number & physical location for assistance with FAP application process and any nonprofit and/or government agencies that hospital identifies as available sources of assistance for FAP applications
- Any translations of the FAP, application and summary
- No FAP-eligible person will be charged more for emergency or medically necessary care than AGB

501(R) ASSISTANCE



QUESTIONS?

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