

Supporting Statement  
1545-0047  
(Form 990 and Schedules)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6033 of the Internal Revenue Code (IRC) generally requires organizations recognized under section 501(c) and exempt from federal income tax under section 501(a), including charitable hospitals, to file an annual return. Form 990 is required by the Income Tax Regulations under section 6033, with some statutory exemptions and permission for the IRS to provide further exemptions. Such exemptions from filing include an exemption for governmental units and affiliates of governmental units; accordingly, governmental hospitals do not need to file Form 990. See Rev. Proc. 95-48.

Schedule A (Form 990) is filed by all Form 990 filers who are exempt under Code section 501(c)(3). The contents of Schedule A, Parts I, II, III, VI, and VII are specified in Code section 6033(b). Part V of Schedule A is required by section 501(c)(3). Part IV of Schedule A is required to determine that the organization is not a private foundation (which would subject it to certain excise taxes).

Schedule H (Form 990) is filed by charitable hospitals required to file Form 990 to provide information on the activities and policies of, and community benefit provided by, its hospital facilities and other non-hospital health care facilities that it operated during the tax year.

Section 9007 of the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)), enacted IRC section 501(r), which imposes additional requirements on charitable hospitals with regard to community health needs assessments, financial assistance policies, emergency medical care policies, limitations on charges, and billing and collection policies. Under the statute, a hospital will not be treated as a tax-exempt charitable hospital if it does not comply with the requirements.

On December 29, 2014, the Department of the Treasury (Treasury Department) and the IRS released final regulations (TD 9708) that contain guidance on the requirements of section 501(r) and the consequences for failing to meet any of these requirements. The regulations are effective for taxable years beginning after December 29, 2015, giving charitable hospitals one year of transition time before they are required to comply with the final regulations. These regulations provide that failures that are neither willful nor egregious will be excused if

charitable hospitals correct the failures and disclose the failure and the correction in accordance with rules set forth in published guidance.

Rev. Proc. 2015-21 provides the correction and disclosure procedures under which failures to meet the section 501(r) requirements will be excused. Section 7.01 of this revenue procedure describes the information that must be disclosed and requires all disclosure to be made on the Form 990. In general, section 7.01 requires hospitals to provide a description of the failure, including the type of failure and the cause, location, and dates of the failure. This description must also include the method and date of the correction and, in the case of failures under certain subsections of section 501(r), a description of how affected individuals were restored to the position they would have been in had the failure not occurred. (For multiple errors of the same type, hospitals should aggregate the information in a summary.) However, not all hospitals are required to file the Form 990. Accordingly, section 7.02 permits hospitals that are not required to file the Form 990 to disclose the information described in section 7.01 on a Web site rather than on a Form 990.

The content of Rev. Proc. 2015-21 was released in proposed form in December 2013, in Notice 2014-3, and public comments were requested. All of the changes made in sections 7.01 and .02 of Rev. Proc. 2015-21 – including the option of allowing hospitals not required to file the Form 990 to disclose on a Web site – were made in response to comments and to reduce the burden associated with disclosure.

## 2. USE OF DATA

The IRS uses the information from Form 990 to assure that tax-exempt organizations are operating within the limitations of their tax exemption.

The IRS uses the information on Schedule A (Form 990) to determine whether or not the filing organization is operated according to the rules of Code section 501(c)(3).

The IRS uses the information on Schedule H (Form 990) to assure compliance with the rules under sections 501(c), 501(r), and 6033.

The public and the IRS will use the information disclosed as part of section 7.01 and 7.02 of Rev. Proc. 2015-21 to see how hospitals are failing to comply with the rules under section 501(r) and how they are correcting those failures.

## 3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS currently offers electronic filing of Form 990, including Schedules A, B and H. Furthermore, Rev. Proc. 2015-21 allows certain organizations to disclose their failures on a Web site, rather than doing so on a Form 990.

4. EFFORTS TO IDENTIFY DUPLICATION

The IRS has attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There are no methods to minimize burden on small businesses or other small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

If the disclosure of failures and corrections were not required on the annually filed Form 990 (or on a website for those charitable hospitals not required to file a Form 990), less frequent disclosure would reduce the oversight of the public and the IRS in ensuring charitable hospitals comply with the section 501(r) requirements.

1. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

2. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

The IRS receives periodic comments from representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and professional industry groups regarding Form 990, including Schedule H in particular, as well as the requirements of section 501(r). In addition, as noted above, Rev. Proc. 2015-21 is being issued after review of comments solicited in Notice 2014-3.

Over 800 comments have been received regarding Form 990. The comments can be summarized generally as asking the IRS to impose an annual Form 990 filing requirement on all churches and religious organizations. Religious

organizations that are not churches, their integrated auxiliaries, and conventions or associations of churches must annually file an annual return or notice (Form 990, Form 990-EZ or Form 990-N e-Postcard). Under section 6033(a)(3) of the Internal Revenue Code, churches, their integrated auxiliaries, and conventions or associations of churches are excepted from filing an annual return or notice with the IRS. Similarly, under section 508(c)(1) of the Internal Revenue Code, churches, their integrated auxiliaries, and conventions or associations of churches are excepted from the requirement that an organization submit an application for recognition of tax exempt status under section 501(c)(3). Because these provisions are statutory in nature, the IRS cannot modify or change the requirements. Religious organizations that are not churches, their integrated auxiliaries, and conventions or associations of churches already have a filing obligation. Congressional action would be required to impose a filing obligation on churches, their integrated auxiliaries, and conventions or associations of churches.

Drinker Biddle & Reath LLP letter of 9/10/15. This requests a change to the Instructions to Schedule H (F990) for 2015. This change wishes to change the filing definition of "hospital" under "Who must file this form". The definition of what constitutes a hospital is binding and can only be redefined on the legal authority from congressional review.

Council on Foundations letter of 9/11/15. This requests a changes to: the Instructions to Form 990 for 2015, Form 990 (Part IV, Part V, Part VII), and Schedule A, B, and F. We have reviewed your changes and while they are well founded we can take into consideration during out next revision. The suggested definition changes are useful and we will consider adding more clarification for the Schedule A, B, and F instructions. So of the suggested changes can only be modified by the issuance of legal authority.

The Aspen Institute Philanthropy & Social Innovation letter of 9/10/15. This requests a changes to: the Instructions to Form 990 for 2015, and Form 990 (Part I, Part V, Part VIII), These are several major changes. I think they are useful . These changes include expanding the scope of electronic filing by taxpayers, changing how "government revenue" is reported on Parts I and VIII of Form 990, and clarifying the distinction between "contributions" and "Program Service Revenue" on Form 990. These are all substantive changes which require input from various IRS stakeholders before changes are made. ( TE/GE, MITS, Chief Counsel.) Due to the extent of the changes we have forwarded your comments to Chief Counsel for review into if these are binding by legal authority or if these changes can be considered or made with the issuance of a new legal authority.

The IRS received over 800 comments (800 by email). The comments are

located in the “supplementary information” portion of the ICR in ROCIS.

3. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

The IRS will not provide any payment or gift to respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by IRC section 6103. However, any disclosure pursuant to Rev. Proc. 2015-21 will be publicly available pursuant to IRC section 6103(b) and (d)(1)(A).

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No PII is being collected by this information collection.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

<u>Form</u>	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
990 & Schedules			403,068
			24,945,619

Estimates of annualized cost to respondents for the hour burdens shown above are not available at this time.

Rev. Proc. 2015-21:

The collections of information in this revenue procedure are in sections 7.01 and 7.02, which detail what a charitable hospital must disclose about its failure to meet the requirements of section 501(r) in order for the failure to be excused. Section 7.01 describes the information that must be disclosed and requires all disclosure to be made on the Form 990. Section 7.02, which applies only to charitable hospitals that are not required to file Form 990, permits such organizations to disclose the information described in section 7.01 on a Web site rather than on a Form 990. The Treasury Department and the IRS have reached the following reporting burden estimates for those organizations disclosing information pursuant to sections 7.01 and 7.02:

Section 7.01

Estimated total annual reporting burden:	5,910
Estimated average annual burden hours per recordkeeper:	2
Estimated number of recordkeepers:	2,955

Section 7.02

Estimated total annual reporting burden:	702
Estimated average annual burden hours per recordkeeper:	2
Estimated number of recordkeepers:	351

Total

Estimated total annual reporting burden:	5,910
Estimated average annual burden hours per recordkeeper:	2
Estimated number of recordkeepers:	2,955

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0047 to these regulations.

1.501(c)(9)-5(a)	1.501(c)(17)-3(c)	1.503(c)-1
1.501(r)-3	1.501(r)-4	1.501(r)-6
1.509(a)-3	1.509(a)-5(a)(3)	1.512(a)-4
1.1388-1	1.6012-2	1.6012-3
1.6033-2	1.6043-3	

We have reviewed these regulations and have determined that the reporting requirements contained in them are entirely reflected on the form. The justification appearing in item 1 of the supporting statement applies both to these regulations and to the form.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated July 14, 2015, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. We have received comments from taxpayers on this subject.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing this form. We estimate that the cost of printing the form and schedules is \$20,000.

15. REASONS FOR CHANGE IN BURDEN

Rev. Proc. 2015-21 was issued in proposed form in Notice 2014-3 on December 31, 2013. The Treasury Department and the IRS received six comments in response to Notice 2014-3. In response to these comments and to conform the proposed revenue procedure published in Notice 2014-3 with the final regulations under section 501(r) (TD 9708), this Rev. Proc. 2015-21 includes changes to the revenue procedure proposed in Notice 2014-3. One such change is the ability for charitable hospitals that are not required to file Form 990 to disclose their failures and corrections on their website. In light of this burden imposed by Rev. Proc. 2015-21, we are submitting this request for OMB clearance.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

1. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates

unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, at their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.

2. EXCEPTION TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.