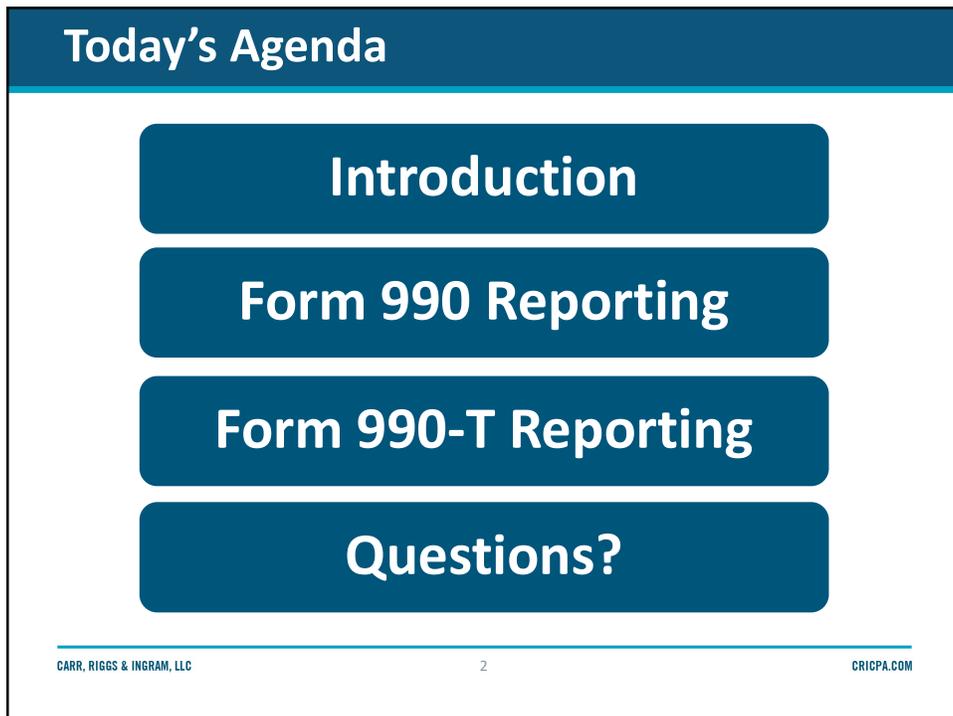


990 Series
Tax Reporting
Related to COVID
Funds

 CRI Tax Talk

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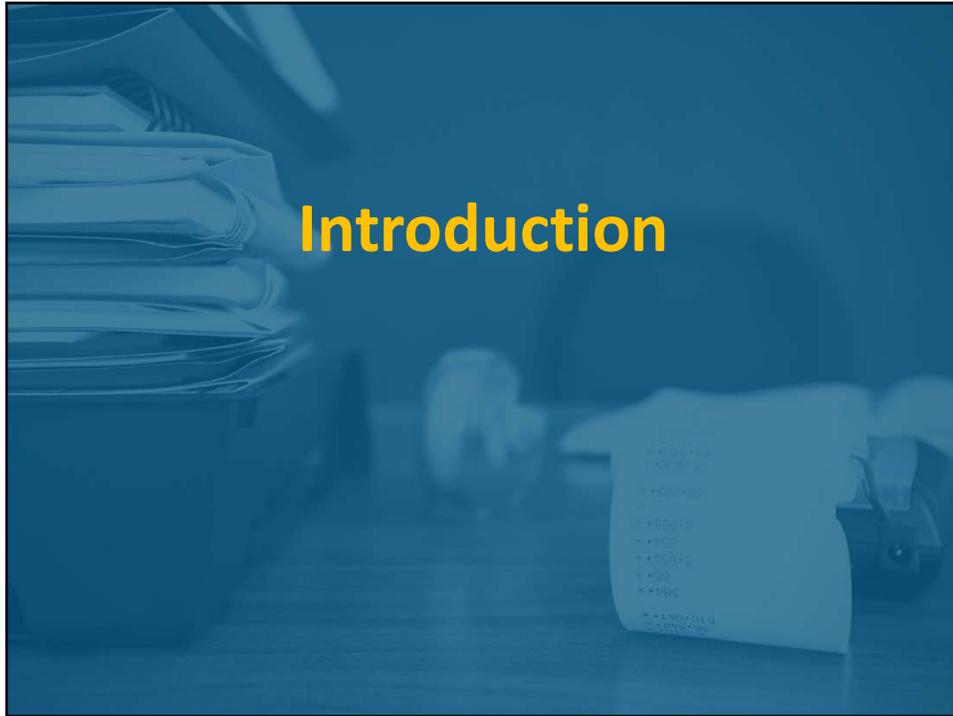


Today's Agenda

- Introduction**
- Form 990 Reporting**
- Form 990-T Reporting**
- Questions?**

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Covid Relief Provisions

Paid Sick Leave	Employee Retention Credit (ERC)
Paycheck Protection Program (PPP)	Provider Relief Funds (PRF)

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Paid Sick Leave

Paid Sick Leave Credits under FFCRA

- Paid Sick Leave Credits were created and amended under several pieces of legislation:
 - Families First Coronavirus Response Act established the credit for April 1 – December 31, 2020
 - Congressional Accountability Act removed the mandated leave requirement but extended the credit through March 31, 2021;
 - American Rescue Plan Act extended the credit through September 30, 2021
- Eligible leave Conditions: Subject to quarantine order or isolation order, self-quarantining, diagnosed or experiencing symptoms of virus, caring for an individual with virus, caring for a child where school or day care closed, COVID vaccinations or other similar condition
- If fewer than 500 employees, a credit for paid leave is available equal to 100% of qualified sick leave (up to hour and wage caps)
- Claimed on Form 941 quarterly reports

5

Employee Retention Credit (ERC)

Employer Retention Credit

- Purpose: to encourage employers to keep employees on their payroll
- Through extensions now available for all of 2020 and **2021**
 - Claimed on qualified wages reported on Form 941
 - Basic requirement is detriment from COVID either through shut down or reduction in gross receipts
 - Small employer defined as 500 or less average employees. If small employer, all wages are eligible; if large employer, only wages paid to those who did not work
- Eligible employers
 - Generally available to all employers regardless of size, including tax exempt organizations
 - Exception: Federal, State and local governments and their agencies or instrumentalities. However certain educational and healthcare institutions allowed in 2021

6

Paycheck Protection Program (PPP)

Paycheck Protection Program

- A loan designed to provide a direct incentive for small businesses to keep their workers on the payroll.
- Loans will be forgiven if all employee retention criteria are met and the funds are used for eligible expenses.
- Paycheck Protection Program loans had a limited availability for Not-for-profits until ARPA
 - Not more than 500 employee rule was lifted and changed to a per physical location rule (e.g., YMCAs)

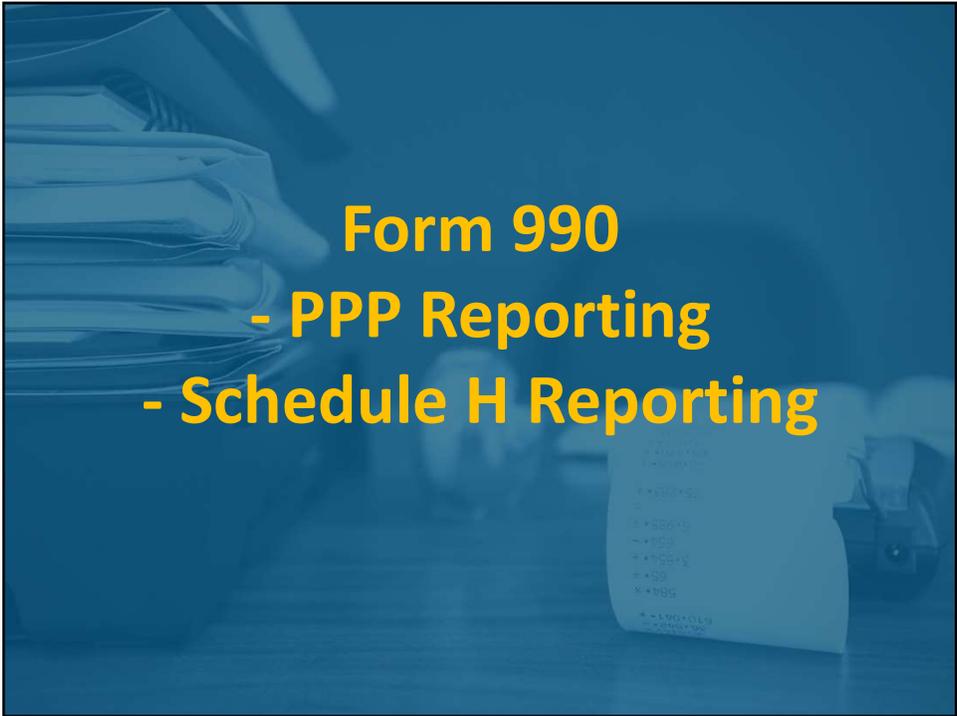
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Provider Relief Funds (PRF)

Provider Relief Funds

- Distributed to health care providers to help ease the financial burden related to COVID-19
- Used to prevent, prepare for, and respond to coronavirus. The payment can be used to reimburse the recipient for health care related expenses and lost revenues from coronavirus
- The payment cannot be used to reimburse expenses that have been reimbursed through other sources

8



9

PPP – Financial Reporting

Grant Model (ASC 958-605)	Debt Model (ASC 470)
<ul style="list-style-type: none">• Contributions recognized as qualifying expenses incurred and other conditions met such as necessity, FTE count, wages, etc.• Entities should have high confidence that they have “substantially met” all conditions of qualification and eligible expenses and that there is “no more than a remote possibility” of repayment required.	<ul style="list-style-type: none">• PPP loan set up as a liability when received and not extinguished until legally released by creditor.• Interest should be accrued• Safe harbor method

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PPP – Form 990 Reporting

- PPP Funds must be reported in tax year that forgiveness is received.

Grant Model (ASC 958-605)

- PPP funds set up as a conditional contribution and forgiven in a subsequent year will have a book/tax difference in both year received and year forgiven
- In year forgiven, report on Part VIII, Line 1e as a contribution from a governmental unit.
- Also reported as contributions for public support purposes on Schedule A, if applicable.

Debt Model (ACS 470)

- In year forgiven, report on Part VIII, Line 1e as a contribution from a governmental unit.
- Also reported as contributions for public support purposes on Schedule A, if applicable.

11

Form 990 – Schedule H Reporting

Importance of Community Benefits Reporting

- Community benefit reporting is critical.
- Schedule H should align with your CHNA, Website, etc.
- Community Benefit Standard; Revenue Ruling 69-545
 - Organized and operating to promote the health of the community as a whole
 - Basis for defense of tax exempt status for community, Congress, IRS, states, and media
 - 2018 study determined that “the incremental community benefit exceeds the tax exemption for only 62% of nonprofits”.
 - Renewed interest by IRS Tax Exempt and Governmental Entities (IRS TE/GE) division for examinations using a data driven approach to identify organizations

12

Form 990 – Schedule H Reporting

Renewed Scrutiny of Tax Exemptions

- GAO report September 17, 2020
 - Recommendations:
 - Congress could clarify the IRC to improve oversight of tax-exempt hospitals
 - IRS should collect consistent data on community benefits
 - IRS should require hospitals to report community benefit expense by facility
 - IRS should establish a process to identify hospitals at risk of noncompliance with the community benefit standard

13

Form 990 – Schedule H Reporting

Renewed Scrutiny of Tax Exemptions

- GAO report September 17, 2020, continued:
 - IRS agreed with these recommendations:
 - Data-driven approach to exams: data and queries based on quantitative criteria, used to identify high risk areas of noncompliance and focus on issues with the greatest impact
 - More 'bang for buck' given staffing shortages, etc.
 - TE/GE increased hiring by 3.5% in FY 2020

14

IRS TE/GE's FY2020 Accomplishments Letter

	Started	Closed	Change %	Pick-up %
Compliance Strategies	646	374	83.2%	40.6%
Data-Driven	1,174	1,508	90.0%	53.1%
Referrals, Claims and Other Casework	1,539	1,358	87.1%	23.3%
Totals	3,359	3,240	88.0%	39.1%

TE/GE completed examinations of 3,240 returns in fiscal year 2020, including Form 990 series and their associated employment and excise tax returns. Overall, 88% of closed examinations resulted in a tax change and 39% of the examinations were “picked-up” from a related examination.

TE/GE also continues to review approximately 3,000 tax-exempt hospitals (on a rolling three-year basis) for adherence to IRC Section 501(r). In fiscal year 2020, TE/GE completed 1,078 reviews (not included in the table above) and referred 66 hospitals for examination, 65 for possible Affordable Care Act noncompliance. The most common issues found related to the hospital's lack of a CHNA and / or financial assistance policies under IRC Section 501(r).

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IRS TE/GE's FY2021 Program Letter

Strengthen Compliance Activities

Collaborate across IRS on existing and emerging issues such as syndicated conservation easements, abusive charitable remainder trusts, ESOPs, COVID-related employer credits and continued review of potentially abusive promoter schemes with an impact to TE/GE

Support examinations of high-income taxpayers with TE/GE issues, especially for private foundations and retirement plans, and the creation of a joint audit process in cooperation with LB&I and SB/SE

Partner with IRS Criminal Investigation and Research Applied Analytics & Statistics to identify cases with potentially significant non-compliance

Leverage Technology and Data Analytics

Detect emerging issues using data analytics

Launch taxpayer digital communications capabilities and use robotic process automation to make processes more efficient and effective for our employees as well as taxpayers

Improve access to, and use of, digitalized data in identifying issues with a high risk for non-compliance

Leverage publicly available data, to streamline and automate our process for identifying the universe of hospitals subject to Affordable Care Act review

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Community Benefits Reportable on Schedule H

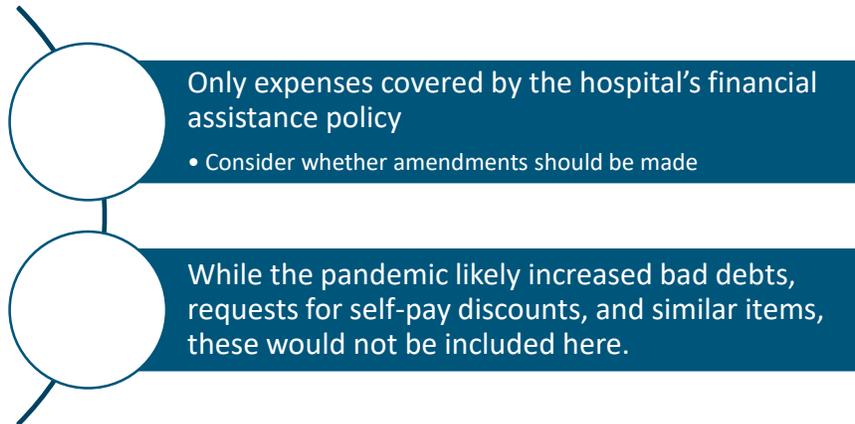
- Certain costs related to the prevention and treatment of COVID may be reportable as community benefit expenses on Schedule H, Part I, Lines 7a through 7k
- Relief payments received by the organization may need to be reported as direct offsetting revenue as well if a corresponding community benefit expense is reported.

7 Financial Assistance and Certain Other Community Benefits at Cost						
Financial Assistance and Means-Tested Government Programs	(a) Number of activities or programs (optional)	(b) Persons served (optional)	(c) Total community benefit expense	(d) Direct offsetting revenue	(e) Net community benefit expense	(f) Percent of total expense
a Financial Assistance at cost (from Worksheet 1)						
b Medicaid (from Worksheet 3, column a)						
c Costs of other means-tested government programs (from Worksheet 3, column b)						
d Total, Financial Assistance and Means-Tested Government Programs						
Other Benefits						
e Community health improvement services and community benefit operations (from Worksheet 4)						
f Health professions education (from Worksheet 5)						
g Subsidized health services (from Worksheet 6)						
h Research (from Worksheet 7)						
i Cash and in-kind contributions for community benefit (from Worksheet 8)						
j Total, Other Benefits						
k Total. Add lines 7d and 7j						

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17

Financial Assistance at Cost



18

Line 7b and 7c – Medicaid and costs of other means-tested government programs

- Includes Medicaid provider taxes, fees, and assessments.
- Payments and reimbursements are included in direct offsetting revenue.
- Any COVID related Medicaid expenses would be reported on this line. Non-means tested expenses, such as Medicare, would not.
- General consensus that expenses incurred in helping patients apply for these programs is a community benefit reported under 7e (next slide)

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Line 7e – Community health improvement services and community benefit operations

- Improving community health
- Improving access to health services
- Increasing community's knowledge
- Relief of government burden to improve health
- Administrative activities for program administration, CHNA reports, and fundraising or grant-writing for benefit programs.

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Line 7e – Community health improvement services and community benefit operations (Continued)

COVID Considerations:

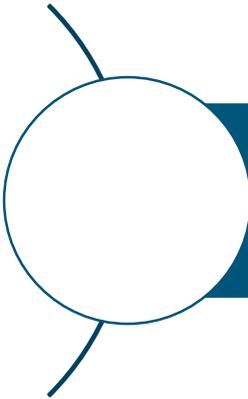
- Public education
- Data Collection
- Community Testing and contact tracing
- Emergency preparedness planning
- Community wide vaccination services
- COVID-related support groups
- Unbilled hotline for questions regarding COVID or home care
- Coordinating the work of volunteers serving COVID-related needs
- Coordinating with public health agencies to combat COVID in community
- Transportation services for low-income individuals to receive COVID-related services

Reminder – cannot generate inpatient or outpatient revenue but may be offered at nominal cost

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Line 7f – Health professions education

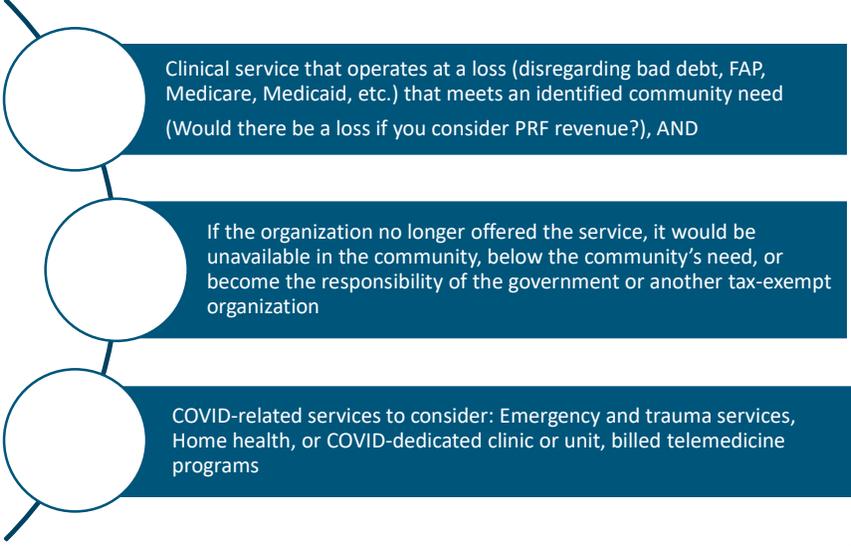


Programs towards licensure or continuing education provided to health professionals in the broader community.

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Line 7g – Subsidized health services



Clinical service that operates at a loss (disregarding bad debt, FAP, Medicare, Medicaid, etc.) that meets an identified community need (Would there be a loss if you consider PRF revenue?), AND

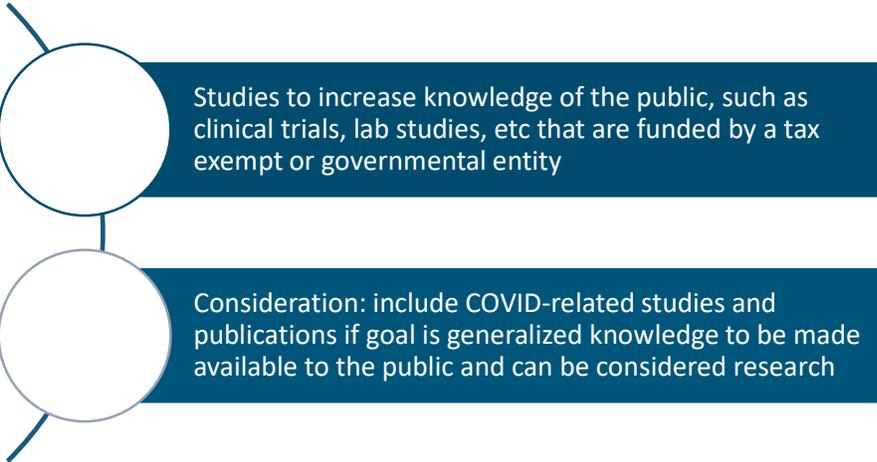
If the organization no longer offered the service, it would be unavailable in the community, below the community's need, or become the responsibility of the government or another tax-exempt organization

COVID-related services to consider: Emergency and trauma services, Home health, or COVID-dedicated clinic or unit, billed telemedicine programs

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Line 7h – Research



Studies to increase knowledge of the public, such as clinical trials, lab studies, etc that are funded by a tax exempt or governmental entity

Consideration: include COVID-related studies and publications if goal is generalized knowledge to be made available to the public and can be considered research

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Line 7i – Cash & in-kind contributions

Restricted, in writing, contributions made by the tax-exempt hospital to other organizations to cover community benefit expenses that would have been included above if hospital had done the activity itself.

Consider: donations of cash or grants to other organizations for COVID-related community benefits.

Consider: donations of PPE, supplies, staff time for community-wide pandemic responses

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Community Benefits Reportable on Schedule H

7 Financial Assistance and Certain Other Community Benefits at Cost						
	(a) Number of activities or programs (optional)	(b) Persons served (optional)	(c) Total community benefit expense	(d) Direct offsetting revenue	(e) Net community benefit expense	(f) Percent of total expense
Means-Tested Government Programs						
a Financial Assistance at cost (from Worksheet 1)						
b Medicaid (from Worksheet 3, column a)						
c Costs of other means-tested government programs (from Worksheet 3, column b)						
d Total. Financial Assistance and Means-Tested Government Programs						
Other Benefits						
e Community health improvement services and community benefit operations (from Worksheet 4)						
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h Research (from Worksheet 7)						
i Cash and in-kind contributions for community benefit (from Worksheet 8)						
j Total. Other Benefits						
k Total. Add lines 7d and 7j						

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Cat. No. 50192T
Schedule H (Form 990) 2020

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Direct Offsetting Revenue

- Revenue from the activity during the year that offsets the total community benefit expense of that activity
- Includes revenue generated by the activity or program, such as patient payments or reimbursement for services provided to patients
- Also includes restricted grants or contributions that the organization uses to provide a community benefit
 - HHS’s Provider Relief Fund (PRF)?
 - FEMA Public Assistance program?

27

Direct Offsetting Revenue – PRF Funds

- To the extent HHS funding is used for expenses or programs reported on Lines 7a-7i, consideration should be given as to whether these amounts should be included in direct offsetting revenue
 - IRS has not specifically addressed issue, however, the PRF program has attributes of a restricted grant
 - Should consistency with PRF funds reporting to the Health Resources & Services Administration (HRSA) be considered?

28

Direct Offsetting Revenue - FEMA

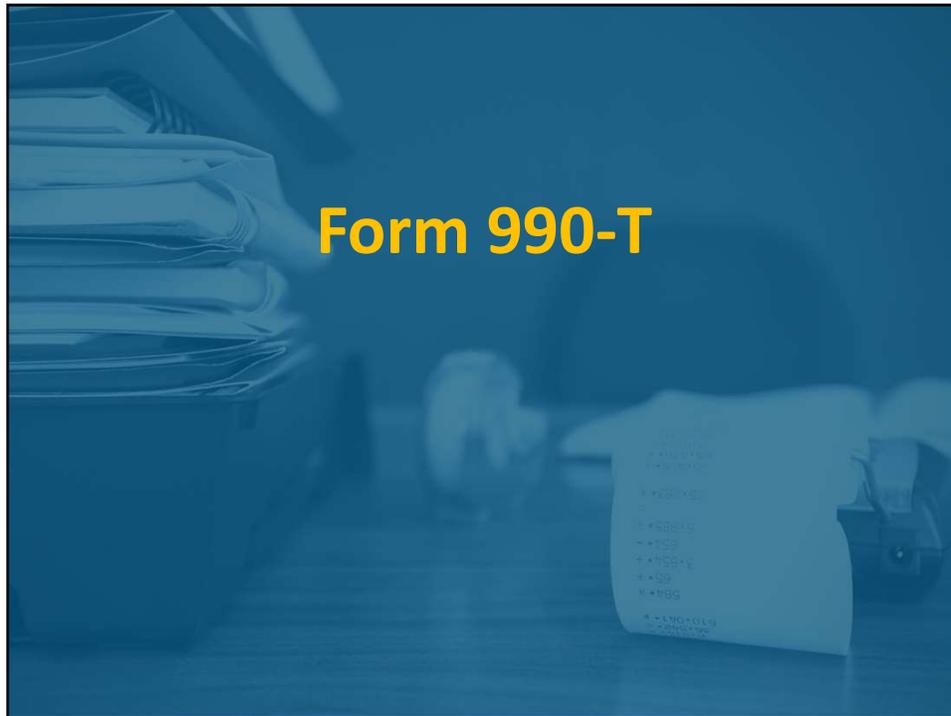
- Likely reportable as offsetting revenue to the extent that FEMA approves reimbursement of specific community benefit expenses
- FEMA Public Assistance Program is 75% cost sharing, so not a complete offset
- Given the time-intensive process to secure FEMA funds, expenses and funding may not occur in same tax year.
 - Schedule H instructions define direct offsetting revenue as revenue during the year
 - When will funds be booked as revenue?
 - Any obligation to report in subsequent year?

29

Community Benefits Reportable on Schedule H

In summary, preparers of Form 990 information should work closely with those preparing the CHNA to ensure the “Story” your non-profit is telling is consistent and thorough in regards to the community it serves and the services provided

30



31

Form 990-T: General Updates

Updates and Considerations

- The Form 990-T has been redesigned for 2020
 - No schedules on Form 990-T itself; all moved to new Schedule A
 - Each unrelated trade or business has its own separate Schedule A as required by the Tax Cuts and Jobs Act
 - Prohibits offsetting gain from one business with loss from another
 - Assists with tracking of Net Operating Losses
 - NOL deductions for losses arising in tax years beginning on or after January 1, 2018, are reported separately on each Schedule A.
- Mandatory efilings of Form 990-T for all organizations began February 2021

32

Form 990-T: Income and Expenses

Paid Sick Leave Credit & Employee Retention Credits

- An eligible employer who received a credit against payroll taxes does not receive a double benefit:
 - Any portion of the credit that is allocable to an unrelated trade or business must be included in gross income from that unrelated trade or business
 - The allocable amounts are reported as other Income on the appropriate Schedule A
 - Use same allocation as qualified leave wages
 - Any wages claimed for these credits cannot also be claimed for another credit

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Form 990-T: Updates, Continued

Provider Relief Fund

- Payments do NOT qualify as disaster relief payments under Internal Revenue Code 139
- Payments received by a tax exempt entity that are for reimbursement of lost revenue or expenses of an unrelated trade or business may also be subject to tax under Section 511.

Temporary allowance of 100% of business meals

- In both 2021 and 2022, there is a 100% deduction for certain business meal expenses that are paid or incurred after December 31, 2020
 - Must be recorded separately from entertainment expenses, an employee must be present at the meal and the meal cannot be lavish

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Net operating Losses: Certain exempt organizations

TCJA requires entities with more than one unrelated trade or business to calculate UBTI separately with respect to each trade or business starting with taxable years beginning after December 31, 2017 (siloing)

Under CARES Act:

- Siloing is required for calculation of NOLs as it pertains to years arising after December 31, 2017.
- CARES Act NOLs can be deducted against aggregate UBTI in taxable years beginning before January 1, 2018.
- CARES Act NOLs Cannot be deducted against aggregate UBTI in taxable years beginning after December 31, 2017.

35

Net Operating Loss: CARES Act changes

- NOLs from 2018, 2019, and 2020 can be carried back to each of the preceding five years
- Form 1139, when available, provides expedited credits or refunds within 90 days
 - An amended return can be filed within three years.
- Irrevocable election to waive the carryback periods for 2018 and 2019 NOLs must be made on your 2020 income tax return by due date of return, including extensions
 - Separate statement attached for each year of election
 - Waiver is for entire five-year carryback, no partial waivers
- 80% taxable income limitation suspended through 2020.

36

- TODAY'S PRESENTER -

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