

***Acute Care Tax Update:
Current Tax Environment, Community Benefit,
501(r) Compliance, and Joint Venture
Considerations***



Speakers

Mike Fine

Partner- Bricker Graydon Wyatt

mfine@bricker.com

Amy Ciminello

Partner- Plante Moran

amy.ciminello@plantemoran.com

Maggie Matthews

Tax Manager- Plante Moran

maggie.matthews@plantemoran.com





Disclaimer

We have no real or perceived conflicts of interest that relate to this presentation.

Audience poll:

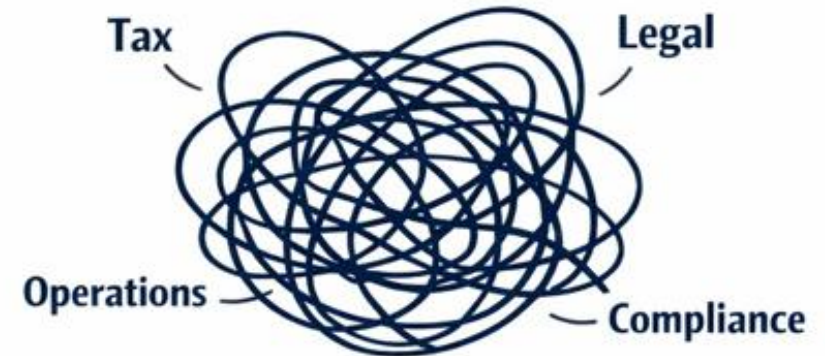
Who saw 'Tax' on the agenda and felt excited?

Why are we talking about tax?

How It Starts



How It Gets Complicated



Agenda

- Current tax environment for Acute Care
- Community Benefit Expectations and 501(r) Compliance
- Joint Ventures & partnerships: Tax Watch Areas
- Practical Takeaways & When to Involve Tax



Current Tax Environment: What's changed?

Visibility attracts scrutiny



Current Tax Environment: What's changed?

- Size and complexity of health systems
- Growth through acquisition and affiliation
- More system attention to:
 - Revenue diversification
 - Joint ventures and partnerships
 - Documentation and governance

Complexity may lead to compliance breakdown

- Where 501(r) breaks down
 - Outsourced billing and collection vendors
 - Inconsistent application across facilities
 - Joint ventures or contracted service arrangements
 - Policy exists, but operations don't follow it

Common issue: Operational gaps, not bad intent.

501(r) compliance

- Internal audit or 501(r) compliance check
 - More than reporting on Form 990 Schedule H
 - “All hands on deck”- finance, tax, marketing, legal, IT, leadership, revenue cycle, etc.
 - Are there hospital facilities in joint ventures?

[Webinar: Increased focus on IRC 501r compliance](#)

[Article: Increased focus on IRC 501r compliance: Is your hospital prepared](#)

Complexity may lead to compliance breakdown

- **Community benefit**
 - Consistent reporting- website, Form 990, AFS, community benefit reports
 - Defining community benefit
 - Clear alignment with CHNA
 - Tracking of activities
 - System education: Why reporting and tracking is important

Complexity may lead to compliance breakdown

- **Where tax mistakes increase**
 - New or expanding revenue streams that grow over time
 - Joint ventures with for-profit entities
 - Agreements not reviewed holistically
 - Activities that “support operations” but are not clearly mission-related
 - Contracted or outsourced services (labs, pharmacies, rentals)
 - “We’re not always sure what creates UBI.”

Unrelated business income

- Bringing in key parties in the beginning (tax; legal)
- Not all health services are mission related
- Expense allocations- reasonable?
- Documentation of intent
- Control of activity?

Common events that trigger tax consequences

“Tax doesn’t drive strategy- but it absolutely determines whether strategy succeeds or creates avoidable cost and risk.”

“Tax and legal aren’t there to stop new deals or revenue streams- they help anticipate consequences so we can structure them right the first time.”

“You don’t have a tax problem. You have a structuring problem!”

Impacts



Real dollars (penalties, taxes, consulting fees)



Risk to Tax-Exempt Status



Disruption (time)

When to call Tax & Legal

- New or expanding revenue streams
- Joint ventures or partnerships
- Changes in billing, collection, or financial assistance practices
- Acquisitions, affiliations, or restructurings
- Management services or outsourced arrangements
- Real estate transactions
- New compensation or incentive structures
- Anything that feels “new”, “different”, or hard to explain

Joint ventures/affiliations

We are entering into a joint venture with an unrelated hospital system to provide additional health services.



Joint ventures/affiliations

1. What is the intention of the affiliation?
 1. Create a shared entity? What type of entity (taxable, tax-exempt)
 2. Who is in control? What establishes control?
 3. Is there a membership substitution? What concerns could arise?
 4. Who is the other partner(s) or owner(s) or member(s)?
2. Are the activities related to our exempt purpose?
3. Do we have a hospital facility operated in the JV (501(r))?
4. Is there possibility of any private benefit? Is there a waterfall calculation for determining the share of financial activity allocated to each owner?
5. Are the operating agreement provisions complete and clear?
6. Do we understand the lifecycle impacts of the entity?

Expansion- Physician practices

The hospital acquired a physician's private practice.

Expansion- Physician practices

1. What exactly was acquired? Ownership interests? Assets?
2. If ownership interests, what is the entity type (C corp, S corp, partnership)?
3. If assets, how are we allocating purchase price and is it reasonable?
4. How are compensation or non-competes handled?

Expansion- LLC

We acquired an LLC.

Expansion- LLC

1. What exactly was acquired? Ownership interests? Assets?
2. If ownership interests, how is the entity taxed (C corp, S corp, partnership, tax exempt)?
3. What entity in your healthcare system holds the LLC?
4. If assets, how are we allocating purchase price and is it reasonable?
5. What future filings are required?
6. Who else “owns” the LLC?

Rental

We have unused space in one of our physician office buildings. The space will be rented out to an unrelated organization. It's roughly 20% of the square footage of our building.

Rental

1. Does the rental further the tax-exempt purpose?
2. Is the property debt-financed?
3. Will personal property be rented (i.e. desks, chairs, medical equipment)?
4. Are services provided with the rental (i.e. cleaning services)?
5. How will expenses be allocated to the rental (i.e. depreciation, admin fees, etc.)?

Community need

We are providing job training to help focus on one of our community needs. The training will be advertised to the public. A small administrative fee will be charged for the service, but there are scholarships available to persons in need.

Community need

1. Are there any other job training organizations in the area?
2. Is this operated by volunteers?
3. Will the service result in a profit?
4. How are expenses allocated to this service?
5. Is it open to the public?

Transfers between related organizations

You want to move the activity from 'Organization A' to 'Organization B'. You are planning to make the intercompany transfer entry tomorrow morning.

Transfers between related entities

1. What types of entities are the related entities? Two tax-exempt entities? A for-profit and a tax-exempt entity?
2. Does the transfer trigger a taxable event?
3. What is the value of the assets/intangibles being transferred?

Outside services

We provide administrative services for a small hospital outside of our healthcare system. Services include accounting and IT services.

Outside services

1. Is the organization receiving the services considered a “related” organization?
2. Are the services specialized?
3. Are the services charged at market-rates or at cost?
4. How are expenses allocated to the service?
5. Does the size and location of the hospital receiving services matter?

Lab services

The hospital entered a lab testing contract with a local nursing home. The nursing home will supply the hospital with samples for testing.

Lab services

1. Is the nursing home “related” to the hospital?
2. Is this a one-off contract or an ongoing service line?
3. Is testing for something specialized?
4. Who are the patients ultimately served?
 - Are the lab tests performed for the nursing home’s residents (non-hospital patients)?
 - Are any of the residents also hospital patients receiving transitional or referred care?
 - Who is drawing the sample? Hospital employee?

Working with the IRS

IRS resource challenges

- Workforce challenges
- Technology challenges
 - Automation of notices
 - Unclear notices
 - Payment reallocations between taxes (i.e. Overpayment moved from 990T to 941 deemed liability)
- Call to action
 - Increased push to audit tax-exempt hospitals
 - Create a better experience for taxpayers/organizations

IRS Business Tax Account- now available to tax-exempt organizations

- **What TEO can now do online**
 - View balances and payment history
 - Make payments
 - Access certain IRS notices
 - Retrieve tax transcripts
 - Request compliance checks (financing or due diligence)
 - View entity information on file

IRS Business Tax Account- now available to tax-exempt organizations

- Why this matters to TEO?
 - Fewer “we didn’t get the notice” excuses
 - IRS assumes organizations are seeing communications faster
 - Misalignment between finance, payroll, and tax teams becomes more visible

Q&A

Thank You!

Mike Fine

Partner- Bricker Graydon Wyatt

mfine@bricker.com

Amy Ciminello

Partner- Plante Moran

amy.ciminello@plantemoran.com

Maggie Matthews

Tax Manager- Plante Moran

maggie.matthews@plantemoran.com

