American Hospital Association

Liberty Place, Suite 700
325 Seventh Street, NW
Washington, DC 20004-2802
(202) 638-1100 Phone
www.aha.org

October 6, 2006

BY HAND DELIVERY

Mr. Glenn Kirkland
Internal Revenue Service
Room 6516
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Mr. Kirkland:

The American Hospital Association (AHA), on behalf of our 4,800 hospital and health system members, and our 33,000 individual members, is submitting these comments in response to the Internal Revenue Service's (IRS or Service) Proposed Collection; Comment Request for Tax Exempt Hospitals Compliance Questionnaire, published August 7, 2006 (Attachment A). Our comments address the Service's request for "ways to enhance the quality, utility, and clarity of the information to be collected" and "ways to minimize the burden of the collection of information on the respondents."

AHA's members were well-represented among the hospitals receiving IRS Form 13790—Compliance Check Questionnaire Tax-Exempt Hospitals (the "Questionnaire") in May 2006. The AHA has reviewed the Questionnaire carefully with many of its tax-exempt hospital members that completed Form 13790, and has set forth their principal concerns below. We would be pleased to meet with the Service to discuss these comments in greater detail and to offer any technical assistance that might be helpful as Form 1390 is revised, or as the responses to the May 2006 Questionnaire are reviewed.

AHA's principal comments and concerns are as follows:

1) **The Questionnaire is directed at individual hospitals, and is not applicable to hospital systems. As a result, responses can be misleading. (See Questions 21, 30, 57, 61, 65, 69, 70, 71, 72.)** For example, if the bulk of a hospital's educational programs are provided by its parent, the response to Question 65 would understate actual expenditures because the hospital would report only what it spends on such programs, not the total being provided by the system.

2) **By requesting text responses, many questions will not be answered uniformly. (See all questions that indicate "If yes, please explain.")** Questions should be drafted to

provide guidance for narrative responses. For example, multiple-choice responses could be developed for some questions, or instructions that include examples of the types of information being solicited could be provided with the Questionnaire.

3) **Many of the yes/no questions result in inconsistent answers.** Since many of the questions require a "yes/no" response, the questions should be carefully drafted to ensure that all respondents answer the question from the same perspective. For example, **Question 8** asks:

   Did your hospital deny medical services to any individuals with:
   a) Private insurance?
   b) Medicare?
   c) Medicaid?
   d) Other public health insurance?
   e) No insurance?

   Arguably, any hospital that has denied medical services should answer "yes" and provide a text explanation. A simple "yes" is likely to be followed by an explanation that services would be denied if the hospital is "at capacity," in which case the hospital would be unable to take additional patients, and would redirect ambulances to other hospitals. On the other hand, another hospital may answer "no," since it would not consider denial of services due to being "at capacity" as a denial of services. A similar response may result regarding denial of non-emergency services. One hospital might respond that this is a denial of services, while another hospital may think of this as a routine practice and not a denial of services. In sum, the Questionnaire should be drafted to avoid "Yes, but . . ." and "No, unless . . ." responses, when the hospital respondents are providing the same explanation for a "yes" and "no" response.

4) **Uncompensated care questions do not specify whether the response is to be based on costs or charges. (See Questions 35-40.)** Hospitals may provide very different answers if they are considering uncompensated care as the difference between the payment received for a service and the cost of the service to the hospital, or the amount the hospital would have charged for the service. **Question 36** asks: "How much did your hospital spend [emphasis added] on uncompensated care?" but **Question 37** asks: "Did your hospital treat as uncompensated care the excess of what it charged [emphasis added] for services?" Medicare might pay $300 for a service that costs the hospital $500 to provide but for which it might normally charge $550. Thus, a Medicare shortfall of $200 or $250 might be recorded depending on whether the hospital is looking at the question from a cost or charge basis.

5) **Similarly, in the Community Programs section, questions ask whether a fee is charged for certain community services, but not whether the fee is below the cost of the service. (See Questions 60, 64, and 68.)** Hospitals may charge a fee for services in order to recoup some or all of the costs associated with that service. For example, if providing a flu shot costs the hospital $10 and the hospital charges $5, the hospital is

recouping only part of its cost. Even if the fee is at or slightly exceeds the actual cost of the shot, the response would not account for the related costs of hospital employees administering, dispensing, and otherwise organizing the immunization program.

6) **Question 42 provides multiple choice answers but does not provide information on how often or how prevalent the event is. Question 42** asks the hospital to check a box in each case that it would provide services to an individual without compensation, and to indicate various time periods including "at or before providing services" and various time intervals after providing services. Most hospitals would check all of these boxes, since all they need is one of their patients to fall into a particular category in order to check the box. Responses do not indicate whether the hospital primarily tries to do this at a particular time, only that they have done this at least once in the particular time period. As a result, the responses may not be meaningful.

7) **Questions do not indicate when hospitals should include employee time spent as part of any community benefit program. (See Questions 58, 62, 66, 69, 70, 71, and 72.)** Hospitals answering these questions do not know whether to include staff time as part of the community benefit. For example, in indicating how much a hospital spends on lectures, seminars, and educational programs, one hospital might include only the direct costs of the program, such as printing costs, while another hospital may include the cost of staff time devoted to developing the materials.

8) **When asking about other programs and activities (see Question 72), respondents do not know how to describe the programs and activities or how to report costs.** The Questionnaire's current wording does not make clear whether the answer should be an overall dollar amount with a list of the types of activities, or a list of the activities in detail with the individual costs of each, or anything in between. It is also unclear whether staff time should be included in any of the costs.

There are problems, similar to those described above with other parts of the Questionnaire.

In sum, the Questionnaire should be carefully reviewed and revised if it is to be utilized again in its current or any shortened form. That review and any revision should reflect the lessons learned from responses to the current Questionnaire and from the Service's analysis of the Questionnaire. The AHA would be pleased to offer technical assistance as the Service reviews and revises Form 13790.

Sincerely,

Melinda Reid Hatton
Vice President and Chief Washington Counsel