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Nonprofit Hospitals' Tax-Exempt Status Again in Spotlight

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Section 501(c)(3) nonprofit hospitals' tax-exempt status is again in the spotlight in the wake of a recent move by the Illinois Department of Revenue to strip three major nonprofit hospitals of their state property tax exemptions. As reported in *The New York Times* on October 31, 2011, the agency decision followed an Illinois Supreme Court ruling that clarified the state constitution's position on tax cuts for charities. Under the Illinois Constitution, the state legislature may only exempt property from taxation if it is used "exclusively" for charity. [Here is a story](#) from the *St. Louis Post-Dispatch* that discusses this situation in greater detail.

This development highlights the ongoing tension between nonprofit hospitals' efforts to attain and maintain desirable tax-exempt status and the position of state and federal regulators that such entities should, in turn, provide a higher level of charity care. It also points to another lingering reality: despite Illinois' move to take away the hospitals' coveted tax-exempt status from the state, they remain exempt from federal taxes because the Internal Revenue Service (IRS) is not currently gathering the data necessary to adequately measure the amount of charity care hospitals are providing. The Illinois governor subsequently suspended the revocation of the three hospitals' tax-exempt status pending development of more specific guidance.

The IRS actually has the tool it needs to collect information on hospitals' provision of charity care, community benefit and executive compensation. It has, however, delayed implementing a mandate that would require hospitals to complete an overhauled tax form that would capture this data. The reason for this delay is not altogether clear. Some believe complaints from the American Hospital Association are to blame, while others (including the IRS) indicate the cause is related to pieces of the health care reform law and other legislation.

Whatever the cause, some members of Congress are expressing interest in the reporting requirements for nonprofit hospitals. Recently, Charles Boustany, Jr., chairman of the House Ways and Means Subcommittee on Oversight, indicated that the body he governs is concerned that tax-exempt organizations are not complying with the

spirit of the policy underlying tax exemption, while they continue to receive its benefits. The IRS, meanwhile, defends that legislation, such as the 2006 Pension Protection Act, has increased demands on the agency, resulting in delay. Added to this situation is the fact that many believe the IRS has not adequately defined charity care, thereby leaving hospitals to fill in the blanks.

Recent events such as that in Illinois indicate that this topic will no doubt remain the subject of continuing debate and controversy.