

Cooperative Hospital Service Organizations: A Hospital Joint Venture Option

Cooperative Hospital Service Organizations (CHSOs) are organizations that are available for hospitals considering certain types of joint ventures with other hospitals. If the terms for their use strictly meet the regulatory requirements, CHSOs can provide both tax exemption and Antikickback Statute Safe Harbor protection for such joint ventures.

CHSOs must be organized and operated on a cooperative basis and their activities must be limited to the performance, on a centralized basis, of one or more specifically enumerated services solely for two or more patron hospitals. Organizations that meet the requirements for a CHSO are exempt from taxation under Section 501(e) of the Internal Revenue Code and certain payments by a patron hospital to the CHSO or from the CHSO to a patron hospital are given safe harbor protection under the Antikickback Statute under 42 C.F.R. §1001.952(q).

Patron hospitals must be tax-exempt under Section 501(c)(3) of the Internal Revenue Code; be a constituent part of a 501(c)(3) organization, which if it operated as a separate entity would be tax-exempt under Section 501(c)(3); or be owned and operated by the United States, a State, the District of Columbia or a political subdivision or an agency or instrumentality of the foregoing. Not all patron hospitals must have voting rights, but the CHSO must provide at least 50% of its services to patron hospitals with voting rights.

The CHSO may only provide one or more of the following enumerated services, on a centralized basis:

- data processing

- purchasing (including the purchasing and dispensing of drugs to patron hospitals)
- warehousing
- billing and collection
- food
- clinical (including radiology)
- industrial engineering (including the installation, maintenance and repair of biomedical and similar equipment)
- laboratory
- printing
- communications
- record center
- personnel

If the CHSO provides services not listed, even if such services are provided in addition to the enumerated services, the CHSO will not be eligible for a tax exemption.

The CHSO must allocate or pay all of its net earnings within 8½ months after the close of the taxable year to its patron hospitals on the basis of the percentage of its services performed for each patron hospital. The percentage of services may be determined on the basis of either the value or the quantity of the services provided by the CHSO to the patron hospital.

The CHSO Antikickback Statute safe harbor requires adherence to the requirements of Section 501(e) as applicable for tax exemption. In addition, to qualify for safe harbor protection, a payment must either be (i) made by a patron hospital to the CHSO for purposes of paying bona fide operating expenses of the

CHSO, or (ii) by the CHSO to a patron hospital for the purpose of paying a distribution of net earnings required under Section 501(e).

The Internal Revenue Service, in a [2014 release](#), denying an exemption request for a CHSO, indicated the requirements will be viewed strictly. In such release the IRS found it not sufficiently clear whether the organization would be operated on a cooperative basis, whether earnings would be appropriately distributed or allocated to the patron hospitals, and whether the services to be provided were limited to the enumerated services.

All the same, if structured carefully and in strict conformance with the regulatory requirements, the CHSO structure offers an opportunity for hospitals to jointly offer certain services on a centralized basis and share the costs and rewards, on a tax-exempt basis and with safe harbor protection under the Antikickback Statute.

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