

CLIENT ALERT: SEPTEMBER 23, 2010

**IRS RELEASES GUIDANCE TO HELP TAX EXEMPT ORGANIZATIONS CLAIM
THE NEW HEALTH CARE TAX CREDIT**

The Affordable Care Act, signed into law this spring, includes a small business health care tax credit, which is designed to encourage small businesses and tax exempt organizations to provide health care coverage to their employees. In general, the tax credit may be available to small tax exempt organizations that primarily employ low to moderate income individuals. To determine if your organization may be eligible, see the steps at the following link:

- http://www.irs.gov/pub/irs-utl/3_simple_steps.pdf

For a tax-exempt employer, the credit is a refundable credit. In other words, even if the tax exempt entity has no taxable income, it may receive a refund in the amount of the credit (so long as it does not exceed the income tax withholding and Medicare tax liability). The maximum credit is 25 percent of health care premiums paid by eligible tax-exempt organizations for tax years 2010 to 2013, and it will increase to 35 percent of health care premiums paid by eligible, tax-exempt organizations in tax year 2014.

Recently, the IRS released guidance on how to claim the new small business health care tax credit. Eligible tax exempt organizations should use new Form 8941 to calculate the health care tax credit. The IRS has indicated that the final version of Form 8941 will be available later this year, and a draft form is available at the following link:

- <http://www.irs.gov/pub/irs-dft/f8941--dft.pdf>

After calculating the value of the credit, tax-exempt organizations can claim the small business health care tax credit on revised Form 990-T, which will be available for the 2011 tax filing season. Currently, tax exempt organizations use Form 990-T to report the tax due on unrelated business income. The IRS has stated that the expected revisions to Form 990-T will enable eligible tax-exempt organizations - even those without any tax liability for unrelated business income - to claim the small business health care tax credit.

Please contact Sheryl Howard at 617-482-7211 or showard@kb-law.com, if you have any questions.

For additional information, see the following links:

- <http://www.irs.gov/newsroom/article/0,,id=223666,00.html>
- <http://www.irs.gov/newsroom/article/0,,id=227404,00.html>