

Tax Issues

for Healthcare Organizations

October 11-12, 2010
The Ritz-Carlton Pentagon City
Arlington, VA

Planning Committee:

John R. Holdenried, Esq.,
Program Chair

Douglas K. Anning, Esq.

Elizabeth M. Mills, Esq.

Linda Sauser Moroney, Esq.



Bridging Business & Healthcare

*Pershing Yoakley & Associates PC
has provided sponsorship in support
of this program.*

Program Agenda

Monday, October 11, 2010

6:45 am-5:30 pm

Registration and Information

6:45-8:30 am

Continental Breakfast *sponsored by Pershing Yoakley & Associates PC* (attendees, faculty and registered spouses and guests welcome)

7:00-8:15 am

Tax and Finance Primer

Travis L.L. Blais

Linda Sauser Moroney

- Qualification as a Section 501(c)(3) organization
- Public charity versus private foundation status
- Intermediate sanctions
- Unrelated business income tax
- Interacting with the IRS – exemption applications, annual information returns, and private letter rulings
- IRS enforcement

GENERAL SESSION

8:30-8:45 am

Welcome and Introduction

Gerald M. Griffith, AHLA President-Elect

John R. Holdenried, Program Chair

8:45-10:15 am

Exemption Standards in Healthcare Reform

Gerald M. Griffith (Moderator)

Jessica L. Curtis

Maureen Mudron

Julie A. Trocchio

Mary E. Rauschenberg

- Community benefit and charity care climate before and after the Accountable Care Act
- Conducting and implementing the community health needs assessment requirement
- Financially speaking – publicizing charity care and limiting charges and extraordinary collection actions
- Effects of the Accountable Care Act on disclosure obligations for nonprofit hospitals

CONCURRENT SESSIONS

10:30-11:30 am

A. Tax Aspects of Clinical Research and Studies

(not repeated)

Douglas K. Anning

John C. Sawyer

- Unrelated business income tax rules
- Cases and rulings dealing with UBIT and contract research

- Identifying and minimizing the tax risks in research agreements
- Structure and drafting issues

B. Accountable Care Organizations and Various Other Models – Legal, Tax and Governance Issues

Maria W. Long

Anne M. McGeorge

C. Communicating with Media, Physicians, Employees and the Board about Your Form 990

Erik Rasmussen

- Proactive and reactive approaches
- Telling your story at the beginning of Form 990 and other 990 tips
- Selection and training of spokespersons; communication tactics
- Explaining compensation, including incentives and deferrals, to various constituents
- Explaining community benefit
- Training executives on Form 990 communication

11:45 am-12:45 pm

D. Joint Ventures

Gerald M. Griffith

Elizabeth M. Mills

- IRS position on joint ventures between exempt and nonexempt entities
- Whole hospital joint ventures
- Ancillary joint ventures
- How Form 990 reporting of joint venture activities plays into the analysis
- When is a contractual joint venture a partnership for tax purposes

E. Post-Issuance Compliance Plans for Tax-Exempt Bonds – The Interaction of Hospital Counsel and Bond Counsel

John R. Holdenried

Robert A. Kaplan

- Compliance Rules – private use, arbitrage, covenants
- IRS Enforcement – 501(c)(3) bond audit initiatives, questionnaires
- Bond Compliance Programs – management practices and procedures to ensure post-issuance compliance
- New Schedule K for Form 990 and requirements
- Navigating complex healthcare transactions through private use analysis – case studies



Program Agenda

F. Ripped from the Headlines! Nonprofit Governance Challenges from Front Page News

Thomas K. Hyatt

- Compensation for the chief executive officer
- Sparring with the state attorney general
- Board fiduciary duty challenges
- Director conflicts of interest
- Information requests from the Senate Finance Committee

12:45-2:00 pm

Lunch on your own or attend an informal networking lunch sponsored by the Tax and Finance Practice Group's Tax In-House Affinity Group

The Tax In-House Affinity Group is a newly established Affinity Group designed to be a resource to provide, obtain, and exchange information among AHLA members who serve their healthcare employers in a Tax leadership role on an in-house basis, and to serve as a forum for the exchange of information, ideas, and best practices. In-house counsel conference attendees are invited to join colleagues for a networking lunch, which will include discussion of implementation of IRC § 501(r). Lunch will be at a restaurant near the hotel and each person will be responsible for covering the cost of his/her own lunch. Please RSVP to Christie Lohkamp at lohkamp.christie@mayo.edu in order to facilitate reservations.

CONCURRENT SESSIONS

2:00-3:00 pm

G. Identifying UBI in the Healthcare Setting

(not repeated)

*D. Greg Goller
Laura Kalick*

- Intercompany transactions, including imputed income, and income from controlled entities
- Rental of personal property and real estate
- Fees from services
- Alternative investments
- Other problem areas

H. A Night at the Movies Starring Employed Physicians (Now Playing at an Exempt Hospital Near You)

Linda Sauser Moroney

- Establishing effective dialogue with physicians regarding the potential advantages of employment (*or Date Night*)
- Educating physicians about tax-exempt status (*or The Blind Side*)

- Creating a meaningful and effective role for physicians in governance (*or How to Train Your Dragon*)
- Avoiding repeating mistakes of the past (*or Hot Tub Time Machine*)
- Creating effective (and legal) physician compensation programs (*or Clash of the Titans*)
- Dealing with physician conflicts of interest (*or Diary of a Wimpy Kid*)
- Conveying the benefits of transparency (*or Why Did I Get Married Too?*)
- Using independent contractor arrangements as an alternative to employment (*or Avatar*)

J. Legal Ethics: New Developments Regarding Privilege, Circular 230 and Tax Return Preparer Regulation

Michael A. Clark

- Post-*Textron* developments regarding the work product privilege in tax controversies
- Disclosure of uncertain tax positions
- Potential changes to Circular 230 regulations governing practice before the IRS
- Pending IRS changes to the regulation of return preparers (including developments with respect to preparer penalties)

3:15-4:15 pm

K. What's Next in the Medical Resident FICA Saga (not repeated)

Robert W. Friz

- Current state of the medical resident FICA issue in the IRS, courts and Congress
- Practical steps on what academic medical centers can be doing now to protect their interests

L. Impact of Provena Covenant Decision in Illinois and Beyond

*Patrick Coffey
James R. King*

- What Provena says about charitable status and charitable use
- The plurality opinion versus the dissent
- What Provena adds to the quantum of care debate
- How well the plurality's approach will travel to other states
- Provena's influence at the Federal level

B. Accountable Care Organizations and Various Other Models – Legal, Tax and Governance Issues (repeat)

Program Agenda

4:30-5:30 pm

M. A Look at Group Exemption Option

(not repeated)

Polly Mihalkovic

Robert Vuillemat

- Group exemption
 - Requirements
 - Application and maintenance
 - Advantages and disadvantages
- Group return filing basics and unanswered questions

C. Communicating with Media, Physicians, Employees and the Board about Your Form 990 (repeat)

H. A Night at the Movies Starring Employed Physicians (Now Playing at an Exempt Hospital Near You) (repeat)

5:30-6:30 pm

Reception sponsored by *Pershing Yoakley & Associates PC* (attendees, faculty and registered spouses and guests welcome)

Tuesday, October 12, 2010

7:00 am-4:15 pm

Registration and Information

7:00-8:00 am

Continental Breakfast sponsored by *Pershing Yoakley & Associates PC* (attendees, faculty and registered spouses and guests welcome)

GENERAL SESSION

8:00-8:30 am

Report from IRS Chief Counsel's Office

William J. Wilkins

8:30-9:45 am

Report from the IRS National Office

Stephen M. Clarke

Peter Lorenzetti

- Update on National Office issues and initiatives, including Form 990/Schedule H and 501(r) related changes
- Update on exams, audit issues and enforcement initiatives

CONCURRENT SESSIONS

10:00-11:15 am Extended Sessions

N. Updating Conflicts of Interest Policies and Disclosure Questionnaires Round II

Mary O'Toole Mahoney

Melissa Sampson McMorrow

- How to draft a disclosure questionnaire to meet standard conflict of interest issues, Form 990 disclosure requirements and additional state law requirements
- How to transform the information received from the questionnaires into useful responses to the Form 990
- View from the front lines—tips on how to make the process work, including how to deal with sensitive information and other unexpected issues
- What structural or governance changes to make (or not make) in order to improve the presentation of the information on Form 990

O. Schedule H

Christie A. Lohkamp

Mary E. Rauschenberg

- Capturing community benefit and charity care activities
- Practical implementation challenges
- Strategic use of narratives to “tell the organization story”

P. Trends in Executive Compensation

W. Edward Phillips

T.J. Sullivan

- Best practices for compliance and the role of good governance
- Legislative and regulatory changes (including a section 457 update)
- Reporting on Form 990 and its effects on behavior and comparability data
- What goes wrong and why
- Counting your chickens – designing and reporting deferred compensation

11:25 am-12:25 pm

Q. RHIO/HIE (not repeated)

Robert C. Louthian, III

- Exemption/substantially related standards for exempt organizations engaged in electronic health activities.
- IRS updates
- Taxable income issues raised by e-Health incentives and services
- Beyond RHIOs – data sets and data repositories



D. Joint Ventures (repeat)

J. Legal Ethics: New Developments Regarding Privilege, Circular 230 and Return Preparer Regulation (repeat)

12:25-1:40 pm

Lunch on your own or attend the Tax and Finance Practice Group Luncheon *sponsored by Grant Thornton LLP* (additional fee, limited attendance, pre-registration required – please see p.11)

Update from Washington and More!
Representative from the IRS Chief Counsel Tax-Exempt and Government Entities Division (invited)

CONCURRENT SESSIONS

1:50-3:05 pm Extended Sessions

N. Updating Conflicts of Interest Policies and Disclosure Questionnaires Round II (repeat)

O. Schedule H (repeat)

P. Trends in Executive Compensation (repeat)

3:15-4:15 pm

E. Post-Issuance Compliance Plans for Tax-Exempt Bonds – The Interaction of Hospital Counsel and Bond Counsel (repeat)

F. Ripped from the Headlines! Nonprofit Governance Challenges from Front Page News (repeat)

L. Impact of Provena Covenant Decision in Illinois and Beyond (repeat)

Adjournment

Program Faculty

PLANNING COMMITTEE

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Robert Vuillemot, Esq.

Senior Manager
Ernst & Young LLP
Pittsburgh, PA

William J. Wilkins, Esq.

Chief Counsel
International Revenue Service
Washington, DC

Program Materials

AHLA has gone green for all in-person programs! We do not automatically print binders for everyone. All materials will be available on a website prior to the program so attendees can print what they need for the sessions they plan to attend and handed out on CD at the program. For those who still do want the binder, they will be available for an additional fee; please order on the registration form on page 11.



Program at a Glance

Monday, October 11, 2010

6:45 am–5:30 pm	Registration and Information		
6:45–8:30 am	Continental Breakfast sponsored by Pershing Yoakley & Associates PC (attendees, faculty and registered spouses and guests welcome)		
7:00–8:15 am	Tax and Finance Primer <i>Blais, Moroney</i>		
8:30–10:15 am	<p>GENERAL SESSION 8:30–8:45 am Welcome and Introduction <i>Griffith, Holdenried</i></p> <p>8:45–10:15 am Exemption Standards in Healthcare Reform <i>Griffith (Moderator), Curtis, Mudron, Rauschenberg, Trocchio</i></p>		
10:30–11:30 am	<p>A. Tax Aspects of Clinical Research and Studies (not repeated)</p> <p><i>Anning Sawyer</i></p>	<p>B. Accountable Care Organizations and Various Other Models – Legal, Tax and Governance Issues</p> <p><i>Long McGeorge</i></p>	<p>C. Communicating with Media, Physicians, Employees and the Board about Your Form 990</p> <p><i>Rasmussen</i></p>
11:45 am–12:45 pm	<p>D. Joint Ventures</p> <p><i>Griffith Mills</i></p>	<p>E. Post-Issuance Compliance Plans for Tax-Exempt Bonds – The Interaction of Hospital Counsel and Bond Counsel</p> <p><i>Holdenried Kaplan</i></p>	<p>F. Ripped from the Headlines! Nonprofit Governance Challenges from Front Page News</p> <p><i>Hyatt</i></p>
12:45–2:00 pm	Lunch on your own or attend an informal networking lunch sponsored by the Tax and Finance Practice Group's Tax In-House Affinity Group		
2:00–3:00 pm	<p>G. Identifying UBI in the Healthcare Setting (not repeated)</p> <p><i>Goller Kalick</i></p>	<p>H. A Night at the Movies Starring Employed Physicians (Now Playing at an Exempt Hospital Near You)</p> <p><i>Moroney</i></p>	<p>J. Legal Ethics: New Developments Regarding Privilege, Circular 230 and Return Preparer Regulation</p> <p><i>Clark</i></p>
3:15–4:15 pm	<p>K. What's Next in the Medical Resident FICA Saga (not repeated)</p> <p><i>Friz</i></p>	<p>L. Impact of Provena Covenant Decision in Illinois and Beyond</p> <p><i>Coffey King</i></p>	<p>B. Accountable Care Organizations and Various Other Models – Legal, Tax and Governance Issues (repeat)</p> <p><i>Long McGeorge</i></p>
4:30–5:30 pm	<p>M. A Look at Group Exemption Option (not repeated)</p> <p><i>Mihalkovic Vuillemot</i></p>	<p>C. Communicating with Media, Physicians, Employees and the Board about Your Form 990 (repeat)</p> <p><i>Rasmussen</i></p>	<p>H. A Night at the Movies Starring Employed Physicians (Now Playing at an Exempt Hospital Near You) (repeat)</p> <p><i>Moroney</i></p>
5:30–6:30 pm	Reception sponsored by Pershing Yoakley & Associates PC (attendees, faculty and registered spouses and guests welcome)		

Program at a Glance

Tuesday, October 12, 2010

7:00 am– 4:15 pm	Registration and Information		
7:00– 8:00 am	Continental Breakfast sponsored by Pershing Yoakley & Associates PC (attendees, faculty and registered spouses and guests welcome)		
8:00– 9:45 am	<p>GENERAL SESSION 8:00-8:30 am Report from IRS Chief Counsel's Office <i>William J. Wilkins</i></p> <p>8:30-9:45 am Report from the IRS National Office <i>Clarke, Lorenzetti</i></p>		
10:00– 11:15 am Extended Sessions	<p>N. Updating Conflicts of Interest Policies and Disclosure Questionnaires Round II</p> <p><i>Mahoney McMorrow</i></p>	<p>O. Schedule H</p> <p><i>Lohkamp Rauschenberg</i></p>	<p>P. Trends in Executive Compensation</p> <p><i>Phillips Sullivan</i></p>
11:25– 12:25 pm	<p>Q. RHIO/HIE (not repeated)</p> <p><i>Louthian</i></p>	<p>D. Joint Ventures (repeat)</p> <p><i>Griffith Mills</i></p>	<p>J. Legal Ethics: New Developments Regarding Privilege, Circular 230 and Return Preparer Regulation (repeat)</p> <p><i>Clark</i></p>
12:25– 1:40 pm	<p>Lunch on your own or attend the Tax and Finance Practice Group Luncheon sponsored by Grant Thornton LLP (additional fee, limited attendance, pre-registration required – please see p.11)</p>		
1:50– 3:05 pm Extended Sessions	<p>N. Updating Conflicts of Interest Policies and Disclosure Questionnaires Round II (repeat)</p> <p><i>Mahoney McMorrow</i></p>	<p>O. Schedule H (repeat)</p> <p><i>Lohkamp Rauschenberg</i></p>	<p>P. Trends in Executive Compensation (repeat)</p> <p><i>Phillips Sullivan</i></p>
3:15– 4:15 pm	<p>E. Post-Issuance Compliance Plans for Tax-Exempt Bonds – The Interaction of Hospital Counsel and Bond Counsel (repeat)</p> <p><i>Holdenried Kaplan</i></p>	<p>F. Ripped from the Headlines! Nonprofit Governance Challenges from Front Page News (repeat)</p> <p><i>Hyatt</i></p>	<p>L. Impact of Provena Covenant Decision in Illinois and Beyond (repeat)</p> <p><i>Coffey King</i></p>



Program Information

Dates: October 11-12, 2010
Place: The Ritz-Carlton Pentagon City
 1250 South Hayes Street
 Arlington, VA 22202
Phone: (703) 415-5000
Fax: (703) 415-5061
Reservations: (800) 241-3333

Registration Fees:

Postmarked and paid by September 20, 2010

\$695 For the first AHLA Member
 \$620 For each additional Member
 \$920 Non-Members

Postmarked and paid between September 21 and October 6*

\$820 For the first AHLA Member
 \$745 For each additional Member
 \$1045 Non-Members

Printed Course Materials: \$45

* Registration fees increase \$125 after this date.

If you have indicated an incorrect amount due to errors in addition or not being eligible for a specific rate, AHLA will charge the correct amount to the credit card you have supplied.

Discounted Registration Fees: Government employees, in-house counsel, academicians, solo practitioners and students: please call (202) 833-1100, prompt #2 for special discounted registration fees.

Spouse/Guest Fee: For an additional \$30 spouses and adult guests can register to attend the reception on Monday evening and the breakfasts on Monday and Tuesday mornings. Please sign up on the registration form. (*Children are welcome to attend these events at no additional charge.*)

Continuing Education: Participants will be given continuing education forms at the program. Forms must be completed and returned to AHLA staff to receive credit. AHLA is an approved sponsor of continuing legal education credits in most states. This seminar will be worth approximately 12.25 continuing education credits (including 1.0 ethics credit) based on a 60-minute hour and 14.7 credits (including 1.2 ethics credits) based on a 50-minute hour.

AHLA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. Website: www.nasba.org. This seminar will be worth approximately 14.0 CPE credits.

This program is designed to be an update on developments in the area of tax. There are no prerequisites or advanced preparations required to register for this group live program. Those seeking accounting credits should be familiar with the basic

concepts of law and terminology associated with the area of tax in order to obtain the full educational benefit of this program.

Hotel Reservations: Hotel accommodations are not included in the registration fee. Call The Ritz-Carlton Pentagon City at (800) 241-3333. ***If calling, please indicate that you are attending the AHLA program. Rooms at the group rate are limited and may sell out.***

Membership: Dues are \$185 for those admitted to the Bar/graduated from college within the last four years; \$300 for those admitted/ graduated more than four but less than eight years ago; and \$345 for those admitted/graduated eight or more years ago. Dues are \$155 (or \$75 for electronic benefits) for government employees, paralegals, and full-time academicians; \$105 for public interest attorneys and \$15 for full-time law school students to receive benefits electronically. Include the applicable membership fee with your registration form and take advantage of the program registration fee for members.

Cancellations/Substitutions: Cancellations must be received in writing ***no later than October 4, 2010.*** Refunds will not be issued for cancellations received after this date. Registration fees, less a \$125 administrative fee, will be refunded approximately 3-4 weeks following the program. If you wish to send a substitute or need more information regarding refund, complaint and program cancellation policies, please call (202) 833-1100, prompt #5. Please note that registration fees are based on the AHLA membership status of the individual who actually attends the program.

Special Needs: If you have needs requiring special assistance or accommodations, including special dietary needs, or have questions about accessibility issues at the program, contact our special needs coordinator, Valerie Eshleman at (202) 833-0784 or veshleman@healthlawyers.org.

Travel: Association Travel Concepts (ATC) has negotiated discounts with United, American, Hertz and Avis Rental Car to bring you special airfares and car rental rates lower than those available to the public. Discounts of 5-15% apply to travel on October 9-16 2010. Some restrictions may apply and a service fee may apply. ATC will also search for the lowest available fare on any airline.

ASSOCIATION TRAVEL CONCEPTS

1-800-458-9383

email: reservations@atcmeetings.com

www.atcmeetings.com

(*follow the Member Travel links*)

Fax: (858) 362-3153

ATC is available for reservations from 8:30 am until 8:00 pm Eastern, Monday through Friday.

New Publication! Physician Recruitment and Compensation Arrangements Practice Guide

The American Health Lawyers Association is pleased to bring you a new edition of the *Physician Recruitment and Compensation Arrangements Practice Guide* (formerly *Physician Recruitment & Retention*). We greatly appreciate the work that Gerald M. Griffith, Esquire, put into this updated and greatly expanded third edition on an important and complex area of health law.

This *Practice Guide* continues to serve as an educational and resource tool for the health law practitioner in the area of physician recruitment and retention by exempt organizations. It offers guidance on avoiding the risks involved in this area of the law, such as loss of tax-exempt status, exclusion from Medicare and Medicaid, and other serious penalties. Mr. Griffith provides an in-depth review of the interplay of federal regulations in the fraud and abuse, self-referral, and tax exemption areas affecting physician recruitment and retention. The author examines the compliance issues faced by healthcare organizations in three critical areas impacted by the development of compensation packages and other incentives when recruiting and retaining physicians: the Medicare and Medicaid Anti-kickback Statute, the Stark Law, and federal tax-exempt status issues including inurement, excess benefit, private benefit, and others.

The coverage in this third edition includes:

- Exemption standards
- Physician compensation packages
- Worker classification of physicians
- Other physician and recruitment incentives
- Preparing for audit
- Practice acquisitions

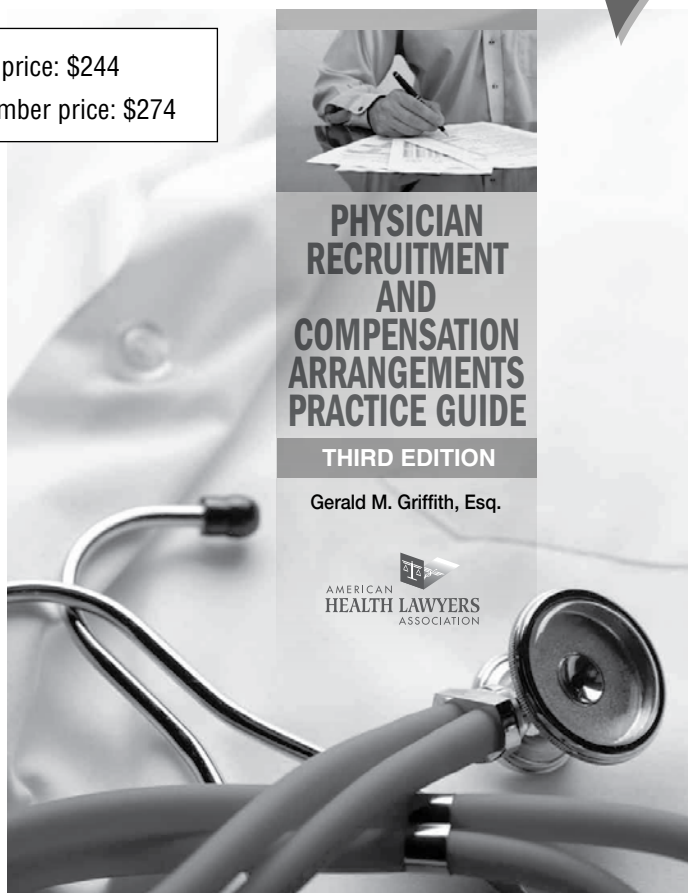
Also included are workpapers and charts summarizing key elements and providing tools to assist with compliance.

Member price: \$244

Non-member price: \$274

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Tax Issues Program Registration Form

To register: Remit payment and completed registration form by mail to the American Health Lawyers Association • P.O. Box 79340 • Baltimore, MD 21279-0340 or fax with credit card information to (202) 775-2482. To register by phone call (202) 833-1100, prompt #2. If any program is over-subscribed, only AHLA members will be placed on a waiting list. On-site registrations will be accepted on a space-available basis only.

Name: _____ Member ID #: _____

First Name for Badge (if different than above): _____

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Organization: _____

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Telephone: (____) _____ Fax: (____) _____

E-Mail: _____

Spouse/Guest Name _____

Early Registration Fees (faxed/postmarked and paid on or before September 20, 2010):

- AHLA Members:** \$695 **Non-Members:** \$920
- \$620 each additional AHLA member registering from same organization at same time on the same check or credit card payment

Registration Fees (faxed/postmarked and paid between September 21 and October 6, 2010):

- AHLA Members:** \$820 **Non-Members:** \$1045
- \$745 each additional AHLA member registering from same organization at same time on the same check or credit card payment

I will require: audio visual mobility other assistance _____

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PAYMENT INFORMATION

Please fill in applicable amount: (Sorry! Registrations cannot be processed unless accompanied by payment.)

\$ _____ Registration Fee

\$ _____ Tax Practice Group Luncheon (\$35 for members of the Tax PG/\$45 for non-members of the Tax PG; Tuesday, October 12, 2010)

\$ _____ Printed Course Materials (\$45)

\$ _____ Spouse/Guest Fee (\$30)

\$ _____ Membership Dues (Date admitted to the bar/graduated: / /)

\$ _____ Total Enclosed

Check enclosed (Make checks payable to American Health Lawyers Association)

Bill my credit card:     Diners Club

Number: _____ Exp. Date: /

Name of Cardholder: _____

Signature of Cardholder: _____

ZIP Code of Cardholder's Billing Address _____

Please Note: Should your credit card total be miscalculated, AHLA will charge your credit card for the correct amount. To receive a refund of the registration fee paid minus \$125, cancellation notice must be received in writing by October 4, 2010. Please see page 9 of this brochure for AHLA's full refund policy.

Fed ID No. 23-7333380

Printed Course Materials

All attendees will receive an electronic version of the full set of course materials for the program. If you would like to purchase a binder, please indicate that below:

I am registering for the Tax Program and would like to purchase the binder for \$45



AMERICAN
HEALTH LAWYERS
ASSOCIATION

1620 Eye Street, NW
6th Floor
Washington, DC 20006-4010

Tax Issues for Healthcare Organizations

October 11-12, 2010

Arlington, VA

Register by September 20 and save!
For updates and to register, go to
www.healthlawyers.org/programs

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