

HHS Addresses Taxability of Provider Relief Funding

Late on Friday evening (July 10, 2020) and less than a week before the looming July 15, 2020, tax deadline, the Department of Health and Human Services (HHS) finally issued guidance addressing the taxability of [Provider Relief Fund](#) (PRF) payments. As with so many of its prior instructions, HHS' most recent guidance came without notice and without an official public announcement.

Here are the latest highlights for what providers may expect come tax season:

Bottom line, HHS considers a PRF payment includable as gross income under Section 61 of the Internal Revenue Code (the Code). A PRF payment cannot be excluded by a recipient from its gross income as a qualified disaster relief payment under Section 139 of the Code. HHS' position on this issue is substantially similar to [guidance issued recently by the IRS](#).

Like the IRS, HHS also explained that a nonprofit provider will generally not be subject to tax on its PRF payment. However, if the PRF payment reimbursed the nonprofit provider for expenses or lost revenue attributable to an unrelated trade or business, the PRF payment may be subject to tax under section 511 of the Code.

While we had hoped that PRF payments would be deemed qualified disaster relief payments— similar to the treatment of relief offered previously to victims of natural disasters—it appears that HHS and the IRS have rather definitively closed that door. We recommend that providers contact their tax preparers immediately to discuss the potential tax implications of this latest HHS and IRS guidance.

For a closer look at the most recent iteration of HHS' FAQs, please visit the [HHS website](#) or click to [view the PDF](#).

Our Chambliss team continues to monitor HHS' guidance, including these FAQs, and other legal impacts of the COVID-19 pandemic. Please contact [Mark Cunningham](#), [Courtney Keehan](#), [Jed Roebuck](#), or your relationship attorney if you have questions or need additional information.

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