

**From:** Jim Kelly <jkellyiii@georgiaheart.org>  
**Sent:** Tuesday, September 10, 2019 10:02 AM  
**Subject:** Pass-Through Entity Business Payments to Rural Hospitals



Dear Friends of Georgia HEART,

As some of you may be considering how to advise your clients on whether a payment made by a pass-through business entity to a rural hospital participating in the Georgia HEART Hospital Program may be deductible for federal income tax purposes as an ordinary and necessary business expense, the following information may be helpful to you.

In a June 2, 2016 [General Information Letter](#), the Internal Revenue Service explained that a taxable benefit corporation (treated the same as other taxable corporations) may deduct payments to charities as business expenses (and thus not subject to the 10% limitation on corporate contributions) when the payments are for institutional or goodwill advertising to keep the corporation's name before the public.

On November 4, 2016, three partners from the Washington, D.C. law firm of Morgan, Lewis & Bockius LLP, a global law firm with approximately 2,200 legal professionals in 31 offices across North America, Europe, Asia, and the Middle East, published [an analysis on the General Information Letter](#), setting forth the legal basis for the deductibility of institutional or goodwill advertising and some practical considerations relating to ensuring the deduction, including the recommendation that "corporations seeking to claim a business expense for payments to charitable organizations should carefully document the business and financial rationale for making such payments, and such documentation should be contemporaneous with the payments."

On September 18, 2019, the Georgia Department of Revenue [will conduct a hearing](#) on its proposed rule setting forth the manner in which the owner of an interest in a pass-through business entity may qualify for the Georgia HEART Tax Credit in cases where the business entity will be making a payment to a qualified rural hospital that qualifies for a federal ordinary and necessary business expense deduction.

Meanwhile, Georgia HEART has published on its website an [updated 2019 Tax Credit Form](#) that incorporates the possibility for the owner of an interest in a pass-through entity to apply for a Georgia HEART credit with respect to his or her pro-rata share of a payment made by the pass-through entity to a Georgia HEART hospital.

Best,

Jim

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