action was performed by a collection agency to which the hospital sold or referred the debt, the hospital will be deemed to have performed that action. Therefore, hospitals must obtain and enforce a written agreement with any outside entity to which it sells or refers a patient's debt during the application period.[22]

Even if a healthcare organization is exempt from paying taxes, federal law generally requires filing an annual information return on Form 990. With Form 990, hospitals must submit Schedule H. The ACA has added two new reporting requirements for tax-exempt hospitals on Form 990. First, a hospital must describe how it is meeting the needs identified in its CHNA. Therefore, the IRS will require each hospital to attach its latest implementation strategy to its Form 990. Second, the ACA imposes an excise tax of $50,000 on any hospital that fails to meet the requirements for a CHNA, and requires that hospital to report the imposition of that excise tax on its Form 990.

Activity 4.1: Alternatives for Developing a Hospital

Jefferson County has never had a hospital. To obtain acute care services, residents have to travel 20 to 30 miles to a hospital in an adjacent county. For many years, civic leaders have talked about building a hospital and, for more than ten years, the board of county commissioners has been putting its annual budget surplus in its "hospital fund." At the present time, the county commissioners have accumulated $25 million in cash, which is earmarked for a hospital, but the commissioners have been informed that $100 million will be required to build and equip a hospital of the appropriate size.

The county commissioners have considered several proposals for developing a hospital:

1. Establish a public hospital to be owned and operated by the county. Under this plan, the county would use the $25 million in the hospital fund as a down payment and would finance the remaining $75 million by tax-exempt bonds. Once the building is completed, the county would hire an administrator to run the hospital. Commissioner Green likes this idea because she has a nephew who needs a job and thinks running a hospital sounds like a lot of fun.

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2. Establish a nonprofit corporation and have the county make a grant of $25 million to the nonprofit corporation for the purpose of building a hospital in the community. The nonprofit corporation would use bond financing for the remaining $75 million in capital cost. Once construction is completed, the hospital would be operated by the nonprofit corporation. If the nonprofit corporation ever dissolved or ceased to operate the hospital, it would have to return the entire $25 million grant to the county. Commissioner Blue is strongly opposed to this proposal. According to Commissioner Blue, if everything in the county, including the new hospital, were to be destroyed someday by nuclear war, the county would not be able to get back any of the money that it gave to the nonprofit corporation. Commissioner Brown thinks Commissioner Blue is an idiot.
3. Establish a for-profit corporation that will raise $100 million by selling shares in the new corporation to investors on the open market. This alternative was proposed by Commissioner Black. Because of his success in business, he believes private enterprise can build and operate the hospital in the most efficient manner. Under his proposal, the county will use the $25 million in its hospital fund to buy one-fourth of the shares in the new for-profit corporation. Therefore, the county will be a minority shareholder but will probably be the largest single shareholder in the new corporation. Commissioner Green, who wants the county to build and operate the hospital itself, is opposed to the idea of using a for-profit corporation because of a concern for the uninsured and indigent people in the community.

As you might expect, the board of commissioners has been unable to agree on a proposal, and at the last meeting they almost came to blows. Therefore, the chair has appointed a committee to study the issue and report back at the next meeting. In turn, the committee has hired you as a consultant and wants your advice on the best alternative for the county. The best alternative might be one of the aforementioned three proposals, some combination of those proposals, or a completely different proposal. Before evaluating each alternative, please fill in the chart showing the advantages and disadvantages for each type of legal

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EXHIBIT 4.2
Pros and Cons of Each Organizational Form for Healthcare Facilities

Issue	Public	Private, Nonprofit	Private, For-Profit
Exempt from income taxes			
Exempt from property taxes			
Eligible for tax-deductible donations			
Able to use tax-exempt bond financing			
Able to use equity financing			
Able to use employee incentives of stock options			
Subject to public oversight and control			
Subject to public employment laws			
Obligated to provide charity care			
Subject to restrictions on use of public funds			
Subject to IRS rules for 501(c)(3) corporations			

structure (Exhibit 4.2). Write a recommendation to the county explaining your reasoning.

Incidentally, as they say on television, this story is purely fictional, and any resemblance to real persons, living or dead, is purely coincidental.