



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

July 11, 2013

Number: **2013-0025**
Release Date: 9/27/2013

CONEX-126126-13

UIL: 5000A.00-00

The Honorable Kenny Marchant
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Marchant:

I am responding to your letter dated May 30, 2013. You asked for our review and analysis of the written and oral comments that your constituent, _____, provided on the proposed regulations on the requirement to maintain minimum essential coverage under section 5000A of the Internal Revenue Code. The proposed regulations were published in the Federal Register on February 1, 2013.

In a written comment submitted on March 21, 2013, and in testimony given in the public hearing held on May 29, 2013, _____ described a situation in which a noncustodial parent of a child fails to provide health care coverage for the child as required by a court order. _____ stated that she, as the child's custodial parent who is allowed to claim the child as a dependent, should not be liable for the shared responsibility payment resulting from the noncustodial parent's failure to comply with a court order. Instead, she requested that the Internal Revenue Service hold the noncustodial parent in this situation liable.

In general, under section 5000A, a taxpayer is responsible for his or her dependents' health care coverage. We understand the difficulties that taxpayers in _____ situation face and appreciate her taking the time to testify at the hearing. We will carefully consider her comments as we consider all comments received on these proposed regulations.

We note that section 5000A does provide an exemption under the authority of the Department of Health and Human Services (HHS) for an individual who is determined to have suffered a hardship with respect to the capability to obtain coverage under a qualified health plan. HHS has released guidance providing that, in determining what constitutes a hardship, an Exchange may consider the circumstance in which a child is

ineligible for Medicaid and the Children's Health Insurance Program (CHIP) and a party other than the party who expects to claim the child as a tax dependent is required by court order to provide medical support. For your reference, I am enclosing a copy of the HHS guidance.

I hope this information is helpful. If you have any questions, please contact me or
(Identification Number) at .

Sincerely,

Andrew J. Keyso
Associate Chief Counsel
(Income Tax and Accounting)

Enclosure:

HHS Guidance on Hardship Exemption Criteria and Special Enrollment Periods
(June 26, 2013)