



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF THE CHIEF COUNSEL

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The Honorable Al Franken,
United States Senator
515 West First Street, Suite 104
Duluth, MN 55802

Attention:

Dear Senator Franken:

I apologize for the delay in responding to your inquiry dated June 21, 2016, on behalf of your constituent, . wrote about the employer information reporting requirements under the Affordable Care Act (ACA) and the process for complying with those requirements.

explained that he works for a company that provides software development to a number of counties in the state of . His company is responsible for developing software to enable its members to transmit electronically the information returns required to be filed with the Internal Revenue Service (IRS) to report on health insurance coverage pursuant to sections 6055 and 6056 of the Internal Revenue Code (the "Code"). raised concerns about changes made to the IRS systems requirements near the filing deadline for these returns, the time and expense needed to modify systems to comply with changes made to the IRS electronic transmission system, and the exposure to penalties if the information returns were not filed in a timely manner. also offered several suggestions to improve the filing process.

For the 2015 tax year, following consultation with stakeholders, Treasury and the IRS determined that some employers, insurers, and other health care providers needed additional time to implement systems and procedures to report the information required to be submitted on the information reporting returns. In Notice 2016-04 (IRB 2016-03), published on January 19, 2016, Treasury and the IRS extended the due dates for electronic filing of the following forms from March 31, 2016 to June 30, 2016:

- 2015 Form 1094-B, Transmittal of Health Coverage Information Returns,

- 2015 Form 1095–B, Health Coverage
- 2015 Form 1094–C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
- 2015 Form 1095–C, Employer-Provided Health Insurance Offer and Coverage

In the notice, Treasury and IRS also addressed the potential application of penalties under sections 6721 and 6722 of the Code if employers or other coverage providers did not file the information reporting forms in a timely manner. Treasury and IRS announced that in determining whether to abate the penalties, they would consider whether an employer made reasonable efforts to prepare for reporting the required information to the IRS and the extent to which the employer took steps to comply with the reporting requirements for 2016.

Additionally, to assist software developers and electronic filers in complying with the electronic reporting requirements for 2015, the IRS took the following actions:

- Provided extensive information about the Affordable Care Act Information Returns (AIR) program on the IRS website, www.irs.gov
- Held monthly webinars, beginning in January 2015, about the electronic reporting process for stakeholders and regularly updated the information on the irs.gov website
- Established an email subscription service allowing stakeholders to get alerts about current information on events affecting the AIR program throughout the year. The last 12 months of these alerts are on the irs.gov website

To improve the information return filing process for tax year 2016, the IRS has already provided information about compliance to stakeholders earlier in the filing process. The IRS recently released the XML schema, business rules and related publications with the electronic filing requirements for the 2016 tax year, on the Tax Year 2016 Schemas and Business Rules for Affordable Care Act Information Returns (AIR) webpage.

(<https://www.irs.gov/for-tax-pros/software-developers/information-returns/tax-year-2016-schemas-and-business-rules-for-affordable-care-act-information-returns-air>). The draft 2016 forms and instructions used for ACA information reporting also are available in an early release format on the irs.gov website (<https://apps.irs.gov/app/picklist/list/draftTaxForms.html>).

The IRS will continue to hold monthly webinars for stakeholders, add audio webinars, post extensive information on the irs.gov website and provide the online service for alerts about current information on events affecting the AIR program.

I hope this information is helpful. If you have questions, please contact me at
or at .

Sincerely,

Christine Ellison, Acting Branch Chief
Health and Welfare Branch
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)