



OFFICE OF
CHIEF COUNSEL

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

April 14, 2017

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CONEX-109809-17

UIL: 4980H.00-00

Dear _____ :

I am responding to your inquiry dated March 10, 2017, on behalf of the _____ and the _____, a _____. You state that the _____ is a large employer under the Affordable Care Act (ACA) and may be liable for employer shared responsibility payments (ESRP) because it has not complied with the ACA rules on providing health insurance to its employees for financial reasons.

Section 4980H of the Internal Revenue Code provides that if an applicable large employer (generally, an employer with at least 50 full-time employees, including full-time equivalent employees, on business days in the preceding calendar year) fails to offer health coverage to its full-time employees, and if the other conditions in the statute are met, the employer is liable under the statute for the ESRP.

There is no provision in the statute that provides for the waiver of an ESRP.

The recent Executive Order Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal (January 20, 2017), directed federal agencies to exercise authority and discretion permitted to them by law to reduce potential burden imposed by the ACA. The Executive Order does not change the law; the legislative provisions of the ACA are still in force until changed by the Congress, and taxpayers

remain required to follow the law and pay what they may owe. For additional information on the ACA Executive Order and the current tax filing season, please visit <https://www.irs.gov/tax-professionals/aca-information-center-for-tax-professionals>.

I hope this information is helpful. If you need additional information, please contact
or me at .

Sincerely,

Denise Trujillo
Branch Chief,
Health and Welfare Branch,
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)