



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Ron DeSantis  
Member, U.S. House of Representatives  
31 Lupi Court, Suite 130  
Palm Coast, FL 32137

Attention:

Dear Representative DeSantis:

I am responding to a second inquiry from your office dated May 23, 2018, on behalf of your constituent, . had additional questions regarding whether his former employer properly calculated his premium under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and under Section 4980B of the Internal Revenue Code (the Code) for his health reimbursement arrangement (HRA).

As noted in our previous letter dated September 20, 2017, the IRS has not issued specific guidance to determine the applicable premium for COBRA continuation coverage under an HRA. Under current law, an employer must operate in good faith compliance and in accordance with a reasonable interpretation of the statute.

Also, as previously noted, in response to your constituent's request for the IRS to audit his former employer's COBRA administration, if your constituent would like to report a suspected tax violation to the IRS, one way to do so would be to complete and submit Form 3949-A, Information Referral, to the IRS for its review.

As noted in our first letter to you, section 6103 of the Code generally prohibits the IRS from disclosing any information about a taxpayer's situation unless the disclosure is specifically authorized by that statute. This includes information relating to whether a taxpayer was, is being, or will be examined for any aspect of tax compliance. Based on the information you provided to us, we can identify no authority under section 6103

permitting the IRS to share with your constituent information regarding his former employer's COBRA administration, assuming such information even exists.

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

Sincerely,

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