AMERICAN BENEFITS COUNCIL

December 24, 2015

Submitted via email to Candice.v.cromling@irs.gov

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224-0002

Re: Recommendation to Streamline Extension Request Process

Dear Commissioner Koskinen:

Thank you for the meeting this week regarding readiness and IRS support for the new ACA employer information reporting requirements for the 2016 filing season. We appreciate the opportunity to share our concerns regarding the new and highly complex reporting requirements that employers and service providers are working to implement.

As we discussed, many of the Council's members have expressed significant concerns about their ability to furnish accurate Forms 1095-C and Forms 1095-B to employees by the February 1, 2016 deadline. The data that needs to be reported – particularly on the Form 1095-C – relates to information that many employers did not previously maintain in a format that facilitated reporting. As a result, employers' attempts to establish systems that can accommodate the reporting requirements have generated logistical complications and we continue to hear about new difficulties from employers on a regular basis.

Although payroll services companies and human resources management companies are preparing the Forms 1095-C and Forms 1095-B for many of their employer clients as a service, those companies are also struggling with the lack of consistent data interchange standards for the various systems which maintain the information that is

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needed for reporting with respect to Internal Revenue Code sections 6055 and 6056 (including, payroll, HR, benefits, employee leave, timekeeping, COBRA, etc.)

Since final Instructions for the Forms were not released until September of 2015, and the AIR testing for tax year 2015 did not begin until November of 2015, employers have had limited time to learn and understand the complex rules with respect to the reporting. Additionally, there remain many ongoing and unanswered questions regarding how certain scenarios should be reported.

These and other factors have heightened the likelihood that many employers may not be able to furnish the requisite forms by February 1. We anticipate that many employers will be seeking an extension of time to furnish the statements to recipients. The current process of obtaining an extension to furnish statements requires the reporting entity to send a letter to the IRS including: (i) filer name, (ii) filer TIN, (iii) filer address, (iv) type of return, (v) a statement that extension request is for providing statements to recipients, (vi) reason for delay, <u>and</u> (vii) the signature of the filer or authorized agent. The request must be approved by the IRS, and generally only a maximum of 30 extra days is provided.

It would benefit both the employer community and the IRS if this process could be streamlined, at least for the 2016 filings. We urge the IRS to allow employers either to: (a) avail themselves of an automatic extension, without the need to make any formal filing before the IRS; or (b) file a request for extension that only requires the provision of a limited amount of information as described below, and to provide for an automatic thirty-day extension if such a request is granted.

Under the latter process, an automatic thirty-day extension for furnishing the forms would be granted provided that the filer submit a request for extension that is postmarked no later than February 1, and the requests includes: (i) filer name, (ii) filer TIN, (iii) filer address, (iv) type of return, and (v) the signature of the filer or authorized agent. This would allow employers to have some assurance that they could obtain an extension of time to March 2, 2016 without obtaining IRS approval, and would also eliminate the need for the IRS to review the significant number of requests for extension which we anticipate will be submitted.

We also note that establishing this procedure would be consistent with existing IRS regulations at Treas. Reg. § § 1.6055-1(g)(4)(i)(B)(2) and 301.6056-1(g)(1)(ii)(B) ("The Commissioner may, in appropriate cases, prescribe additional guidance or procedures, published in the Internal Revenue Bulletin... for automatic extensions of time to furnish to one or more full-time employees the statement required under sections [6055 and 6056]."

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Thank you for your consideration. If you have any questions or would like to discuss these comments further (or any other implementation issues related to ACA information reporting), please contact me at (202) 289-6700. We look forward to continued dialogue as the 2016 filing deadlines approach.

Sincerely,

Kathryn Wilber
Senior Counsel
Health Policy

Cc: Candice V. Cromling
Director, National Public Liaison