


Understanding the Automated Underreporter Program



Richard Furlong, Jr.
Senior Stakeholder Liaison

June 21, 2017
CPA Continuing Education Society of PA

Automated Underreporter Process Overview

- Computer Matching
- Inventory (case) Selection
- Screening
- Responses
- Case closure
- Reconsideration

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Automated Underreporter Matching and Case Selection


- IRS matches returns with information from third parties
- Matching begins *after* original return due date
- AUR cases are created after potential discrepancy identification

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Automated Underreporter Screening

- Tax examiners attempt resolution of the discrepancy prior to taxpayer contact
- CP 2501 – preliminary contact
- CP 2000 – proposed changes and tax calculations
- Statutory Notice of Deficiency (Letter 3219) “90 Day” Letter

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Department of the Treasury
Internal Revenue Service
PO Box 16335
Philadelphia, PA 19114-0439

s018999546711s
JAMES & KAREN Q. HINDS
22 BOULDER STREET
HANSON, CT 06030-7253

CP 2000

Notice CP2000
Tax Year 2010
Notice date January 23, 2017
Social Security number 999-99-9999
AUR control number 99999-9999
To contact us Phone 1-800-429-4310
Fax 1-215-516-2335

Page 1 of 8
AUR Bar Code

Proposed changes to your 2010 Form 1040
Amount due: \$2,349.00

The information you provided in your December 10, 2016 request for removal or reduction of penalties associated with your 2010 Form 1040 did not meet our guidelines. As a result, we are not removing or reducing any penalties, and the total amount you owe for tax due, including penalties and interest, is \$2,349.00.

Billing Summary	
Tax you owe	\$2,519.00
Payments and credits	-410.00
Negligence penalty	60.00
Interest charges	180.00
Amount due by February 22, 2017	\$2,349.00

What you need to do immediately

Review this notice, and compare our changes to the information on your 2010 tax return.
If you agree with the changes we made:

- Complete, sign and date the Response form on Page 5, and mail it to us along with your payment of \$2,349.00 so we receive it by February 22, 2017.

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Automated Underreporter Response Process

- AUR issues a notice or letter
- Cases are controlled in a suspense file
- The suspense file has a pre-set suspense period based on notice/letter type
- Controlled responses remove cases from suspense
- No response received

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Automated Underreporter Response Process

- If taxpayer disputes the proposed liability:
 - Taxpayer sends in response or makes telephone contact
 - IRS AUR Unit reviews taxpayer response
 - Possible phone contact made
 - Determination made on case



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Automated Underreporter Responding

- Respond timely
- Include the Response Page – even if faxing the response
- Use the return envelope
- Include detailed explanations
- Provide contact information



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Automated Underreporter Responding

- Responding with an amended return
 - Send the amended return in with the response. Do NOT mail to the normal 1040X filing address.
- Responding with a payment. There can be two separate mailings:
 - ♦Response
 - ♦Payment



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Automated Underreporter Requesting a 30 day extension

- AUR often grants 30 day extensions upon request.
- The 30 day extension starts on the day the extension is granted by the IRS.
- The 30 day extension does NOT automatically start on the last day of the notice response.



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Automated Underreporter Case Closure

- CP2000 – Agreed: case closed when response is received.
- CP2000 – Unagreed:
 - Case closed if response is accepted by the IRS
 - Taxpayer can request an appeals hearing if response is not accepted by the IRS (but only before a Letter 3219 / 90 letter is issued by the IRS)
 - Taxpayer can petition the tax court after receiving a 90 letter



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Automated Underreporter Case Closure

- What happens when a taxpayer does not agree with a CP2000 notice but does not respond to the CP2000 within the response period and as a result receives a statutory notice of deficiency (90 day letter)?
- Can the taxpayer's representative still work with the Automated Underreporter Unit while petitioning the tax court?



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Reconsideration Process

- If you don't agree with a closed case results you can request reconsideration.
- The IRS may reconsider cases when new information is submitted.
- Publication 3598



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CP 2000 – Practitioner Preferential Call Routing to AUR

- 1) IRS Practitioner Priority Service
1-866-860-4259
- 2) Menu Option 5 - Automated Underreporter Notice



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AUR - Helpful Hints

- Do not group or net amounts
- Report income on correct line
- Include explanation of incorrect payer data
- Include all back-up schedules



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Key Points

- Respond to notices timely
- Always include the response page when responding to a notice; even when you are faxing a response
- Provide detailed responses if you do not agree
- Include any necessary documentation to support your position in your response
- If responding by mail use the response envelope



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Key Points

- If responding to a notice with an amended return send the 1040X in along with the response
- Call the Practitioner Priority Service instead of calling the number on the notice in order to reduce your call wait time.
- You can request additional time in order to respond to a notice



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Publication 5181

Tax Return Reviews by Mail

CP2000, Letter 2030, CP2501, Letter 2531

While most returns are accepted as filed, some are selected for review to determine if income, credits, and/or deductions are being reported accurately. This publication will guide you through the tax return review process and explain your rights and your responsibilities after receiving a notice proposing additional tax liability.

If you have questions or need help

Please call the number on the notice you receive; that office will be able to view your notice and will provide specific guidance to help you respond with the information or documentation the IRS needs.

Visit www.irs.gov/formspublic to find all the IRS tax forms and publications mentioned here, or to do a keyword search on any topic.

You can also visit your local IRS office or call 1-800-829-1040 (individuals) or 1-800-829-4933 (businesses).

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Questions?

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Six Steps to Protect Your Clients and Protect Yourself from Identity Theft



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It CAN happen to you!

- Cybercriminals targeting tax professionals
 - January-May 2017 – 177 tax professionals reported data breaches
 - IRS receiving reports from 3 to 5 tax pros each week
- Simple steps can help protect your clients and your business



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1. Review Pub 4557

- Publication 4557, Safeguarding Taxpayer Data
 - Checklist to review current security practices
 - Identify your risks
 - Create a security plan
 - Review your plan annually



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2. Use Best Security Practices

- Learn to recognize and avoid phishing emails and phishing scams
- Use strong security software to protect against malware and viruses
- Use security functions on your tax prep software
- Encrypt taxpayer data
- Use strong, unique passwords



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3. Lose data? Call IRS immediately

- Contact your local Stakeholder Liaison
 - www.irs.gov keyword search “stakeholder liaison” to find contact for your state
 - IRS may be able to help protect your clients if notified quickly
- Review “Data Loss Information for Tax Professionals” at IRS.gov/identitytheft for additional steps



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Victim Assistance

- We tell you –
 - Suspicious return generates Letter 4883C or Letter 5747C to verify identity by phone or in person
 - If taxpayer did not file return, it is removed from account; IP PIN generated
 - No need to file a Form 14039



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Victim Assistance – What's New

- Letter 5747C taxpayers do not need to verify in person if they call and say they did NOT file the return
- New CP-01E sent to taxpayers who may be victims of employment-related identity theft
- Only taxpayers may access transcripts for years with an IDT indicator,
- But tax pros may now access transcripts for those years without an indicator



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4. Maintain, monitor & protect EFIN

- Keep e-File Application up-to-date with names, addresses and phone numbers
- Monitor use of your EFIN weekly via your e-File application
 - Monitor PTIN filings as well from PTIN account
- Protect EFIN from theft; avoid e-Services scams
- NOTE: IRS only official source for EFINs



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5. Educate Clients and Staff

- Ongoing education public education campaign: Taxes. Security. Together.
- Share Publication 4524, Security Awareness for Taxpayers, with clients
- Ensure all staff are aware of and maintain security protocols



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6. Spread the Word on W2 Scam

- Poses as company executive, asks payroll employee for list of all employees W2s
 - 50 victims last year; 200 this year
 - Hundreds of thousands of new IDT victims
- Targets: businesses, public schools, universities, tribes
- Employer/victims should email dataloss@irs.gov and provide POC



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Recap

1. Review Pub 4557 to create a security plan
 2. Use best security practices at all times
 3. Contact IRS immediately of data loss
 4. Maintain, monitor and protect EFIN
 5. Educate clients and staff
 6. Warn employers about W2 scam
- Bonus – stay in contact with IRS, via e-News for Tax Professionals, Quick Alerts and Social Media



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Contact Information

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How to Monitor your EFIN

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Click Login or Register

 Subscriptions Language Information For...

Filing Payments Refunds Credits & Deductions News & Events Forms & Pubs Help & Resources for Tax Pros

e-Services - Online Tools for Tax Professionals

Note: e-services is compatible with IE6 to IE11 only

Important Information for e-Services users: The IRS is committed to protecting taxpayer and tax preparer information and maintaining the security of its systems. As part of that effort, the IRS is strengthening the identity validation process for certain self-help tools on IRS.gov - including e-services. Please review details at [Important Update about Your e-Services Account](#).

SCAM ALERT: It has come to our attention that an email is being issued to tax preparers asking them to update their e-Services information. The links provided in the email to access e-Services appear to be a phishing scam to capture e-Services usernames and passwords. This email WAS NOT generated by e-Services. If you receive an e-mail like this, do not click on the links or take any other action. See the recent IRS [Media Release](#) for more details. If you receive an unsolicited email that appears to be from either the IRS or an organization closely linked to the IRS, such as the Electronic Federal Tax Payment System (EFTPS), report it by sending it to dissemination@irs.gov.

Email Updates
Sign up for Tax Tips, filing season updates and more!

Log in or Register

e-File Providers & Partners
Enrolled Actuaries
Enrolled Agents


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Protect your EFIN

- IRS reviewing improvements to EFIN safeguards
 - Stepped up efforts to expel EFIN abusers;
 - Increased on-site visits as part of monitoring process
- EFIN holders should review return numbers during filing season
 - e-Services Account updated weekly
 - Excessive numbers can be reported to e-Help Desk (866-255-0654)

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Enter Username & Password

 e-services now supports up to IE11. March 3, 2016. To obtain a Transmitter Control Code (TCC) for filing ACA Forms 1084/1095-B or C, select Application from the menu and select ACA Application for TCC.

Login

Username

Password

Forgot Your Password? [Link](#)

Login

Register

You must register to create an account.

REGISTER

THIS U.S. GOVERNMENT SYSTEM IS FOR AUTHORIZED USE ONLY!
Use of this system constitutes consent to monitoring, information, recording, copying or capturing to authorized personnel of all activities. There is no right to privacy in this system. Unauthorized use of this system is prohibited and subject to criminal and civil penalties. Offending activities are subject to without limitation access (SARS) or inspection of taxpayer records (under 18 U.S.C. 1030 and 28 U.S.C. 7213A and 28 U.S.C. 7431).
NOTICE: The IRS reserves the right to deny access to any or all electronic services, products and/or applications, at both the individual or business entity level, in the event IRS becomes aware of any activity that constitutes or appears to constitute misuse or abuse of any electronic services, products or applications.

<http://www.irs.gov> [e-Services Privacy Policy](#)

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Access e-Services

 Subscriptions Language Information For...

Filing Payments Refunds Credits & Deductions News & Events Forms & Pubs Help & Resources for Tax Pros

Tax Professionals

Access e-Services

Latest News

Streamlined Processing of Installment Agreements
The IRS is testing expanded criteria for streamlined processing of taxpayer requests for installment agreements. The test is scheduled to run through September 30, 2017.

Important Update about Your e-Services Account
IRS strengthens security for e-Services products, adds new identity authentication process to protect tax professionals, your clients and agency systems.

Protect Your Clients, Protect Yourself
The "Protect Your Clients, Protect Yourself" campaign identifies common sense steps tax professionals can take to guard against identity theft.


PTIN Open Season
Return or register for 2017 by Dec. 31

Enrolled Agents
Enrolled Retirement Plan Agents

Contacts for Tax

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Click on Application

 Internal Revenue Service
United States Department of the Treasury

e-services On-line Tools for Tax Professionals Help MyTools Sign out Contact Us

Welcome to IRS e-services

Your name and firm you are representing.

Application

Access
Access to apply or revise an existing application on-line for participation in IRS e-file Program or Taxpayer Identification Number (TIN) Matching.

Disassociation
Provides access to the Firm Disassociation page that will allow you to remove your affiliation to the e-file firm or organization you selected. Disassociating yourself from the e-file application will remove your name from each of the e-file applications shown and will eliminate all authority that resulted from your affiliation.

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Click on e-file Application

Internal Revenue Service
United States Department of the Treasury

Services

e-file Application
The Application to participate in the IRS e-file Program can be submitted on-line. The IRS will review your application information and supply a written confirmation as to your acceptance or rejection into the program. You may use this either to create a new Application or to revise an existing one.

ACA Application by TIN
The application to participate in IRS Affordable Care Act electronic filing of information returns is available on-line. The IRS will review the information submitted on your application and send an acceptance or rejection letter. You may use this link to create a new application or to revise an existing one.

New TIN Matching Application
Payers may apply for Taxpayer Identification Number (TIN) Matching, an on-line product which allows you to submit TIN/Name combinations for verification against IRS records.

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Top of EFIN Status Page

Internal Revenue Service
United States Department of the Treasury

e-file Application : EFIN Status

Name: **Your Firm** Employer Identification Number **55-5555555** (EIN)

Listed below are the EFIN(s) Electronic Filing Identification Number(s) and their statuses that have been assigned to this application.

EFIN	EFIN Status	Batch Date/Time
555555	Valid/Active	10/25/2012 4:39:27PM

Do you own or operate Web site(s) through which taxpayer information is collected, transmitted, stored, or processed? Yes ☐ No ☐

If you own or operate Web site(s) through which taxpayer information is collected, transmitted, stored, or processed you are required to register their URLs with us. If you own or operate any such Web site that you have not previously registered with us, select the URL Collection link on the Application Information page menu to register now.

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Top of e-File Application Menu Page

Internal Revenue Service
United States Department of the Treasury

e-file Application

Name: **Your Firm** Employer Identification Number **55-5555555** (EIN)

You are about to revise the application for your Firm/Organization. If your application has been submitted and been accepted by the IRS you may have to re-submit your application for review based on your revisions. Not all changes will require you to re-submit the application for review.

Select the area of the application you want to enter, revise or view information about:

- Application Location
- Firm Name & Business Type
- Firm Organization Address
- Personnel
- Responsible Officials
- Application Comments
- Responsible Application For
- Forms
- EFIN Status

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Bottom of EFIN Status Page

Electronic Return Originator (ERO) Activity by EFIN/Return Type
The activity shown below by EFIN and Return Type represents the total YTD counts for returns submitted electronically to the IRS.

EFIN	Return/Form Type	Processing YTD	Transmitted YTD	Accepted YTD	Rejected YTD
1	1040	2016	51	50	1
2	1041	2016	9	9	0
3	555555 1065	2016	12	12	0
4	1120	2016	10	10	0
5	1120S	2016	10	10	0

- Too many returns filed with your EFIN?
Contact e-Help Desk (866) 255-0654

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Bottom of E-file Application Menu Page

EFIN Status
Collection Location
Application Status
Application Summary
Personal Information
Application Comments
Application Submission
Get Certification

When you have finished e-file application Menu, you may do any of the following:

- Select **Previous** to go back to the ETIN Status page.
- Select **Save** to save all changes made.
- Select **Cancel** to exit the application.
- Select **Return to Search** to return to Search e-file Application.

Previous Save Cancel Return to Search

e-services Privacy Policy

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Monitoring your PTIN

IRS

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June 21, 2017
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Monitor Your PTIN for Suspicious Activity

- Monitor "Returns Filed per PTIN"
- Information available via online PTIN system for tax preparers who meet both of the following criteria:
 - Have a professional credential or are an Annual Filing Season Program participant, **and**
 - Have at least 50 Form 1040 series tax returns processed in the current year



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Report Misuse of your PTIN

- Number of returns processed is greater than the number of returns prepared = possible misuse of a PTIN
- Report misuse of PTINs:
 - Form 14157, *Complaint: Tax Return Preparer*



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How to Access PTIN Information

To access "Returns Filed Per PTIN" information, follow these steps:

1. Log into your PTIN account
2. From the Main Menu, find "Additional Activities"
3. Under Additional Activities, select "View Returns Filed Per PTIN"



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Report Misuse of your PTIN

11a. Review the complaints below and check all that apply

☐ **Theft of Refund** (Diverted refund to unknown account; refund filed does not match taxpayer's copy)

☐ **E-File** (e-filed returns using pay stub, non-commercial software or Free File without properly securing taxpayer's signature)

☐ **Preparer Misconduct** (Failed to provide copy of return; return records; sign returns or refund payments for taxes due; misrepresentation of credentials; agreed to file return but did not; filed return without authorization or consent)

☐ **PTIN Issues** (Failed to include Preparer Tax Identification Number (PTIN) on tax return; improperly used a PTIN belonging to another individual)

☐ **False Items/Documents** (False expenses; deductions, credits, exemptions or dependents; false or altered documents; false or overstated Form W-2 or 1099; incorrect filing status)

☐ **Employment Taxes** (Failed to file forms 940, 941, 943, or 945 or remit Employment Tax payment)

☒ **Other** (explain below)

I checked my PTIN return numbers from IRS.gov and there is a discrepancy

Section D - Your Information (do not complete if you are the taxpayer)

18b. Name (Last, First, MI) _____ 19. Date of complaint _____

20. Mailing address (street, city, state, ZIP code) _____

21. Telephone number(s) (include area code) _____

22. Email address _____

23. Your relationship to Preparer

☐ Client ☐ IRS employee

☐ Return preparer working for a different firm ☒ Other (specify) _____ Self

☐ Return preparer working for the same firm



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Returns Filed per PTIN Chart

Returns Filed per PTIN

See the chart below for the number of tax returns with your PTIN processed by the IRS this year. The data is updated weekly and includes only Form 1040 series returns processed through the date specified.

If the number is **substantially higher** than the number of tax returns you've prepared and you suspect possible misuse of your PTIN, complete Form 14157.

Note: A minimum of 50 returns must be processed for data to be shown. At this time the data is only available for enrolled agents, CPAs, attorneys, and participants in the IRS Annual Filing Season Program, but will be expanded to other PTIN holders in the future.

Definitions:

- Processing Year: the current calendar year
- Tax Year: the tax year of the returns
- 1040s Processed: includes only 1040 series returns (1040, 1040-PR, 1040-SS, 1040A, 1040EZ, 1040EZ-T, 1040NR, and 1040NR-EZ)

140 Returns as of 06/27/2016

Processing Year	Tax Year	1040s Processed
2016	2015	90
	2014	47
	2013	1



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Contact Information

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Understanding the Correspondence Examination Program



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June 21, 2017
CPA Continuing Education Society of PA

Objectives

- Review:
 - Correspondence Exam Overview
 - Common Correspondence Exam Letters
 - Issue Resolution
 - Additional Resources
 - Overview and Update on Taxpayer Digital Communication Secure Messaging Pilot

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Correspondence Examinations

- Efficient
- Broad compliance coverage
- Highly automated
- Campus operations
- Case Selection:
 - Defined scope
 - Generally less complex
 - Focus on documenting specific tax return entries

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Common Examination Issues

- Earned Income Tax Credit
- Pre-Refund/Emerging Issues
- Schedule A
 - Employee business expenses
 - Charitable contributions
- Schedule C
- Non-filing conditions
- Expanding Issues

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Common Initial Letters and Notices

- Initial contact letters, no examination report
 - CP 18/19 Unallowable Items
 - CP 75/75A – Earned Income Tax Credit
 - CP 06/06A – Premium Tax Credit
 - Letter 566 – Most other issues
- Also Include:
 - Forms 886 and Questionnaires
 - Publication 3498-A

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Letter 566

Department of the Treasury
Internal Revenue Service

Date: _____
 Taxpayer ID number: _____
 Form: _____
 Tax periods ended: _____
 Contact telephone number: _____
 Contact fax number: _____
 Contact email: _____
 Partner to contact: _____

We're auditing your Form _____, and need a response from you.

Dear Taxpayer:

We're auditing your federal income tax return and need additional information to support the items checked below that you claimed on your return.

<input type="checkbox"/> Filing Status and Exemptions	<input type="checkbox"/> Schedule A - Itemized Deductions	<input type="checkbox"/> Tax Credits
<input type="checkbox"/> Head of Household	<input type="checkbox"/> Medical & Dental Expenses	<input type="checkbox"/> Foreign Tax Credit
<input type="checkbox"/> Exemptions	<input type="checkbox"/> Savings Tax Paid	<input type="checkbox"/> Earned Income Credit
<input type="checkbox"/> Adjustments to Income	<input type="checkbox"/> Gifts to Charity	<input type="checkbox"/> Child Care Credit
<input type="checkbox"/> Attorney Paid	<input type="checkbox"/> Casualty & Theft Losses	<input type="checkbox"/> Education Credit
<input type="checkbox"/> Moving Expense	<input type="checkbox"/> Unemployment Employee Expenses	<input type="checkbox"/> Adoption Credit
<input type="checkbox"/> Other Miscellaneous Deductions	<input type="checkbox"/> Credit for the Elderly	
<input type="checkbox"/> Schedule C - Gross Receipts	<input type="checkbox"/> Premium Tax on Early Distribution	
<input type="checkbox"/> Schedule C - Expenses	<input type="checkbox"/> Premium Tax Credit	

What you need to do:

Please see the enclosed explanation of the documentation you need to provide.

Send the documentation to us within 30 days from the date of this letter.

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Common Follow Up Letters and Notices

- Letter 525/692 – Follow-up including the examination report
 - Form 4549
 - Form 886-A
- Letter 3219 - Statutory Notice of Deficiency, ("90 Day" Letter)
- Letter 555 – Follow up after Letter 3219 issuance



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Resolve Disagreements Open and Closed Audits

- Resolve Disagreements – Current Audit
 - Manager Conference
 - Appeals
 - Tax Court
- Closed Audits
 - Audit Reconsideration
 - File a Claim



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Correspondence Examinations - Key Points

- Respond to notices timely
- Provide a complete and organized response
 - Contact info and response page (on top)
- Fax or mail documentation (or amended returns) to the office conducting the audit
- Ask for additional time to respond if needed
- Work with IRS to resolve issues
- PPS - 1-866-860-4259 – Prompt 6



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Correspondence Exam Additional Information

- IRS Audits webpage
 - www.irs.gov/audits
- EITC Central
 - www.eitc.irs.gov
- Publication 3498-A, The Examination Process (Audits by Mail)
- Publication 3598, The Audit Reconsideration Process



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SB/SE TDC Secure Messaging Pilot Program

- Taxpayer Digital Communication (TDC) - Secure Messaging
 - Interaction using secure online environment
- Invitation only
 - Taxpayers (and POAs) receive marketing insert with the initial contact letter
- Pilot launched in December 2017
 - Approximately 12 months.
 - Weekly mail-outs/invitations rest of FY 17



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Power of Attorney Participation

- Software was configured to account for POA relationships
- POAs authenticate under their SSN
- POA Requirements:
 - Taxpayer signed up for Secure Messaging
 - Taxpayer and their POA must pass the IRS Secure Access
 - POA already on file/processed



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SB/SE TDC Secure Messaging Pilot Program

- Correspondence Examinations
 - SB/SE Schedule A and Education Credit audits by mail
 - Philadelphia Correspondence Examination Operation
- Pilot plan for 4,200 taxpayer invites increased to 7,900 invites
- Current Status



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Publication 3498-A



The Examination Process (Audits by Mail)

This publication will guide you through the audit process and explain your responsibilities as you respond to the audit. When your return is selected for audit, you will be notified by mail to determine if you are selected for audit. You will receive a letter explaining the audit process and your responsibilities.

If you have questions or need help

Please visit www.irs.gov/audit to find all the IRS tax forms and publications mentioned here, or to file a request for a transcript.

You can also call your local IRS office, or call the number on the letter you received. If you don't have a letter, please call:

• 1-800-829-1040 (toll-free)

• 1-800-438-4000 (toll-free)

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Publication 3498-A (Rev. 11/2016) (Circular) (Notice 2016-05) Department of the Treasury Internal Revenue Service www.irs.gov



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Practitioner Priority Service

- For expedited access to Correspondence Exam contact PPS:
 - Call 1-866-860-4259
 - At the voice prompt press or say "6"



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Correspondence Examinations - Key Points

- Respond Timely to the Initial Contact Letter
- Provide a complete and organized response
- Fax or Mail Documentation
- Request More Time to Respond if Needed
- Work with IRS to resolve issues
- Do NOT Send Original Documents
- Following Assessment, you can Request Audit Reconsideration if you have new information



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Correspondence Examinations - Key Points

- Make irs.gov your one-stop for resources on the IRS Correspondence Examination Process
Search irs.gov: "**IRS Audits**"
- Publication 3598:
"What You Should Know About the Audit Reconsideration Process"



17


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18

Private Debt Collection




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Private Collection Agencies


- CBE Group
- Conserve
- Performant
- Pioneer



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Private Collection Agencies


- Assign initial cases to agencies in the spring of 2017.
- Covers tax debts owed that are currently not being worked by the IRS.
- Agencies will work with the taxpayer and the representative to resolve the unpaid account.



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Taxpayer Rights


- Taxpayers working with agencies will have same rights as taxpayers working with IRS.
- Agencies will be able to identify themselves as contractors of the IRS collecting taxes.
- Private debt collectors will be expected to be courteous and respect taxpayers' rights.



4

Efforts to Mitigate Scams


- IRS will send taxpayer and rep written notice that it's transferring their accounts.
- Agency will send separate letter to taxpayer and rep confirming transfer.
- Agency employees must follow Fair Debt Collection Practices Act.
- Visit IRS.gov, "Tax Scams and Consumer Alerts" page



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Scams (cont.) - Payments

- Agencies won't ask for payment on prepaid debit card.
- Electronic payment options are on IRS.gov, Pay Your Tax Bill.
- Checks payable to U.S. Treasury and sent directly to IRS, not private collection agency.



6

More Information

- Percentage of amount collected for program to hire/train IRS collection personnel
- Revenue collected will be in addition to revenue coming in through IRS operations
- Search "private debt collection" on IRS.gov



7

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8

S Corporation Shareholder Stock & Debt Basis



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Benefits of an S Corporation

To allow small business enterprises the advantage of the corporate form of organization without being subject to the potential tax disadvantages of C corporations:

- double taxation on distributions and liquidation, or
- locked-in corporate losses.

Shareholder's Schedule K-1

Each shareholder will receive Schedule K-1 from the S corporation. The Schedule K-1 does **not** state –

- The amount of the loss which can be claimed, or
- The amount of the non-dividend distribution which is taxable, or
- The shareholder's stock and debt basis.

It is **not** the corporation's responsibility to track shareholder's stock and debt basis.

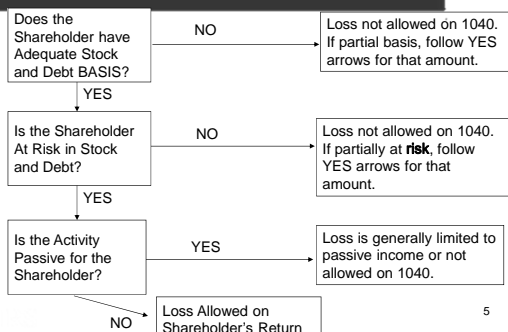
Tracking basis is the **shareholder's responsibility**.

Shareholder Loss Limitations

There are three shareholder loss limitations:

1. Stock & debt basis
Losses limited by stock & debt basis are not reflected on Form 1040
2. At-risk limitation
The amount of allowable loss and deduction items are computed on Form 6198
3. Passive activity limitation
The amount of allowable loss and deduction items are computed on Form 8582

Shareholder Loss Limitations Flow Chart



Each Year the Shareholder Needs to Know

The amount of –

- Stock basis
- Debt basis
- Suspended losses due to stock & debt basis
- Suspended losses due to at-risk
- Suspended losses due to passive activity limitations

Importance of Stock & Debt Basis

The shareholder needs to know the amount of his/her stock and debt basis when the:

- S corporation allocates a loss/deduction item to the shareholder,
- S corporation makes a non-dividend distribution to the shareholder, or
- Shareholder disposes of his stock.



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Responsibility to Track Basis

- It is the shareholder's responsibility to track and calculate individual stock and debt basis
- Requirement to keep adequate records - Treas. Reg. §1.6001-1(a)



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Initial Stock Basis

- Stock purchase – cost
- Acquired by asset contribution to corporation (IRC § 351) – carryover basis
- Gifts – donor basis of gifts
- Inheritance – FMV at date of death

The initial corporate stock basis would be the same whether or not the corporation has an S election in effect.



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S Corporation Stock Basis

Generally a shareholder's stock basis starts with cost, just like any other asset. It is also increased for any additional capital contributed by the shareholder during the year.

The Adjusted basis of S corporation stock is **UNIQUE** in that it goes up and down each year based upon the corporation's pass-through items.

Stock basis is determined at the end of the corporate year; there are special rules when a shareholder sells or disposes of his stock.



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Increases to Stock Basis

Item	Sch. K-1
1. Ordinary Business Income	Box 1
2. Separately Stated Income Items	Boxes 2-10
3. Tax-Exempt Income	Boxes 16a&b
4. Excess Depletion over Property Basis	Box 15c



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Decreases to Stock Basis

Item	Sch. K-1
1. Ordinary Business Loss	Box 1
2. Separately Stated Loss and Deductions	Boxes 2-12d and 14l, 14m
3. Nondeductible Expenses	Box 16c
4. Non-Dividend Distributions	Box 16d
5. Depletion for Oil and Gas	Box 17r



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Distributions from an S Corporation

- Non-dividend distributions (Sch. K-1, 16d)
- Reduce stock (not debt) basis, but not below zero
 - Distributions in excess of stock basis are taxed as capital gains (generally long-term)
- Dividend distributions (Form 1099)
- Do not affect basis
 - Occur if corporation has earnings and profits from C corporation years

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Income Not Reported / Losses Not Claimed

- Stock basis is **not** increased if a shareholder fails to report income
- Basis is reduced by loss and deductions even when:
 - loss is not claimed,
 - no tax benefit received for the loss
 - deferred by at-risk or passive activity limits

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Stock Basis Ordering Rule, IRC § 1367-1(f)

Stock Basis will be adjusted in the following order:

1. Increased for income items and excess depletion,
2. Decreased for non-dividend distributions,
3. Decreased for nondeductible expenses, and then
4. Decreased for items of loss and deductions.

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Stock Basis Example – Facts

S corporation shareholder has \$15,000 of stock basis on 1-1-2016 received a 2016 Schedule K-1 reflecting:

- Box 1 (20,000) Ordinary business income (loss)
- Box 9 4,000 Net section 1231 gain (loss)
- Box 12a 5,000 Cash contributions (50%)
- Box 16c 1,000 Nondeductible expenses
- Box 16d 12,000 Distributions

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Stock Basis Example – Computation Income & Non-Dividend Distributions

1-1-16 Stock basis	15,000
Plus: Net section 1231 gain	4,000
Stock Basis before distributions	19,000
Less: Non-dividend distributions	(12,000)
Stock basis before nondeductible	7,000

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Stock Basis Example – Computation Nondeductible Expenses

Stock basis before nondeductible	7,000
Less: Nondeductible expense	(1,000)
Stock basis before loss & deductions	6,000

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Stock Basis Example – Computation Loss & Deduction Items

Stock basis before loss & deductions	6,000
Less: Ordinary business loss (20,000/25,000 x 6,000)	(4,800)
Less: Cash contributions (50%) (5,000/25,000 x 6,000)	(1,200)
12-31-2016 Stock basis	0



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Stock Basis Example Suspended Loss Computation

2016 Ordinary business loss	(20,000)
Allowable business loss	(4,800)
Suspended ordinary business loss	(15,200)
2016 Charitable contributions	5,000
Allowable charitable contributions	(1,200)
Suspended charitable contributions	3,800



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Suspended Losses

Suspended loss and deduction items due to lack of stock and debt basis:

- Retain their character, are carried over indefinitely or until all of the shareholder's stock is disposed of.
- Treated as loss and deduction items incurred in the subsequent tax year.
- Are lost when a shareholder disposes of all of his stock.



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Debt Basis - IRC § 1367(b)(2)(A)

The code provides that once a shareholder's stock basis has been reduced to zero, any excess losses are applied to the shareholder's outstanding basis in loans to the S corporation.

- Losses and deductions which exceed a shareholder's stock basis are allowable to the extent of the shareholder's basis in loans.
- Debt basis is computed similarly to stock basis but there are some differences (distributions only look to stock basis).



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Debt Basis (continued)

- Losses and deductions claimed against a shareholder's debt basis reduce the shareholder's basis in the debt.
- If an S corporation repays reduced basis debt to the shareholder, part or all of the repayment is taxable to the shareholder.



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Shareholder Debt Basis

- IRC §1366(d)(1)(B) states that losses are allowed up to the amount of the shareholder's adjusted basis of any indebtedness of the S corporation to the shareholder.
- S corporation shareholder does not get basis in the third party debts of the entity.



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What Qualifies as Indebtedness of the S Corporation to the Shareholder?

Treas. Reg. § 1.1366-2(a)(2)(i)

- Provides that shareholders obtain basis in indebtedness if the S corporation owes a bona fide debt directly to the shareholder.
- Finalized and effective on July 23, 2014.



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Bona Fide Debt Case Law Factors

1. a written instrument,
 2. a stated interest rate,
 3. a maturity date,
 4. an enforceable debt under state law,
 5. a reasonable expectation of repayment,
 6. creditor remedies upon default; and
 7. repayment or other conduct that indicates the parties upheld the terms of the debt.
- For additional factors see Notice 94-47.



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Entity Level Debt

- The shareholder does not get basis in third party entity-level debt.
- There is no bona fide debt between the shareholder and the corporation.



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Loan Guarantees

- Guaranteeing a loan or acting as a surety, accommodation party, or in any similar capacity does not give rise to basis in indebtedness.
- Treas. Reg. §1.1366-2(a)(2)(ii)



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Payment on Loan Guarantee

- When a shareholder makes a payment on bona fide indebtedness of the S corporation for which the shareholder has acted as guarantor or in a similar capacity, then the shareholder may increase the shareholder's basis of indebtedness to the extent of that payment.
- Treas. Reg. §1.1366-2(a)(2)(ii)



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Judgment on Default Loan Guarantee

- In *Montgomery v. Comm'r*, T.C. Memo 2013-151
- Judgment was imposed on the shareholder as a result of his loan guarantee.
 - Shareholder did not make any payments.
 - Shareholder did not become the primary obligor.
 - Ruled – Judgment on default does not create debt between the shareholder and the corporation so no debt basis is allowed.



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Co-Maker or Co-Borrower

- Both the shareholder and corporation borrow from the bank.
- Shareholder owes the bank.
- Corporation owes the bank; corporation does not owe the shareholder.
- No bona fide debt between the shareholder and the corporation so no debt basis allowed.
- *Salem v. Comm'r*, TC Memo 1998-63 aff'd, 196 F.3d 1260 (11th Cir. 1999)



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Back to Back Loans

- A back-to-back loan is when a person borrows money from one party and lends that money to another.
- In the case of an S corporation, the shareholder usually borrows money and then lends it to his S corporation.



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Bank Loan to Shareholder followed by Loan to S Corporation

- The shareholder is personally liable for the debt and there is bona fide indebtedness from the S corporation to the shareholder so debt basis is allowed.
- *Gilday v. Comm'r*, T.C. Memo 1982-242



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Related Entity Loans Money to S Corporation

- A shareholder's "Profitable" Corporation loans money to the shareholder's "Loss" S Corporation.
- "Loss" S Corporation does not owe the shareholder anything (there is no bona fide debt between S corporation and shareholder) so debt basis is not allowed.
- Rev. Rul. 69-125.



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Loan from Related Party to Shareholder then Loaned to S Corporation

- Based on the facts and circumstances, one must determine if there is bona fide debt from S corporation owed to the shareholder. If there is bona fide debt, debt basis is allowed.
- Treas. Reg. §1.1366-2(a)(2)(iii), Example 2.



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Restructure of Related Party Loans

- A shareholder's "Profitable" Corporation loans money to the shareholder's "Loss" S Corporation.
- "Profitable" distributes note to shareholder and the note is now between shareholder and "Loss" S Corporation.
- If there is bona fide debt, debt basis is allowed.
- Treas. Reg. §1.1366-2(a)(2)(iii), Example 3.



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Distribution from Related Party to Shareholder then Loan to S Corporation

- Distribution made from Related Entity to shareholder followed by a contribution from the shareholder to S Corporation.
- If a distribution occurred, the shareholder's basis in the related entity has decreased and his basis in S Corporation has increased.
- *Maguire v. Comm'r*, T.C. Memo. 2012-160



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Circular Flow of Funds

Generally funds start with one entity, are lent or distributed to other persons and/or entities, and end up with the original entity.

- May provide the shareholder with debt basis.
- When the transaction lacks substance or the shareholder is merely a conduit, the shareholder is not allowed debt basis.



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Examples Circular Flow of Funds Lack Substance

- Oren v. Comm'r*, 357 F.3d 854 (8th Cir. 2004)
- Restructured investments where "Profitable" loaned money to Shareholder who loaned money to "Loss" within a few days "Loss" transferred money to "Profitable."
- Kaplan v Comm'r*, T.C. Memo 2005-218
- Bank loaned money to shareholder. Shareholder loaned money to "Loss," loss sent money to "Shell Corporation", "Shell Corporation" sent money to shareholder who repaid the bank within a few days.



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Summary

- Shareholder guarantee or co-making / co-borrowing of corporate debt does not, by itself, give the shareholder debt basis.
- Shareholder may get basis to the extent the shareholder makes payments on guarantee.
- Shareholders get debt basis if, based on facts and circumstances, there is bona fide indebtedness of the S corporation that runs directly to the shareholder.



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Gain on Loan Repayment Example

Facts:

- The shareholder loans his corporation \$10,000
- The shareholder claimed losses in excess of stock basis of \$6,000
- This results in the shareholder having a basis in his or her note of \$4,000.

What is the gain on loan repayment if the S corporation repays \$1,000 of the note?



41

Gain on Loan Repayment Answer

Facts:

- The shareholder loans his corporation \$10,000
- The shareholder claimed losses in excess of stock basis of \$6,000
- This results in the shareholder having a basis in his or her note of \$4,000.

What is the gain on loan repayment if the S corporation repays \$1,000 of the note?

$$60\%[a] \times \$1,000 = \$600 \text{ Gain}$$

$$[a] = (\$10,000 - \$4,000) / \$10,000$$



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Summary

- The shareholder's Schedule K-1 does not reflect whether a non-dividend distribution is taxable or if loss and deduction items are currently allowable.
- There are three shareholder loss limitations: stock & debt basis, at-risk and passive activity losses.
- Stock basis changes each year based upon the operations of the corporation.



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Summary (continued)

- Non-dividend distributions in excess of stock basis are taxed as capital gains.
- Losses in excess of stock basis, look to debt basis.
- Losses limited to stock and debt basis are suspended and carried over to subsequent tax years.
- Repayment of a shareholder's reduced basis debt results in a gain to the shareholder.



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IRS Resources

For more information on S corporations, go to www.irs.gov and use key word search S Corporation.



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IRS ACA Updates



Richard Furlong, Jr.
Senior Stakeholder Liaison

June 21, 2017
CPA Continuing Education Society of PA

ACA Update

- Individual Shared Responsibility Payment increased
- Health Insurance Marketplace Open Season November 1, 2016 to January 31, 2017

IRS.gov/ACA or HealthCare.gov

2

Form 1095-A

Form 1095-A Health Insurance Marketplace Statement ☐ VOID ☐ CORRECTED **2016**

Department of the Treasury
Internal Revenue Service

Part I Recipient Information

1. Marketplace identifier 2. Marketplace assigned policy number 3. Policy issuer's name

4. Recipient's name 5. Recipient's SSN 6. Recipient's date of birth

7. Recipient's spouse's name 8. Recipient's spouse's SSN 9. Recipient's spouse's date of birth

10. Policy start date 11. Policy termination date 12. Street address (including apartment no.)

13. City or town 14. State or province 15. Country and ZIP or foreign postal code

Part II Covered Individuals

A. Covered individual name B. Covered individual SSN C. Covered individual date of birth D. Coverage start date E. Coverage termination date

16. 17. 18. 19. 20.

Part III Coverage Information

Months: A. Monthly enrollment premium B. Monthly second lowest cost silver plan (SILVER) premium C. Monthly advance payment of premium tax credit

21. January 22. February

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Form 1095-B

Form 1095-B Health Coverage ☐ VOID ☐ CORRECTED **2016**

Department of the Treasury
Internal Revenue Service

Part I Responsible Individual

1. Name of responsible individual 2. Social security number (SSN) or other ID 3. Date of birth (DOB) or other ID no. for mailing

4. Street address (including apartment no.) 5. City or town 6. State or province 7. Country and ZIP or foreign postal code

8. Enter letter identifying origin of the health coverage (see instructions for coding)

Part II Information about Certain Employer-Sponsored Coverage (see instructions)

9. Street address (including town or village no.) 10. City or town 11. State or province 12. Country and ZIP or foreign postal code

13. Employer identification number (EIN) 14. Employer name 15. Contact telephone number

16. Street address (including town or village no.) 17. City or town 18. State or province 19. Country and ZIP or foreign postal code

Part III Covered Individuals (if use the information for your covered individual)

(a) Name of covered individual (b) SSN or other ID (c) Date of birth (DOB) or other ID no. for mailing

20. 21. 22. 23. 24. 25.

4

Form 1095-C

Form 1095-C Employer-Provided Health Insurance Offer and Coverage ☐ VOID ☐ CORRECTED **2016**

Department of the Treasury
Internal Revenue Service

Part I Employer Information

1. Social security number (SSN) 2. Name of employer 3. Employer identification number (EIN)

4. Street address (including apartment no.) 5. City or town 6. State or province 7. Country and ZIP or foreign postal code

8. City or town 9. State or province 10. Country and ZIP or foreign postal code

Part II Employee Offer of Coverage

Plan Year: 2016

11. City of origin 12. State of origin 13. ZIP or foreign postal code

14. City of origin 15. State of origin 16. ZIP or foreign postal code

17. City of origin 18. State of origin 19. ZIP or foreign postal code

20. City of origin 21. State of origin 22. ZIP or foreign postal code

23. City of origin 24. State of origin 25. ZIP or foreign postal code

26. City of origin 27. State of origin 28. ZIP or foreign postal code

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89. City of origin 90. State of origin 91. ZIP or foreign postal code

92. City of origin 93. State of origin 94. ZIP or foreign postal code

95. City of origin 96. State of origin 97. ZIP or foreign postal code

98. City of origin 99. State of origin 100. ZIP or foreign postal code

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Form 8965 Health Coverage Exemptions

Form 8965 Health Coverage Exemptions ☐ VOID ☐ CORRECTED **2016**

Department of the Treasury
Internal Revenue Service

Part I Marketplace-Granted Coverage Exemptions for Individuals. If you and/or a member of your tax household have an exemption granted by the Marketplace, complete Part I.

1. Name of individual 2. SSN 3. Exemption certificate number

4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

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- Claim most exemptions at time of filing
- Report Marketplace granted exemptions

Making an Individual Shared Responsibility Payment

- Taxpayers will owe an ISRP for anyone on the return who did not have:
 - MEC for every month of the year or
 - Coverage exemption for any month without MEC
- Use Form 8965, Health Coverage Exemptions, worksheet to calculate ISRP



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ACA: Small Employers & HRAs -- 2017 Changes

- **21st Century Cures Act:** signed by President on December 13, 2016
- Exempts "Qualified Employer HRAs" from ACA group health plan arrangements
- QEHRAs must be funded solely by employer contributions
- QEHRAs must provide coverage on same terms to all eligible employees
- Transition Relief for Pre-2017 Tax Years



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