

Part III – Administrative, Procedural, and Miscellaneous

PENALTY RELIEF RELATED TO INCORRECT OR DELAYED FORMS 1095-A

Notice 2015-30

Purpose

This Notice provides penalty relief for taxpayers who received a Form 1095-A, Health Insurance Marketplace Statement, that was delayed or that the taxpayer believes to be incorrect and who timely filed their 2014 income tax return, including extensions. Specifically, this Notice provides relief from the penalty under section 6651(a)(2) of the Internal Revenue Code for late payment of a balance due, the penalty under section 6651(a)(3) for failure to pay an amount due upon notice and demand, the penalty under section 6654(a) for underpayment of estimated tax, and the accuracy-related penalty under section 6662. This relief applies only for the 2014 taxable year.

Background

Section 6651(a)(2) imposes a penalty for a failure to pay (on or before the due date for payment) an amount shown as tax on any return. However, the section 6651(a)(2) penalty is not imposed if the taxpayer shows that the failure was due to reasonable cause and not willful neglect. In general, individuals must pay the tax shown on the return by April 15.

Section 6651(a)(3) imposes a penalty for failure to pay an amount of tax required to be shown on a return that is not shown on the return within 21 days from the date of notice and demand. The section 6651(a)(3) penalty is not imposed if the taxpayer shows that the failure to pay was due to reasonable cause and not willful neglect.

Section 6654(a) imposes a penalty in the case of an underpayment of estimated tax by an individual. Generally, taxpayers are required to make tax payments on non-wage income in quarterly installments. An underpayment of estimated tax is the excess of the required quarterly estimated tax payment over the amount actually paid on or before the due date for the payment. Most taxpayers will avoid this penalty if they owe less than \$1,000 in tax on their 2014 income tax return after subtracting their withholding, or if their withholding and estimated taxes total at least 90% of the tax for taxable year 2014, or 100% of the tax shown on their 2013 taxable year return. Additionally, section 6654(e)(3) authorizes the Internal Revenue Service (the Service) to waive the section 6654(a) penalty for underpayments of estimated tax in unusual circumstances to the extent its imposition would be against equity and good conscience.

Section 6662(a) imposes a penalty on any portion of an underpayment of tax required to be shown on a return that is attributable to one of the items listed in section 6662(b). Section 6662(b) includes, among other items, underpayments attributable to any substantial understatement of income tax. However, under section 6664(c), the section 6662 penalty is not imposed with respect to any portion of an underpayment if the taxpayer shows that there was reasonable cause for that portion and that the taxpayer acted in good faith with respect to such portion.

On February 20, 2015, the Centers for Medicare and Medicaid Services (CMS) announced that about 800,000 tax filers who purchased health insurance from the Federally-facilitated Marketplace during 2014 received a Form 1095-A that contained an error related to the premium for the second lowest cost Silver plan (often referred to as the benchmark plan). On March 20, 2015, CMS further announced additional issues with the data used to populate the Form 1095-A that could result in incorrect information on and delays in additional Forms 1095-A. The Service is also aware that some state-based Marketplaces had issues with the generation of the Forms 1095-A.

Penalty Relief for 2014

Taxpayers affected by errors or delays in their Forms 1095-A may be unable to file a return accurately reflecting their tax liability by the April 15 deadline. They may need to seek extensions of time to file an accurate return and may also be unable to determine the amount of tax they should pay at the time of their extension request in order to avoid liability for a section 6651(a)(2) failure to pay penalty. Therefore, in consideration of these factors and consistent with the authority in sections 6651(a)(2), 6651(a)(3), 6654(e)(3), and 6664(c) to provide relief from penalties for taxpayers, this Notice provides relief from the penalties under sections 6651(a)(2), 6651(a)(3), 6654(a), and 6662(a) for taxpayers who satisfy the requirements in this Notice.

Pursuant to this Notice, the Service will abate for taxable year 2014 the section 6651(a)(2) penalty and the section 6651(a)(3) penalty, and waive the section 6654(a) penalty if for taxpayers who received a delayed Form 1095-A or a Form 1095-A that the taxpayer believes to be incorrect if the taxpayer timely files their 2014 Federal income

tax return, including extensions. In other words, a taxpayer must either (1) file a return by April 15, or (2) request an extension by April 15 and file a return by October 15.

The Service also will not impose the accuracy-related penalty under section 6662 on any portion of an underpayment resulting from the receipt of an incorrect or delayed Form 1095-A. Taxpayers may still be liable for a penalty under section 6662 for an underpayment that is unrelated to the receipt of an incorrect or delayed Form 1095-A.

Additionally, to be eligible for the premium tax credit, taxpayers must be enrolled in a qualifying health care plan. Some taxpayers who were not enrolled in a qualifying plan during 2014 erroneously received a Form 1095-A and may have used it to file their return. To be eligible for the relief in this notice, these individuals must amend their 2014 income tax return by April 15, 2016 to reflect that they were not eligible to claim the premium tax credit, and pay any additional tax liability due.

Taxpayers should be aware that this Notice does not extend the time to file a return. To obtain an automatic extension of time to file, a taxpayer should file Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, on or before April 15, 2015. Requesting an extension of the time to file a return does not extend the time to pay any tax liability due. Additionally, section 6601 imposes interest on amounts of tax not paid by the due date, determined without regard to an extension of time for payment. Taxpayers will be required to pay interest on the balance due from the original deadline to pay, which is April 15, 2015, even if they qualify for penalty relief under this Notice.

Procedure for Claiming Penalty Relief

Requesting relief from the failure to pay penalty under section 6651(a)(2) and 6651(a)(3)

Generally, the Service automatically assesses the section 6651(a)(2) penalty and the section 6651(a)(3) penalty against taxpayers and sends a notice demanding payment. When responding to such a notice, taxpayers should submit a letter to the address listed in the notice that contains the statement: "I am eligible for the relief granted under Notice 2015-30 because I received an incorrect or delayed Form 1095-A."

Requesting relief from the estimated tax penalty under section 6654(a)

To request a waiver of the section 6654(a) penalty as provided in this Notice, taxpayers should check box A in Part II of Form 2210, complete page 1 of the form, and include the form with their return, along with the statement: "Received an incorrect or delayed Form 1095-A." Taxpayers do not need to attach documentation from the Marketplace, explain the circumstances under which they received an incorrect or delayed Form 1095-A, or complete any page other than page 1 of the Form 2210. Taxpayers also do not need to figure the amount of penalty for the penalty to be waived.

Requesting relief from the accuracy-related penalty under section 6662

Generally, the Service will not impose the section 6662(a) penalty against taxpayers who are eligible for the relief in this Notice. However, if a section 6662(a) penalty is proposed on examination on a liability resulting from the receipt of an incorrect or delayed Form 1095-A, the taxpayer should notify the examiner of his or her eligibility for this relief. Also, if a taxpayer receives a letter asserting the section 6662

penalty on a liability resulting from the receipt of an incorrect or delayed Form 1095-A, the taxpayer should submit a letter to the address listed in the letter that contains the statement: "I am eligible for the relief granted under Notice 2015-30 because I received an incorrect or delayed Form 1095-A."

Contact Information

The principal author of this Notice is David Bergman of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this Notice, call 202-317-3400 (not a toll-free call).