

DAVID VITTER
LOUISIANA

DEPUTY WHIP

Small Business and Entrepreneurship
Chairman

Environment and Public Works
Transportation and Infrastructure
Subcommittee Chairman

Judiciary

Immigration, Refugees and
Border Security Subcommittee
Deputy Chairman

Banking, Housing, and Urban Affairs

United States Senate

WASHINGTON, DC 20510

WASHINGTON, D.C.

Hart Senate Office Building
Suite SH-516
Washington, DC 20510
(202) 224-4623
Fax: (202) 228-5061

BATON ROUGE

858 Convention Street
Baton Rouge, LA 70802
(225) 383-0331
Fax: (225) 383-0952

Website with
E-Mail Access: vitter.senate.gov

February 10, 2016

The Honorable John A. Koskinen
Commissioner
Internal Revenue Service
U.S. Department of the Treasury
Washington, DC 20224

Dear Commissioner Koskinen:

As Chairman of the U.S. Senate Committee on Small Business and Entrepreneurship, I have been reviewing the matter of Members of Congress and congressional staff complying with Section 1312(d)(3)(D) of the Patient Protection and Affordable Care Act (ACA) in the purchase of health care insurance. The law requires members and congressional staff to purchase their health care insurance on either a state-based exchange or a federal exchange, known also as a federally facilitated marketplace.

On October 2, 2013, the U.S. Office of Personnel Management promulgated a final rule, specifically 5 CFR Part 890.102, which enabled Members of Congress and congressional staff to purchase health benefit plans offered by a Small Business Health Options Plan, or SHOP exchange, that was designed for employees of small businesses with fewer than 50 employees. With this final rule in hand, the administrative entities of the Congress submitted applications to the District of Columbia Health Benefits Exchange Authority (now known as DC Health Link) representing their respective legislative bodies as small businesses with less than 50 employees and thus qualifying for plans on the SHOP exchange. This arbitrary action by OPM circumvented the provisions of the ACA and, in so doing, undermined the intent of Congress to help actual small businesses. It also created a special Washington exemption from the provisions of Obamacare by allowing Congress to accept an employer contribution within the exchange. No other American who was forced to purchase healthcare in an exchange is getting an employer contribution, particularly one funded by U.S. taxpayers. This has significantly undermined confidence in government.

It has now come to my attention that, to comply with the Internal Revenue Code, Sections 6065 and 6056, the Senate Disbursing Office has provided IRS Form 1095C to congressional staff members on the payroll during 2015. As you know, Sections 6065 and 6056 require employers with 50 or more full time employees to report information about offers of health coverage and enrollment in health coverage for their employees, and they do so using Forms 1094C and 1095C. You also know that in the ACA the term "large employer" is defined as an employer with 50 or more full time employees. And yet, as described above, Congress has been registered as a small employer, creating a conflict that is a cause of great concern.

ACADIANA	CENTRAL LOUISIANA	NORTHEAST LOUISIANA	NORTHWEST LOUISIANA	SOUTHEAST LOUISIANA	SOUTHWEST LOUISIANA
2201 KALISTE SALOOM ROAD SUITE 201 LAFAYETTE, LA 70508 (337) 993-9502 FAX: (337) 993-9567	6501 COLISEUM BOULEVARD SUITE 700-A ALEXANDRIA, LA 71303 (318) 448-0169 FAX: (318) 448-0189	1651 LOUISVILLE AVENUE SUITE 148 MONROE, LA 71201 (318) 325-8120 FAX: (318) 325-9165	920 PIERREMONT ROAD SUITE 113 SHREVEPORT, LA 71106 (318) 861-0437 FAX: (318) 861-4865	2800 VETERANS BOULEVARD SUITE 201 METAIRIE, LA 70002 (504) 589-2753 FAX: (504) 589-2607	949 RYAN STREET SUITE E LAKE CHARLES, LA 70601 (337) 436-0453 FAX: (337) 436-3163

Given that Congress has registered itself with DC Health Link as a small business, yet has declared to the Internal Revenue Service it is a large employer (EIN 53-6002558), it would appear that it is misrepresenting itself to either the DC Health Link or to the IRS. Obviously, Congress cannot have it both ways—it cannot be both a small employer and a large employer. It is utterly absurd that Congress is trying to be both.

My two questions to you are straightforward:

- 1.) Can you confirm that the United States Congress, including the Senate and the House of Representatives, is a large employer?
- 2.) Has a violation of the Internal Revenue Code occurred if Congress has declared to the IRS they are a large employer but also declared to the District of Columbia government they are a small business? If so, please provide a clear description of the violation.

Please provide me with a response as soon as possible, as this issue is very important in maintaining the credibility of the government in the eyes of Americans who will be filing their taxes and providing documentation that they have purchased a mandatory health care plan.

Sincerely,



David Vitter
United States Senator

CC:
Director OPM
Financial Clerk of the Senate Disbursing Office
Chief Administrative Officer for the House of Representatives
DC Health Benefit Exchange Authority

Encl.

Employer Provided Health Insurance Offer and Coverage

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Department of the Treasury -- IRS

Part I APPLICABLE LARGE EMPLOYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.

United States Senate
US Senate Disbursing Office
SH-127 Hart Senate Building
Washington DC 20510-7104
202/224-1093

Part II Employee Offer and Coverage

Plan Start Mo. (Enter 2-digit no.):	14 Offer of Coverage (enter required code)	15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	16 Applicable Section 4980H Safe Harbor (enter code, if applicable)
00			
All 12 Months		\$	
Jan	1H	\$	2A
Feb	1H	\$	2D
Mar	1E	\$ 207.48	
Apr	1E	\$ 207.48	
May	1E	\$ 207.48	
June	1E	\$ 207.48	
July	1E	\$ 207.48	
Aug	1E	\$ 207.48	
Sept	1E	\$ 207.48	
Oct	1E	\$ 207.48	
Nov	1E	\$ 207.48	
Dec	1E	\$ 207.48	

Information about Form 1095-C and its separate instructions is at www.irs.gov/form1095c.

EMPLOYEE'S name, address, ZIP/postal code & country

[REDACTED]

APPLICABLE LARGE EMPLOYER'S identification number (EIN)

53-6002558

EMPLOYEE'S social security number (SSN)

XXX-XX-[REDACTED]

Part III Covered Individuals If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 mos.	(e) Months of coverage														
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec			
17																		
18																		
19																		
20																		

21																		
22																		
23																		
24																		
25																		
26																		
27																		
28																		
29																		
30																		
31																		
32																		
33																		
34																		



Form 1095-C (2015)

600215 page 2

Instructions for Recipient

* You are receiving this Form 1095-C because your employer is an Applicable Large Employer subject to the employer shared responsibility provision in the Affordable Care Act. This Form 1095-C includes information about the health insurance coverage offered to you by your employer. Form 1095-C, Part II, Employer Offer and Coverage section, includes information about the coverage, if any, your employer offered to you and your spouse and dependent(s). If you purchased health insurance coverage through the Health Insurance Marketplace and wish to claim the premium tax credit, this information will assist you in determining whether you are eligible. For more information about the premium tax credit, see Pub. 974, Premium Tax Credit (PTC). You may receive multiple Forms 1095-C if you had multiple employers during the year that were Applicable Large Employers (for example, you left employment with one Applicable Large Employer and began a new position of employment with another Applicable Large Employer). In that situation, each Form 1095-C would have information only about the health insurance coverage offered to you by the employer identified on the form. If your employer is not an Applicable Large Employer it is not required to furnish you a Form 1095-C providing information about the health coverage it offered.

In addition, if you, or any other individual who is offered health coverage because of their relationship to you (referred to here as family members), enrolled in your employer's health plan and that plan is a type of plan referred to as a "self-insured" plan, Form 1095-C, Part III, Covered Individuals section, provides information to assist you in completing your income tax return by showing you or those family members had qualifying health coverage (referred to as "minimum essential coverage") for some or all months during the year.

If your employer provided you or a family member health coverage through an insured health plan or in another manner, the issuer of the insurance or the sponsor of the plan providing the coverage will furnish you information about the coverage separately on Form 1095-B, Health Coverage. Similarly, if you or family member obtained minimum essential coverage from another source, such as a government-sponsored program, an individual market plan, or miscellaneous coverage designated by the Department of Health and Human Services, the provider of that coverage will furnish you information about that coverage on Form 1095-B. If you or a family member enrolled in a qualified health plan through a Health Insurance Marketplace, the Health Insurance Marketplace will report information about that coverage on Form 1095-A, Health Insurance Marketplace Statement.

TIP Employers are required to furnish Form 1095-C only to the employee. As the recipient of this Form 1095-C, you should provide a copy to any family members covered under a self-insured employer-sponsored plan listed in Part III, Covered Individuals section, if they request it for their records.

Part I. Employee

Reports information about you, the employee.

Reports your social security number (SSN). For your protection, this form may show only the last four digits of your SSN. However, the issuer is required to report your complete SSN to the IRS.

CAUTION If you do not provide your SSN and the SSNs of all covered individuals to the plan administrator, the IRS may not be able to match the Form 1095-C to determine that you and the other covered individuals have complied with the individual shared responsibility provision. For covered individuals other than the employee listed in Part I, Employee's section, a Taxpayer Identification Number (TIN) may be provided instead of an SSN.

Part I. Applicable Large Employer

Reports information about your employer. This includes a telephone number for the person whom you may call if you have questions about the information reported on the form or to report errors in the information on the form and ask that they be corrected.

Part II. Employer Offer and Coverage, Lines 14-16

Line 14. The codes listed below for line 14 describe the coverage that your employer offered to you and your spouse and dependent(s), if any. (If you received an offer of coverage through a multiemployer plan due to your membership in a union, that offer may not be shown on line 14.) The information on line 14 relates to eligibility for coverage subsidized by the premium tax credit for you, your spouse, and dependent(s). For more information about the premium tax credit, see Pub. 974.

- 1A.** Minimum essential coverage providing minimum value offered to you with an employee contribution for self-only coverage equal to or less than 9.5% of the 48 contiguous states single federal poverty line and minimum essential coverage offered to your spouse and dependent(s) (referred to here as a Qualifying Offer). This code may be used to report for specific months for which a Qualifying Offer was made, even if you did not receive a Qualifying Offer for all 12 months of the calendar year.
- 1B.** Minimum essential coverage providing minimum value offered to you and minimum essential coverage NOT offered to your spouse or dependent(s).
- 1C.** Minimum essential coverage providing minimum value offered to you and minimum essential coverage offered to your dependent(s) but NOT your spouse.
- 1D.** Minimum essential coverage providing minimum value offered to you and minimum essential coverage offered to your spouse but NOT your dependent(s).
- 1E.** Minimum essential coverage providing minimum value offered to you and minimum essential coverage offered to your dependent(s) and spouse.
- 1F.** Minimum essential coverage NOT providing minimum value offered to you, or you and your spouse or dependent(s), or you, your spouse, and dependent(s).
- 1G.** You were NOT a full-time employee for any month of the calendar year but were enrolled in self-insured employer-sponsored coverage for one or more months of the calendar year. This code will be entered in the *All 12 Months* box on line 14.
- 1H.** No offer of coverage (you were NOT offered any health coverage or you were offered coverage that is NOT minimum essential coverage).
- 1I.** Your employer claimed "Qualifying Offer Transition Relief" for 2015 and for at least one month of the year you (and your spouse or dependent(s)) did not receive a Qualifying Offer. Note that your employer has also provided a contact number at which you may request further information about the health coverage, if any, you were offered.

Line 15. Reports the employee share of the lowest-cost monthly premium for self-only minimum essential coverage providing minimum value that your employer offered you. The amount reported on line 15 may not be the amount you paid for coverage if, for example, you chose to enroll in more expensive coverage such as family coverage. Line 15 will show an amount only if code 1B, 1C, 1D, or 1E is entered on line 14. If you were offered coverage but not required to contribute any amount towards the premium, this line will report "0.00" for the amount.

Line 16. This code provides the IRS information to administer the employer shared responsibility provisions. Other than a code 2C which reflects your enrollment in your employer's coverage, none of this information affects your eligibility for the premium tax credit. For more information about the employer shared responsibility provisions, see IRS.gov.

Part III. Covered Individuals, Lines 17-34

Reports the name, SSN (or TIN for covered individuals other than the employee listed in Part I), and coverage information about each individual (including any full-time employee and non-full-time employee, and any employee's family members) covered under the employer's health plan, if the plan is "self-insured." A date of birth will be entered in column (c) only if an SSN (or TIN for covered individuals other than the employee listed in Part I) is not entered in column (b). Column (d) will be checked if the individual was covered for at least one day in every month of the year. For individuals who were covered for some but not all months, information will be entered in column (e) indicating the months for which these individuals were covered.



7 THY-NP1 23233



PRESORT FIRST CLASS

SECRETARY OF U.S. SENATE

First-Class Mail
Important Tax Return
Document Enclosed

United States Senate
US Senate Disbursing Office
SH-127 Hart Senate Building
Washington DC 20510-7104