



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

November 17, 2017

The Honorable Charles D. Baker  
Governor  
Commonwealth of Massachusetts  
Office of the Governor  
State House  
Boston, MA 02133

Dear Governor Baker:

Thank you for your letter asking the Treasury Department and the Department of Health and Human Services (HHS) to provide relief from the employer shared responsibility provisions of the Affordable Care Act (ACA) and the related reporting requirements for employers in Massachusetts for 2018 and 2019. The Treasury Department and the Internal Revenue Service (IRS) are responsible for implementing the employer shared responsibility provisions and the related reporting requirements; accordingly, we are responding to your letter on our own behalf and on behalf of HHS.

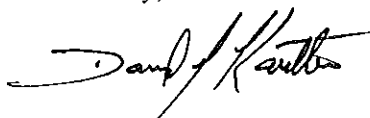
As you know, we spoke with your staff about your request this past summer. We have also closely reviewed your subsequent official written request. In your letter, you explain that you are requesting relief for two primary reasons. First, you indicate that relief for 2018 and 2019 is intended to ensure that Massachusetts employers receive notice and technical guidance regarding the employer shared responsibility provisions prior to implementation. We note that the employer shared responsibility provisions and the related reporting requirements have been in effect since 2015. Before that time, the Treasury Department and IRS provided detailed guidance to implement these provisions, including final regulations in early 2014, answers to frequently asked questions on the IRS website, webinars and other programs to educate employers about the employer shared responsibility provisions and related reporting requirements, and annual IRS forms and instructions.

Second, you write that you are requesting relief to provide Massachusetts with additional time to seek a waiver under ACA § 1332. As you note, a State may seek a waiver of the employer shared responsibility provisions under ACA § 1332, subject to various requirements. We understand that Massachusetts may need more time to prepare such an application, but that is an insufficient ground for providing the requested relief. However, HHS and the Treasury Department will promptly review any application submitted by your State.

We fully understand the concerns raised in your letter, and this Administration has worked diligently for legislative repeal and replacement of the ACA to eliminate costly burdens such as

the employer mandate. There is no sound legal basis, however, for providing the requested relief administratively. We appreciate your letter and are particularly appreciative of the time your staff took to explain the request and to answer our questions. If you have additional questions, please contact Robert J. Neis, Benefits Tax Counsel at 202-622-5293.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Kautter". The signature is fluid and cursive, with a large initial "D" and "K".

David J. Kautter  
Assistant Secretary for Tax Policy

cc: The Honorable Eric D. Hargan