DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

March 26, 2014

The Honorable Lloyd Doggett
U.S. House of Representatives
Washington, DC 20515

Dear Representative Doggett:

Thank you for your letter to Secretary Lew regarding the ability of victims of domestic abuse to access the Affordable Care Act's premium tax credit. Because guidance on the premium tax credit falls under the jurisdiction of the Office of Tax Policy, your letter was referred to me.

The Treasury Department is committed to addressing the needs of victims of domestic abuse. Your letter discusses important concerns about the difficulty that victims of domestic abuse may face in enrolling in coverage with help from the premium tax credit. As you note, individuals who are legally married are generally required to file a joint income tax return to claim the premium tax credit, including any advance payments. This is a common requirement for receiving means-tested tax benefits. For victims of domestic abuse, getting in contact with a spouse for purposes of filing a joint return may be traumatic, dangerous, or prohibited by a restraining order. Your concerns are consistent with those expressed to us by numerous others in public comments and meetings.

The Treasury Department and the IRS are working to develop rules to address the concerns expressed in your letter, while considering the need to limit the rule to those who legitimately qualify. We note that current rules allow certain married individuals with children who are living apart from their spouse to file as a "head of household."[5] This rule makes it possible for some victims of domestic abuse to claim the tax credit while filing a separate return, but it is not available to many affected individuals. As you are aware, final regulations under the premium tax credit indicated that Treasury would propose additional regulations addressing domestic abuse and other circumstances that create obstacles to filing a joint return. The regulations also requested comments on how to structure a rule to address such situations, including the types of documentation a taxpayer might provide to establish eligibility for the rule and the need for appropriate safeguards. In response to this request, the Treasury Department received several suggestions.

We expect to release proposed regulations with these rules later this spring. That said, we understand that individuals need to know whether they will qualify for the premium tax credit for

[5] See "Considered Unmarried" in IRS Publication 501, "Exemptions, Standard Deduction, and Filing Information," available at http://www.irs.gov/publications/p501/ar02.html#en_US_2013_publink1000220780.

2014 so that they can enroll in coverage. Accordingly, today the Treasury Department and the IRS are releasing guidance providing that a married individual who is living apart from his or her spouse, and who is unable to file a joint return as a result of domestic abuse, will be permitted to claim a premium tax credit for 2014 while filing a tax return with a filing status of married filing separately.

It is our understanding that the Department of Health and Human Services (HHS) will clarify in educational materials how individuals who qualify for this rule can obtain an eligibility determination for advance payments of the premium tax credit. In addition, while open enrollment ends on March 31, 2014, we understand that HHS has clarified that a Marketplace may establish a special enrollment period for such individuals so they will have sufficient time to select a qualified health plan through the Marketplace, and that HHS has established such a special enrollment period with respect to the Federally-facilitated Marketplace.

We hope this information is helpful. Thank you for your leadership on this important issue.

Sincerely,

Mark J. Mazur
Assistant Secretary (Tax Policy)

Identical letter sent to:
The Honorable Louise Slaughter

cc: The Honorable Timothy Bishop
The Honorable Earl Blumenauer
The Honorable Suzanne Bonamici
The Honorable Cheri Bustos
The Honorable Lois Capps
The Honorable Michael Capuano
The Honorable André Carson
The Honorable David Cicilline
The Honorable Katherine Clark
The Honorable Yvette Clarke
The Honorable Gerald Connelly
The Honorable John Conyers, Jr.
The Honorable Jim Costa
The Honorable Joseph Crowley
The Honorable Danny Davis
The Honorable Diana DeGette
The Honorable Rosa DeLauro
The Honorable Suzan DelBene
The Honorable Mike Doyle
The Honorable Keith Ellison

The Honorable Eliot Engel
The Honorable Elizabeth Esty
The Honorable Sam Farr
The Honorable Lois Frankel
The Honorable Marcia Fudge
The Honorable Tulsi Gabbard
The Honorable Pete Gallego
The Honorable Al Green
The Honorable Raúl Grijalva
The Honorable Janice Hahn
The Honorable Alcee Hastings
The Honorable Brian Higgins
The Honorable Ruben Hinojosa
The Honorable Rush Holt
The Honorable Steven Horsford
The Honorable Eddie Bernice Johnson
The Honorable William Keating
The Honorable Ron Kind
The Honorable Ann McLane Kuster
The Honorable Rick Larsen
The Honorable John Larson
The Honorable Alan Lowenthal
The Honorable Nita Lowey
The Honorable Dan Maffei
The Honorable Carolyn Maloney
The Honorable Carolyn McCarthy
The Honorable Betty McCollum
The Honorable Jim McDermott
The Honorable Jim McGovern
The Honorable Jerry McNerney
The Honorable Gregory Meeks
The Honorable Gwen Moore
The Honorable James Moran
The Honorable Jerrold Nadler
The Honorable Grace Napolitano
The Honorable Eleanor Holmes Norton
The Honorable Bill Owens
The Honorable Frank Pallone, Jr.
The Honorable Bill Pascrell, Jr.
The Honorable Charles Rangel
The Honorable Cedric Richmond
The Honorable Tim Ryan
The Honorable Jan Schakowsky
The Honorable Allyson Schwartz
The Honorable José Serrano
The Honorable Carol Shea-Porter

The Honorable Jackie Speier
The Honorable Eric Swalwell
The Honorable Paul Tonko
The Honorable Niki Tsongas
The Honorable Chris Van Hollen
The Honorable Juan Vargas
The Honorable Filemon Vela
The Honorable Peter Welch
The Honorable John Yarmuth