

MEMORANDUM

September 25, 2014

To: Tribal Health Clients

From: HOBBS, STRAUS, DEAN AND WALKER, LLP

Re: ***IRS Draft Tax Form Enables Claiming ACA Exemptions through Tax Filing Process***

Geoff Strommer (by TAE)

The Internal Revenue Service (IRS) recently released Draft Form 8965, which allows American Indians and Alaska Natives (AI/ANs) to claim an exemption from the Affordable Care Act's (ACA) shared responsibility payment. The ACA requires individuals to obtain coverage that meets certain minimum requirements or pay a tax penalty. Individuals who are members of federally recognized tribes are eligible for a statutory exemption from this tax penalty under the ACA. Individuals who are eligible for Indian Health Service (IHS) services, such as descendants of tribal members, are eligible for a hardship exemption that was created by regulation. Draft Form 8965 simplifies the exemption-claiming process.

Previously, persons eligible for IHS services were instructed to apply for a hardship exemption through the health insurance exchanges, wait to receive an Exemption Certification Number (ECN), and include the ECN on their tax forms. Draft Form 8965, however, allows members of federally recognized tribes as well as persons eligible for IHS services to claim an exemption simply by indicating "E" on their tax form. Thus, now both tribal members and persons eligible for IHS services may claim an exemption through the tax-filing process rather than having to apply through the exchanges.

For more information, please contact Elliott Milhollin (at 202-822-8282 or emilhollin@hobbsstrauss.com) or Geoff Strommer (at 503-242-1745 or gstrommer@hobbsstrauss.com).