

\_\_\_\_\_, 2020

Department of the Treasury  
Internal Revenue Service

**Re: Protective Claim for Refund**

**Taxpayer's Name:**

**Spouse's Name (if filed jointly):**

**Address:**

**Taxpayer's Social Security Number:**

**Spouse's Social Security Number (if filed jointly):**

**Tax Year(s):**

Dear Internal Revenue Service:

Please accept this letter as my formal written Protective Claim for Refund of Additional Medicare Tax and/or Net Investment Income Tax liabilities paid for the tax year(s) set forth above. These taxes were paid with my/our Form 1040 U.S. Individual Income Tax Return for the year(s) set forth above. The Additional Medicare Tax liability was set forth on Form 8959, Part IV, Line 18, and the Net Investment Income Tax liability was set forth on Form 8960, Part III, Line 17, both of which were timely paid with my/our Form 1040 U.S. Individual Income Tax Return(s).

A formal written Protective Claim for Refund may be filed when a taxpayer's right to a refund is contingent on future events and may not be determinable until after the statute of limitations expires. The Additional Medicare Tax and Net Investment Income Tax are contingent on the case pending before the United States Supreme Court, *California, et al., Petitioners v. Texas, et al.*, No. 19-840. At issue before the United States Supreme Court is whether reducing the amount specified in 5000A(c) of the Patient Protection and Affordable Care Act ("ACA") to zero rendered the minimum coverage provision of the ACA unconstitutional, and if unconstitutional, whether the minimum coverage provision is severable from the rest of the ACA. If the United States Supreme Court holds that the minimum coverage provision of the ACA is unconstitutional and not severable from the rest of the ACA, the Additional Medicare Tax and Net Investment Income Tax which were assessed pursuant to the ACA would be eliminated and no longer valid.

If the United States Supreme Court holds that the minimum coverage provision of the ACA is unconstitutional and not severable from the rest of the ACA, and such holding is applicable to the Additional Medicare Tax and Net Investment Income Tax paid for the tax year(s) set forth above, taxpayer requests a full refund of such taxes paid and interest, as provided by law, on the principal amount of the tax overpayment.

If you need additional information, please contact me at the address of record identified above.

Under penalties of perjury, I/we declare that I/we have paid the Additional Medicare Tax and/or Net Investment Income Tax for the tax years set forth above, and that to the best of my

knowledge, this Protective Claim for Refund for such taxes, which is contingent on the ruling of the case pending before the United States Supreme Court, *California, et al., Petitioners v. Texas, et al.*, No. 19-840, is true, correct and complete.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Taxpayer Signature

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Spouse Signature (if filed jointly)

<b>IF you live in:</b>	<b>THEN mail Form 1040-X and attachments to:</b>
Florida, Louisiana, Mississippi, Texas	Department of the Treasury Internal Revenue Service Austin, TX 73301-0052
Alaska, Arkansas, California, Hawaii, Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Oklahoma, Washington, Wisconsin	Department of the Treasury Internal Revenue Service Fresno, CA 93888-0422
Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Wyoming	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0052
Alabama, Connecticut, Delaware, District of Columbia, Georgia, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia	Department of the Treasury Internal Revenue Service Kansas City, MO 64999-0052
A foreign country, U.S. possession or territory*; or use an APO or FPO address, or file Form 2555, 2555-EZ, or 4563; or are a dual-status alien	Department of the Treasury Internal Revenue Service Austin, TX 73301-0215