



The ACA and Federal Income Tax Filing Requirements

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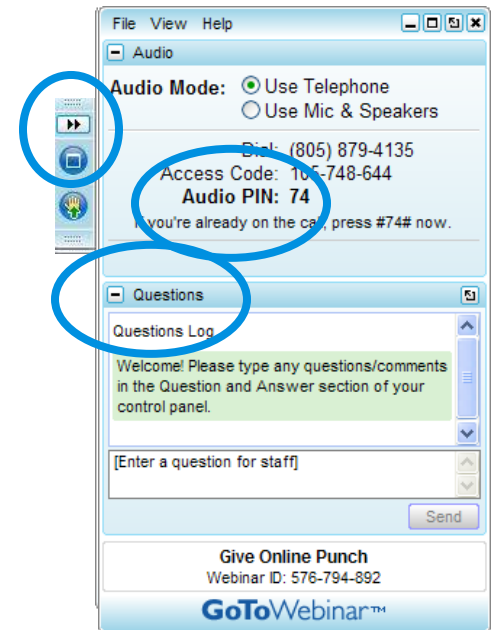
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Housekeeping

GoToWebinar Interface...

- Maximize/minimize your screen with the chevron symbol
- Telephone participants need to enter their audio pin
- Please share your questions!
 - Ask a question in the questions log
 - Yes, we will make the recording, slides, and materials available



Disclaimers



New procedures and guidance may be issued.
Information and links may change.

The law is complicated. This presentation provides
general information. There are always exceptions and
caveats.

Today's Presentation



- Premium Tax Credit
 - Forms needed to claim PTC
 - Reconciliation examples
 - Consequences of not repaying excess APTC
- Individual Shared Responsibility
 - Information needed for tax filing
 - How to claim (or apply for) an exemption from the SRP
 - Using an SRP calculator
 - SRP examples
 - Consequences of not paying the SRP
- Referrals and Resources

Premium Tax Credit: Form 1095-A



- Everyone who received APTC needs IRS Form 1095-A to prepare their tax return this year
- All QHP households should receive Form [1095-A](#) from their Marketplace
 - Including unsubsidized consumers
 - IRS also gets a copy from the Marketplace

Premium Tax Credit: Form 1095-A



Form **1095-A**

Health Insurance Marketplace Statement

OMB No. 1545-2232

Department of the Treasury
Internal Revenue Service

► Information about Form 1095-A and its separate instructions is at www.irs.gov/form1095a.

CORRECTED

2014

Part I Recipient Information

1 Marketplace identifier	2 Marketplace-assigned policy number	3 Policy issuer's name	
4 Recipient's name		5 Recipient's SSN	6 Recipient's date of birth

Part II Coverage Household

	A. Covered Individual Name	B. Covered Individual SSN	C. Covered Individual Date of Birth	D. Covered Individual Start Date	E. Covered Individual Termination Date
16					
17					

Part III Household Information

Month	A. Monthly Premium Amount	B. Monthly Premium Amount of Second Lowest Cost Silver Plan (SLCSP)	C. Monthly Advance Payment of Premium Tax Credit
21 January			
22 February			

Premium Tax Credit: Form 1095-A



- 1095-A has information needed to claim a Premium Tax Credit and reconcile APTC:
 - Each individual's start and termination dates
 - Monthly QHP premium amount
 - Does not include any CHIP premiums or adult dental plan premiums
 - May be a few pennies off from the QHP's listed unsubsidized premium
 - Monthly benchmark premium (second-lowest cost silver plan, SLCSP)
 - Amount of advance payments of the premium tax credit (APTC) made for each month of 2014

Premium Tax Credit: 1095-A Example



- John

- John files his own tax return and has no dependents
- John enrolled in a BC/BS-VT Silver Deductible plan for all 12 months of 2014
- The marketplace estimated that John's 2014 income would be \$28,725 (250% FPL)
- John received APTC for each month of 2014 based on the marketplace's initial income projection



Premium Tax Credit: Form 1095-A



- What if I did not receive Form 1095-A?
 - Call your marketplace's customer service line
 - Federal marketplace: **1-800-318-2596 / TTY: 1-855-889-4325**
 - The marketplace is only required to provide one form per tax household.
 - The marketplace should be able to send a duplicate form or provide information over the phone if the caller is on the marketplace account, or if an adult on the marketplace account gives permission.

Premium Tax Credit: Form 1095-A



- What if APTC was paid for a family member, but you can't get the 1095-A information?
 - Example: John's ex-wife Becky enrolled their daughter in APTC. The family court has just awarded the dependent exemption to John. Becky is furious. She won't give permission for the Marketplace to send John the 1095-A, and she won't give John a copy.
 - Becky could be held in contempt by the family court

Premium Tax Credit: Form 1095-A



- IRS can disclose 1095-A information when the data is needed to resolve tax filing or reporting requirements.
 - **But**, IRS may require the taxpayer to file an incomplete tax return to show that disclosure is really necessary
 - Will this mean filing by mail? Depends on the software.
 - IRS may require the taxpayer to first try to get the information from the Marketplace and the person who received the 1095-A
 - IRS customer service: 1-800-829-1040

Premium Tax Credit: Form 1095-A



- What if I think Form 1095-A is wrong?
 - Call the marketplace. If the marketplace agrees that the form is wrong, a corrected form will be issued.
 - Federal marketplace: 800-318-2596 / TTY 855-889-4325
- Wait until the corrected form is issued to file the tax return, or the tax return processing may be delayed
 - In the FFM, corrected forms will begin to be issued in early March. Other Marketplaces may be faster.

Premium Tax Credit: Form 1095-A



- What if the Marketplace disagrees with the consumer, and refuses to correct Form 1095-A?
 - There may be an informal review process the consumer can request, depending on the marketplace
 - The marketplace may take the position that a formal appeal is not available; however that is not settled law
 - The exchange appeals entity has jurisdiction over eligibility appeals, and the 1095-A reflects the exchange's eligibility decision.

Premium Tax Credit: Form 1095-A



- What if the Marketplace disagrees with the consumer, and refuses to correct Form 1095-A?
 - The consumer can claim a Premium Tax Credit based on her own records, and attempt to persuade the IRS that the Form 1095-A is wrong
 - This is not impossible, but written records are important and it will be a long process

Premium Tax Credit: Form 8962



- IRS Form [8962](#) Premium Tax Credit must be filed with a federal income tax return to officially claim PTC and reconcile APTC
 - This form will be generated by tax preparation software
- Taxpayers need to have Form(s) 1095-A before they can complete Form 8962
- Any tax preparer or tax software should ask about Form 1095-A
 - Consumers should not need to ask for Form 8962 by name

Premium Tax Credit: Form 8962

Form **8962**

Department of the Treasury
Internal Revenue Service

Premium Tax Credit (PTC)

▶ Attach to Form 1040, 1040A, or 1040NR.

▶ Information about Form 8962 and its separate instructions is at www.irs.gov/form8962.

OMB No. 1545-0074

2014

Attachment
Sequence No. **73**

Name shown on your return

Your social security number

Relief
(see instructions)

Part 1: Annual and Monthly Contribution Amount

1	Family Size: Enter the number of exemptions from Form 1040 or Form 1040A, line 6d, or Form 1040NR, line 7d	1	
2a	Modified AGI: Enter your modified AGI (see instructions)	2a	
		b	Enter total of your dependents' modified AGI (see instructions)
2b		2b	
3	Household Income: Add the amounts on lines 2a and 2b	3	

Part 2: Premium Tax Credit Claim and Reconciliation of Advance Payment of Premium Tax Credit

Monthly Calculation	A. Monthly Premium Amount (Form(s) 1095-A, lines 21-32, column A)	B. Monthly Premium Amount of SLCSP (Form(s) 1095-A, lines 21-32, column B)	C. Monthly Contribution Amount (Amount from line 8b or alternative marriage monthly contribution)	D. Monthly Maximum Premium Assistance (Subtract C from B)	E. Monthly Premium Tax Credit Allowed (Smaller of A or D)	F. Monthly Advance Payment of PTC (Form(s) 1095-A, lines 21-32, column C)
12 January						
13 February						
14 March						

Premium Tax Credit: Form 8962 cont.



Part 3: Repayment of Excess Advance Payment of the Premium Tax Credit

27	Excess Advance Payment of PTC: If line 25 is greater than line 24, subtract line 24 from line 25. Enter the difference here	27	
28	Repayment Limitation: Using the percentage on line 5 and your filing status, locate the repayment limitation amount in the instructions. Enter the amount here	28	
29	Excess Advance Premium Tax Credit Repayment: Enter the smaller of line 27 or line 28 here and on Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44	29	

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 37784Z

Form **8962** (2014)

Premium Tax Credit: Reconciliation



- What if John's income shown on his 2014 tax return is less than the marketplace expected?
 - If John's income is lower than the marketplace's projection, he received less APTC than he was entitled to
 - John will receive an additional Premium Tax Credit on his tax return
 - This will be calculated by tax preparation software, based on John's income and the numbers on Form 1095-A



Premium Tax Credit: Reconciliation



- What if John's income shown on his 2014 tax return is more than the marketplace expected?
 - If John's income is higher than the marketplace's projection, he received more APTC than he was entitled to
 - John will have to repay some APTC on his tax return
 - This will be calculated by tax preparation software, based on John's income and the numbers on Form 1095-A



Premium Tax Credit: Reconciliation



- How much might John have to repay?
 - If John's income is under \$45,960 (400% FPL), his liability is capped

REPAYMENT LIMITS ON APTC		
Household Income (as % of FPL)	SINGLE taxpayers will pay back no more than ...	OTHER taxpayers will pay back no more than....
Under 200%	\$300	\$600
At least 200% but less than 300%	\$750	\$1,500
At least 300% but less than 400%	\$1,250	\$2,500
400% and above	Full repayment	Full repayment

2014 APTC Repayment Cap Examples

SINGLE Taxpayer		Married Couple with 2 Children	
Income Levels (Percent of Federal Poverty Line)	Will pay back no more than ...	Income Levels (Percent of Federal Poverty Line)	Will pay back no more than....
Under \$22,980 (200%)	\$300	Under \$47,100 (200%)	\$600
At least \$22,980 (200%) but less than \$34,470 (300%)	\$750	At least \$47,100 (200%) but less than \$70,650 (300%)	\$1,500
At least \$34,470 (300%) but less than \$45,960 (400%)	\$1,250	At least \$70,650 (300%) but less than \$94,200 (400%)	\$2,500
\$45,960 (400%) and above	Full repayment	\$94,200 (400%) and above	Full repayment

What if excess APTC is not repaid?



- IRS sends letters. If the taxpayer does nothing, IRS may:
 - Offset (seize) future federal tax refunds
 - Levy (seize/garnish)
 - State tax refunds
 - Social Security disability or retirement benefits (not SSI)
 - Wages
 - Bank accounts
 - Retirement accounts
 - Real or personal property (unlikely)
 - File a notice of federal tax lien in the land records

What if excess APTC is not repaid? (2)



- IRS has 10 years to collect it
 - including related penalties and interest
 - 26 USC § 6502
- The 10 years can be extended by certain actions of the taxpayer
 - Generally, the collection period is paused while IRS is barred from collecting
 - e.g. during a bankruptcy

Individual Shared Responsibility



- The shared responsibility provision of the tax code (26 U.S.C. § 5000A) says that individuals must have health insurance, claim an exemption, or pay a penalty
- A penalty may be owed for each month without insurance
- Tax filers are responsible for their dependents
- Tax dependents don't owe a penalty

Individual Shared Responsibility



What information is needed to file taxes?

- A tax preparer (or tax software) will ask: Did you and your family have minimum essential coverage for each month in 2014?
 - Almost all types of health insurance qualify
 - For a list, see page 4 of the IRS Form [8965 instructions](#), or www.irs.gov/aca
 - Some tax preparers may ask to see proof of coverage

Individual Shared Responsibility



What information is needed to file taxes? (2)

- If you or a family member did not have MEC for all of 2014
 - Do you have an exemption certificate from the federal marketplace (HHS)?
 - Do you qualify for an exemption that can be claimed on a tax return?
 - Do you qualify for an exemption that must be applied for through the federal marketplace?

Shared Responsibility: Exemptions



- Exemptions are claimed on IRS Form [8965](#)
 - File Form 8965 with a federal income tax return
 - For marketplace exemptions, list certificate number or write “pending” if you have applied
- CMS has a new exemption tool online: healthcare.gov/exemptions-tool/#/

Shared Responsibility: Exemptions



Form **8965**

Department of the Treasury
Internal Revenue Service

Health Coverage Exemptions

▶ Attach to Form 1040, Form 1040A, or Form 1040EZ.

▶ Information about Form 8965 and its separate instructions is at www.irs.gov/form8965.

OMB No. 1545-0074

2014

Attachment
Sequence No. **75**

Name as shown on return

Your social security number

Complete this form if you have a Marketplace-granted coverage exemption or you are claiming a coverage exemption on your return.

Part I

Marketplace-Granted Coverage Exemptions for Individuals: If you and/or a member of your tax household have an exemption granted by the Marketplace, complete Part I.

	a Name of Individual	b SSN	c Exemption Certificate Number
1			

Shared Responsibility: Exemptions



Part II Coverage Exemptions for Your Household Claimed on Your Return:

7a Are you claiming an exemption because your household income is below the filing threshold? Yes No

b Are you claiming a hardship exemption because your gross income is below the filing threshold? Yes No

Part III Coverage Exemptions for Individuals Claimed on Your Return: If you and/or a member of your tax household are claiming an exemption on your return, complete Part III.

	a Name of Individual	b SSN	c Exemption Type	d Full Year	e Jan	f Feb	g Mar	h Apr	i May	j June	k July	l Aug	m Sept	n Oct	o Nov	p Dec
8																

Shared Responsibility: Exemptions



Which exemptions can be claimed on a tax return?

- Coverage was unaffordable
- Short coverage gap (less than 3 months)
- Income below filing threshold
- Incarceration
- Gap in coverage before May 1, 2014
- Exempt non-citizen
- For the full list, see www.irs.gov/aca or page 2 of the IRS Form [8965 instructions](#)

Shared Responsibility: Affordability Exemption



- The lowest-priced coverage available to cover all uninsured family members would cost over 8% of household income (26 CFR § 1.5000A-3(e))
- This is different from the affordability rule for declining employer insurance and getting APTC
 - The threshold is 8% instead of 9.5%
 - There is no family glitch – the actual cost for all uninsured family members is compared to household income
- There are worksheets in the IRS Form [8965 instructions](#)
 - These calculations will be done by tax preparers or tax preparation software

Shared Responsibility: Exemptions



Which exemptions must be applied for through the Marketplace?

- Hardship

- Homelessness
- Domestic violence
- Eviction or foreclosure
- Medical bills
- For more hardship situations see www.healthcare.gov/fees-exemptions/hardship-exemptions/

Shared Responsibility: Exemptions



- What if my hardship is not listed?
 - There is an “other” box to check on the [hardship application](#) (option 14)
 - Explain why the hardship prevented you from getting health insurance in 2014
- The regulation is broad (45 C.F.R. § 155.605(g)(1)), but CMS has narrowed it through guidance (e.g. CCIIO, [6/26/13](#)).
 - Applications claiming the “other” category may need to be appealed. Be prepared to argue that CMS’s position is contrary to the regulation. Stay tuned!

Shared Responsibility: Exemptions



- How do you get a marketplace exemption?
 - Application forms and instructions are at www.healthcare.gov/fees-exemptions/apply-for-exemption/
 - Applications must be printed and mailed
 - Many state marketplaces have delegated authority for exemptions to the federal marketplace (HHS) for the time being

Shared Responsibility: Exemptions



- When can I apply for a hardship exemption?
 - You have three years from the month of the hardship to apply
 - 45 CFR § 155.610(h)(2)
 - It's best to apply before filing your tax return, otherwise the IRS will impose the penalty and you will have to file an amended tax return after the exemption is granted

Shared Responsibility: Exemptions



Example of Form 8965: John and Jane Doe

- Married, filing jointly, with one child
- Neither spouse had health insurance in 2014
- Their child had CHIP
- John was sentenced in March, and incarcerated from March 30 to December 5
- Jane struggled to pay bills without John's income. She mailed in her hardship exemption application yesterday.

Shared Responsibility: Exemptions



Example of Form 8965: John and Jane Doe

- Why does John's incarceration exemption cover March and December?
 - One day of incarceration entitles John to the exemption for the whole month (26 CFR § 1.5000A-3(d)(1))
- The general rule (for exemptions and also for MEC) is that one day out of a month is enough to satisfy the shared responsibility requirement for the entire month

The Shared Responsibility Penalty



- How much is the penalty?
 - The penalty is imposed for each month without insurance
 - It's calculated for the whole year, then the result is divided by 12 to get the monthly penalty
 - The Tax Policy Center calculator is helpful, at <http://taxpolicycenter.org/taxfacts/acacalculator.cfm>
 - There are 2014 and 2015 penalty examples posted at www.vtlawhelp.org/health-insurance-taxes-and-you

The Shared Responsibility Penalty



- For 2014, the shared responsibility payment is the greater of:
 - \$95 per adult and \$47.50 per child under age 18 (up to \$285 per family); or
 - 1% of household income in excess of filing threshold with a maximum of
 - \$204 per individual per month (\$2,448 annually) up to five individuals

The Shared Responsibility Penalty



2014 Federal Tax Filing Thresholds

For Individuals Under Age 65

Filing Status	Income Threshold
Single	\$10,150
Head of Household	\$13,050
Married Filing Jointly	\$20,300
Married Filing Separately	\$3,950
Qualifying Widow(er) with Dependent Children	\$16,350



www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Calculating-the-Payment

The Shared Responsibility Penalty



2015 Federal Tax Filing Thresholds

For Individuals Under Age 65

Filing Status	Income Threshold
Single	\$10,300
Head of Household	\$13,250
Married Filing Jointly	\$20,600
Married Filing Separately	\$4,000
Qualifying Widow(er) with Dependent Children	\$16,600

Source: IRS Rev. Proc. 2014-61



Shared Responsibility Penalty Examples



- **Jim**
 - Single with no tax dependents
 - Jim's income is \$40,000 and his 2014 filing threshold is \$10,150
- **Eduardo and Julia**
 - Married with two children, filing jointly
 - Their household income is \$70,000 and their 2014 filing threshold is \$20,300

What if I don't pay the SRP?



- It will be taken out of your 2014 refund
- If there is a debt, IRS sends bills. If the bill is not paid, IRS may:
 - Offset (seize) federal tax refunds
 - Take the unpaid SRP into account when the taxpayer requests a collection alternative for an IRS debt
 - e.g. an installment plan
- IRS may not seize property, garnish income, file criminal charges, or file a notice of federal tax lien (26 U.S.C. § 5000A(g)(2))

What if a taxpayer doesn't pay? (SRP)



- IRS's timeframe to collect a SRP is not settled law
- Currently it appears IRS intends to offset tax refunds for as long as an SRP is unpaid

Recap: IRS Collections



- What happens if a person doesn't pay?
 - PTC Overpayment
 - Excess PTC is treated by law as additional income tax; the normal IRS collection process applies
 - SRP
 - Can only be collected by voluntary payment or by taking a federal income tax refund
- A person's eligibility for future tax credits and subsidized health insurance is **not** affected by an unpaid IRS balance

IRS Interest and Penalties



- If you have a balance due, it's important to file your tax return on time
- The penalty for filing late is much higher than the penalty for paying late
 - 5% of tax due, per month or partial month that the tax return was late, up to 25% total
 - The penalty for paying late is 0.5% to 1% per month
- See [IRS Publication 17](#) or www.irs.gov
 - [Eight Facts on Late Filing and Late Payment Penalties](#)
 - [FAQ: Will I be charged interest and penalties for filing and paying my taxes late?](#)

PTC Penalty Relief



- If you owe a balance for 2014, and had excess APTC, IRS may waive certain penalties if you qualify for relief ([Notice 2015-09](#))
 - The penalty for not prepaying tax can be waived
 - Request waiver with your tax return
 - The penalty for paying after 4/15/15 can be waived
 - Write a letter in response to your first bill
- See www.irs.gov/Affordable-Care-Act/Individuals-and-Families/The-Premium-Tax-Credit

IRS Collection Alternatives



- Collection Alternative = avoiding a garnishment or seizure of property
- Options include:
 - Offer in Compromise (OIC)
 - Currently Not Collectible (CNC)
 - Installment Agreement
 - Bankruptcy
 - Innocent Spouse

Currently Not Collectible



- Taxpayer can't make payments – all income is needed to pay reasonable and necessary living expenses
- No assets that could reasonably be liquidated
- Can have home equity
 - Might be asked for a loan denial letter
- IRS will seize tax refunds, and may file a lien
- Should last as long as income remains the same
 - But IRS can review at any time
- IRS collection financial standards are at www.irs.gov

IRS Installment Agreements



- There are many different types, including income-based “Partial Pay” installment plans
- Lowest possible payment is \$25/month
- Must pay and file taxes on time for the duration of the agreement
- Can request a modification if income changes
- If multiple tax debts are included in one plan, payments are applied however the IRS chooses
- In many situations, you can apply online:
www.irs.gov/Payments

Referrals – Tax Return Preparation



- Free online tax preparation
 - www.myfreetaxes.com (\$60,000 income limit)
 - www.irs.gov/FreeFile
 - Free online software offered by many different companies (income limits vary)
- Free in-person tax preparation
 - www.irs.gov/VITA
 - Includes lookups for VITA, TCE, and AARP programs
 - \$53,000 income limit

Referrals – 1095-A Issues



- Marketplace customer service
 - Questions about Form 1095-A
 - Requests for changes to Form 1095-A
 - Requests for duplicates
 - Federal marketplace: 800-318-2596 / TTY 855-889-4325
- Your local legal services program or LITC
 - Refer individuals with problems unable to be resolved through the Marketplace directly

Referrals – IRS Problems



- Low Income Tax Clinics (LITCs)
 - Legal advice or representation for IRS disputes
 - Examples: IRS debts, IRS audits
 - www.irs.gov/Advocate/Low-Income-Taxpayer-Clinics
- IRS Taxpayer Advocate Service
 - Refer for IRS problems that are causing financial hardship (or hardship is imminent)
 - 1-877-777-4778

General Resources



- HHS, www.healthcare.gov/taxes
- IRS, www.irs.gov/aca
- CMS Assister Resources, marketplace.cms.gov
- Advocate's Guide to MAGI, www.healthlaw.org
- CBPP's Beyond the Basics, www.healthreformbeyondthebasics.org
- Low Income Taxpayers and the Affordable Care Act, www.vtlawhelp.org/aca-assisters

General Citations



- **Individual Shared Responsibility**
 - 26 U.S.C. § 5000A; 26 C.F.R. § 1.5000A-0 *et seq.*
- **HHS exemption regulations**
 - 45 C.F.R. part 155 subpart G (§§ 155.600 - 155.635)
- **Premium Tax Credit**
 - 26 U.S.C. § 36B; 26 C.F.R. § 1.36B-0 *et seq.*

Questions?



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THANK YOU

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