



# Getting MAGI Right

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# Vermont Low Income Taxpayer Project

- Free federal tax help for individuals
  - Advice or representation for IRS disputes
    - Audits, U.S. Tax Court, Innocent Spouse
    - Collection alternatives, collection appeals
- Education and outreach on federal tax issues
- A voice for low income taxpayers
  - Submit issues to the TAS Systemic Advocacy System
  - Comment on IRS forms and regulations
  - Part of a national network of Low-Income Taxpayer Clinics (LITCs) funded by the IRS Taxpayer Advocate Service

# What we will cover

- MAGI FAQs
  - household rules
  - what income counts
- Reconciliation and IRS Forms
  - Premium Tax Credits, exemptions, and penalties
  - IRS Forms 8962, 8965, 1095 A-C
- PTC complications
  - shifting enrollees
  - allocation
  - alternative marriage calculation
- IRS collections and due process
- Questions and Discussion

# What is MAGI?

- **Modified Adjusted Gross Income** is a methodology for determining:
  - Household composition and size
  - Household income
- Used to streamline eligibility determinations across multiple Insurance Affordability Programs (IAPs)
- See NHeLP's *The Advocate's Guide to MAGI*
- See Vermont Legal Aid's *Low-Income Taxpayers and the Affordable Care Act*

# The Other MAGI

The ACA establishes another definition of MAGI used in calculating the Individual Shared Responsibility Payment (ISRP).

The ISRP version of MAGI does not include non-taxable Social Security income – see 26 U.S.C. § 5000A(c)(4)(C); 26 C.F.R. § 1.5000A-1(d)(10)(ii).



# APTC is Based on Household Size and Projected Taxable Income

- Accuracy is very important.
- When you file your taxes, the IRS will do a process called **reconciliation**.
- The IRS will look at how much APTC you received and compare it with your Modified Adjusted Gross Income. (MAGI)
- If you have received too much APTC, you will have to pay it back. If you received too little, you will get a tax credit.
- **Note:** Medicaid is not subject to reconciliation by the IRS. Cost-sharing reductions are not reconciled, either.

# FAQs on Household Rules

# “Considered Unmarried”

- File a separate return
- Pay more than half the cost of keeping up his/her home for the tax year.
- Your spouse did not live in your home during the last 6 months of the tax year.
  - Your spouse is considered to live in your home even if he or she is temporarily absent due to special circumstances.
- Your home was the main home of your child, stepchild, or foster child for more than half the year.
- Can file using the “Head of Household” filing status
- 26 U.S.C. § 7703(b)



# You're married to me, but I'm not married to you

- Individuals who meet the requirements for “considered unmarried” will qualify for Head of Household filing status and can be eligible for PTCs/CSRs even if the married couple does not file a joint federal income tax return.
- However, the remaining spouse will not be treated as “unmarried,” and thus not eligible for PTCs/CSRs, unless he/she separately meets the requirements to file as Head of Household.

# Example – “Considered Unmarried”

George and Louise are married, but live apart. Louise maintains a household for their child, Lionel, and pays for it with income from her job at a dry cleaners.

Louise is “considered unmarried” under IRS rules and qualifies to file taxes using the “Head of Household” filing status, claiming Lionel as a dependent. Louise and Lionel are eligible for PTCs and CSRs.

George is married under IRS rules and must file taxes using “married, filing separately” filing status. He is not eligible for PTCs or CSRs.



# Problem Child

- Qualifying Child
- Dependent Child
- Medicaid MAGI Child
- Medicaid MAGI Child\*  
\*w/age restrictions



# Qualifying Child

- A federal tax status for claiming an individual as a dependent (26 U.S.C. § 152(c))
  - **Relationship**
    - son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them
  - **Age**
    - Under 19, or under 24 for full time students
    - Any age if “permanently and totally” disabled
  - **Residence**
    - Must live with you for more than ½ the year (waivable for non-custodial parents)
  - **Support**
    - The child must not provide more than 50% of own support

# Dependent Child

- A Medicaid defined term to determine eligibility under “Parents and Caretaker Relatives” category (42 C.F.R. § 435.4)
  - is under the age of 18, or, at state option, is age 18 and a full-time student in secondary school (or equivalent vocational or technical training), if before attaining age 19 the child may reasonably be expected to complete school or training; and
  - is deprived of parental support by reason of the death, absence from the home, physical or mental incapacity, or unemployment of at least one parent (unless the state has elected in its state plan to eliminate such deprivation requirement). A parent is considered to be unemployed if he or she is working less than 100 hours per month, or a higher number of hours as the state may elect in its state plan

# Medicaid MAGI Child

- Defined in Medicaid MAGI regulations, applies only when determining MAGI financial eligibility  
(42 C.F.R. § 435.603(b))
- “Child” means a natural or biological, adopted, or step child
- Age limits apply when using the household rules for non-filers/non-dependents

# Example: child age limits

George and Louise are not married, but live together. Louise claims their 18 year old son Lionel, a full-time student, as a “Qualifying Child” tax dependent. Their state Medicaid program does not extend its age limit to 21 for full-time students.



- Since Lionel is under age 19, his Medicaid MAGI household is determined using the separate Medicaid rules for non-filers/non dependents. Lionel’s Medicaid MAGI house is 3: Lionel and the parents he lives with (George and Louise).
- 42 C.F.R. § 435.603(f)(2)(ii)

# Example: child age limits

George and Louise are not married, but live together. Louise claims their 19 year old son Lionel, a full-time student, as a “Qualifying Child” tax dependent. Their state Medicaid program does not extend its age limit to 21 for full-time students.



- Since Lionel is age 19, his Marketplace and Medicaid MAGI household is two (Lionel and Louise)
- 42 C.F.R. § 435.603(f)(2)



# FAQs on Income and Tax Filing

# When to count the Social Security income of dependents

- **Tax filers** – all Social Security income (taxable + non-taxable) will count towards the total household MAGI
- **Dependents** - Social Security income is counted towards the total household MAGI only if the dependent is **required** to file a federal income tax return

# Social Security vs. Supplemental Security

## Social Security

Social Security income provided under Title II of the Social Security Act (SSA) includes Social Security Disability Insurance (SSDI), retirement income, and survivor's benefits. These forms of income ***are counted in MAGI.***

## Supplemental Security Income (SSI)

Supplemental Security Income (SSI) is provided under Title XVI of the SAA. It is designed to help persons who are aged, blind, or disabled, who are very low income and have limited assets. SSI is **not taxed** and does not count towards MAGI.

# Who must file federal income taxes?

- Only dependents who have an income tax filing requirement under 26 U.S.C. § 6012(a)(1) have their income included in MAGI
  - 26 U.S.C. §§ 36B(d)(2)(A), 5000A(c)(4)(B); 42 C.F.R. § 435.603(d)(2).
- Some people have to file a return for another reason
  - Self-employment tax is the big one (26 U.S.C. § 6017)
- If your child makes \$1500 mowing lawns, that is not counted in household income
  - The child has a filing requirement, to report SE tax
  - The child does not have an income tax filing requirement under 26 U.S.C. § 6012(a)(1).

# Dependents who must file federal income taxes

- Taxable year gross income which equals or exceeds the following amounts (2015):
  - Unearned income of \$1,050 or more
  - Earned income of \$6,300 or more
  - For people who have both earned and unearned income, where the total is more than larger of \$1,050 or earned income (up to \$5,950) plus \$350
- Requirements differ for blind, aged, married dependents – see IRS Pub. 501
- But this is too easy! The Internal Revenue Code carves out certain items from the definition of “gross income.”

# Who must file federal income taxes?

**Example:** A dependent receives \$600 per month in Social Security benefits (\$7,200 per year) and has no other income.

- The dependent is not required to file federal income taxes because the dependent's Social Security income is not taxable and does not count toward the \$1,000 unearned income threshold.
- Therefore none of the dependent's income would be included in the taxpayer's household income.

# Who must file federal income taxes?

**Example:** A dependent receives \$600 per month in Social Security benefits (\$7,200 per year) and has an after-school job earning \$6,400 for the year.

- The dependent is required to file federal income taxes because her earned income exceeds the filing threshold amount (more than \$6,200 / \$6,300 in earned income).
- Her Social Security income is not taxable because  $\frac{1}{2}$  of her benefits plus the other income (\$3,600 plus \$6,200) is less than \$25,000.
- However, her MAGI is \$13,600, because non-taxable Social Security is one of the additions to AGI.\* Her entire income will be added to the MAGI income of her household.

# Medicaid vs. Marketplace MAGI

- Current monthly vs. projected annual
- Income add-ins for Medicaid
- Lump sum payments
  - self employment deductions
- Married, living together
  - no Medicaid exception for DV
- When different methodologies make an individual ineligible for either program



## Medicaid vs. Marketplace - income differences

Carson is a freelance writer whose current monthly income is \$1,400 – over the limit for Medicaid eligibility. However, her projected annual income is \$11,000, making her ineligible for APTCs.



The state must use the APTC methodology to determine Carson's Medicaid eligibility. See 42 C.F.R. § 435.603(i).

# FAQs on what income counts

# Worker's Compensation

- Income from Worker's Compensation for a job-related injury. *This does not include disability payments from an insurance company.*
- Worker's Compensation is not taxable, and not included in total household income



# Insurance Disability Payments

- Payments from a long-term disability insurance plan when an individual has been injured. Often these payments are only for a set period of time.
- Whether or not these are included in MAGI calculations depends on to what extent this income is taxable, which depends on who had made the premium payments for the initial plan.

# Insurance Disability, Cont.

- According to the IRS:
  - If both you and your employer have paid the premiums for the plan, only the amount you receive for your disability that is due to your employer's payments is reported as income.
  - If you pay the entire cost of a health or accident insurance plan, do not include any amounts you receive for your disability as income on your tax return.
  - If you pay the premiums of a *health or accident insurance plan through a cafeteria plan*, and you did not include the amount of the premium as taxable income to you, the premiums are considered paid by your employer, and the disability benefits are fully taxable.

# Special Needs Trust Income

- A Special Needs Trust is set up in an individual's name. They have access to this account through a designated account holder.
- These Trusts are set up for disabled individuals, who often are eligible for other insurance programs, such as Medicare or specialty, non-MAGI Medicaid programs. *Look into eligibility for these programs first.*
- It depends on the type of trust and the terms of the trust, some trusts will pay income tax due by the beneficiary.

# VA Benefits

## Pensions vs. Disability Benefits

- It's complicated! There are over a dozen different types of payments made by the VA to veterans and their families. Most VA benefits are not taxable.
- Military retirement pay that is based on age or years of service is taxable as a pension.
- Resources:
  - [irs.gov/Individuals/Information-for-Veterans-with-Disabilities](https://www.irs.gov/Individuals/Information-for-Veterans-with-Disabilities)
  - [benefits.va.gov/benefits/](https://benefits.va.gov/benefits/)
  - [irs.gov/Individuals/Military](https://www.irs.gov/Individuals/Military)
  - IRS [Publication 525](#) on irs.gov
  - IRS [Publication 17](#) on irs.gov

# Income for the Care of Adopted Children

- Payments from the state for adoption assistance, and/or the payments from the state or an agency for the care of foster children.
- State adoption assistance is generally not counted as taxable income.
- Payments to care for foster children are generally not counted as taxable income either.



# Home Care Provider Income

- Home Care Providers provide care and a home for persons with disabilities
  - a Difficulty of Care stipend, and
  - room and board
- This income is non-taxable, and is not included in the MAGI calculation.
- Note – IRS guidance on “difficulty of care” payments for HCBS waiver programs silent on HCBS SPA

# Inheritance Income

- Payments to an individual from a deceased individual's Will; often set up as Tax-Free Escrow Accounts
- Inheritance income is generally non-taxable, and therefore is not included in MAGI calculations.
- In some cases, there will be taxable income from an inheritance. The client may want to ask the administrator of the estate if any tax forms will be issued, or talk to a tax professional.

# Beneficiary Income

- Payments to an individual from a life insurance plan of a deceased individual.
- Usually, the death benefit itself is not taxable, but the *interest* is (and therefore, the interest must be included in MAGI).
- If life insurance distributions are taken out prior to the insured person's death, other tax rules apply.
- There are also special rules for specific situations, such as surviving spouses.

# Pension Income

- Pension or Annuity Payment income from a past job. (Not including retirement accounts)
- In most cases, this income is taxable and is included in MAGI calculations. However, calculating the taxable amount depends on the specific type, source, distribution term, and situation. Individuals with pensions should get specifics about how much of their pension is taxable from an accountant.
- For more information, go to: [irs.gov/pub/irs-pdf/p575.pdf](https://www.irs.gov/pub/irs-pdf/p575.pdf)

# Retirement Accounts & Distributions

- Roth IRA distributions are not taxable
- 401(k), 403(b), and traditional IRA distributions are generally included in taxable income
- More information can be found here:
  - [irs.gov/Retirement-Plans/Plan-Participant,-Employee/Retirement-Topics---Tax-on-Normal-Distributions](https://www.irs.gov/Retirement-Plans/Plan-Participant,-Employee/Retirement-Topics---Tax-on-Normal-Distributions)

# Capital Gains Income

- A “capital gain” is the profit from a sale of what the IRS considers a “capital asset,” which includes homes, vehicles, furniture, etc.
- For the sale of a home that was used as a principal residence for 2 out of the past 5 years, individuals can exclude \$250,000 (for individuals) or \$500,000 (for a married couple filing jointly) of their profit from tax.
- For Medicaid income purposes, Capital Gain is counted only in the month it was received; interest earned from this investment is counted in the following months.
- For APTC purposes, the taxable Capital Gain counts toward the entire year.

Included in MAGI	Excluded from MAGI
Jury duty fees	Federal income tax refunds
Forgiven debts, unless an exclusion applies	Damage awards for physical injury or illness
State tax refunds, if state taxes were deducted the previous year (this only applies to people who itemize deductions)	Reimbursements for qualified adoption expenses
Prizes, such as lottery or gambling winnings	Housing allowance of clergy
Severance pay	Employer relocation payments, if IRS rules are followed
Punitive damages	<p>A good overview can be found here:  <a href="http://www.gtn.com/newsletter_2011_08.php">www.gtn.com/newsletter_2011_08.php</a></p>

# Reconciliation



# 2014 Tax Filing

As of May 31, 2015:

- 2.7 million taxpayers claimed approximately \$9 billion in PTC, average credit of \$3,400.
  - 10% received the correct amount of APTCs
  - 40% received a net refund of PTC
  - 50% had to repay excess APTC
    - \$800 average repayment
    - 25% benefitted from repayment caps
    - 65% who had to repay APTCs reported a net refund on all taxes
- 1.7 million who received APTCs had not filed taxes 710,000 had not requested an extension
  - 360,000 requested an extension
- 760,000 who received APTCs filed taxes, but not Form 8962

# Steps to Take Before Renewal: file your 2014 taxes immediately

- To be eligible for APTC in 2016, you must have filed your taxes for 2014, **if you received APTC in 2014**.
- The IRS is making lists of individuals who received APTC and did not file their taxes.
- If you filed your 2014 taxes after September 30, 2015, the IRS will not have time to take you off its list prior to OE3. This means that you will not be eligible to be auto-renewed with APTC.
- If you file your taxes after September 30th, you can still get APTC. You will need to **attest** that you have filed your taxes.

# Steps to Take Before Renewal: file your 2014 taxes immediately

## Renewal of coverage

To make it easier to determine my eligibility for help paying for coverage in future years, I agree to allow the Marketplace to use my income data, including information from tax returns, for the next 5 years. The Marketplace will send me a notice, let me make any changes, and I can opt out at any time. ⓘ

I AGREE

I DISAGREE



## Tax filer attestation

John Carson, did your household file a 2014 tax return and reconcile any premium tax credit you used? ⓘ

Yes, 2014 premium tax credits were reconciled.

**REVIEW APPLICATION**

# APTC Safe Harbors



- Income under 100% FPL on tax return
  - 26 CFR § 1.36B-2(b)(6)
- Employer insurance later determined to be affordable
  - 26 CFR § 1.36B-2(c)(3)(v)(A)(3)

# ACA-related IRS Forms

- Form 8962 – PTC claim and APTC reconciliation
- Form 8965 – Exemptions from the individual shared responsibility requirement
- Form 1095-A – provided by Marketplace to document coverage and PTCs
- Form 1095-B – provided by state Medicaid agencies and other MEC providers to show health coverage
- Form 1095-C – provided by large employers to show health coverage and offers of coverage

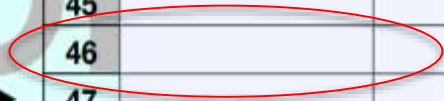
**Tax and Credits**

**Standard Deduction for—**

• People who check any box on line 39a or 39b or who can be claimed as a dependent, see instructions.

• All others:  
 Single or Married filing separately, \$6,300  
 Married filing jointly or Qualifying widow(er), \$12,600  
 Head of household, \$9,250

38	Amount from line 37 (adjusted gross income)		38
39a	Check <input type="checkbox"/> You were born before January 2, 1951, <input type="checkbox"/> Blind. <input type="checkbox"/> Spouse was born before January 2, 1951, <input type="checkbox"/> Blind. Total boxes checked ▶ 39a		
b	If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b		
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)		40
41	Subtract line 40 from line 38		41
42	Exemptions. If line 38 is \$154,950 or less, multiply \$4,000 by the number on line 6d. Otherwise, see instructions		42
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-		43
44	Tax (see instructions). Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/>		44
45	Alternative minimum tax (see instructions). Attach Form 6251		45
46	Excess advance premium tax credit repayment. Attach Form 8962		46
47	Add lines 44, 45, and 46 ▶		47
48	Foreign tax credit. Attach Form 1116 if required	48	
49	Credit for child and dependent care expenses. Attach Form 2441	49	
50	Education credits from Form 8863, line 19	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Child tax credit. Attach Schedule 8812, if required	52	
53	Residential energy credit. Attach Form 5695	53	
54	Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	54	
55	Add lines 48 through 54. These are your total credits		55
56	Subtract line 55 from line 47. If line 55 is more than line 47, enter -0- ▶		56



## Other Taxes

57	Self-employment tax. Attach Schedule SE . . . . .	57	
58	Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919 . . . . .	58	
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required . . . . .	59	
60a	Household employment taxes from Schedule H . . . . .	60a	
b	First-time homebuyer credit repayment. Attach Form 5405 if required . . . . .	60b	
61	Health care: individual responsibility (see instructions) Full-year coverage <input type="checkbox"/> . . . . .	61	
62	Taxes from: a <input type="checkbox"/> Form 8959 b <input type="checkbox"/> Form 8960 c <input type="checkbox"/> Instructions; enter code(s) <input type="text"/>	62	
63	Add lines 56 through 62. This is your <b>total tax</b> . . . . . ▶	63	

<b>Payments</b>  If you have a qualifying child, attach Schedule EIC.	64	Federal income tax withheld from Forms W-2 and 1099 . . . . .	64		
	65	2015 estimated tax payments and amount applied from 2014 return	65		
	66a	<b>Earned income credit (EIC)</b> . . . . .	66a		
	b	Nontaxable combat pay election <b>66b</b>			
	67	Additional child tax credit. Attach Schedule 8812 . . . . .	67		
	68	American opportunity credit from Form 8863, line 8 . . . . .	68		
	69	Net premium tax credit. Attach Form 8962 . . . . .	69		
	70	Amount paid with request for extension to file . . . . .	70		
	71	Excess social security and tier 1 RRTA tax withheld . . . . .	71		
	72	Credit for federal tax on fuels. Attach Form 4136 . . . . .	72		
73	Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> Reserved c <input type="checkbox"/> 8885 d <input type="checkbox"/>	73			
74	Add lines 64, 65, 66a, and 67 through 73. These are your <b>total payments</b> . . . . . ▶	74			
<b>Refund</b>  Direct deposit? ▶ See instructions.	75	If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you <b>overpaid</b>	75		
	76a	Amount of line 75 you want <b>refunded to you</b> . If Form 8888 is attached, check here . . ▶ <input type="checkbox"/>	76a		
	b	Routing number	c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	
d	Account number				
77	Amount of line 75 you want <b>applied to your 2016 estimated tax</b> ▶	77			
<b>Amount You Owe</b>	78	<b>Amount you owe</b> . Subtract line 74 from line 63. For details on how to pay, see instructions ▶	78		
	79	Estimated tax penalty (see instructions) . . . . .	79		



# Premium Tax Credit (PTC)

Department of the Treasury  
Internal Revenue Service

▶ Attach to Form 1040, 1040A, or 1040NR.  
▶ Information about Form 8962 and its separate instructions is at [www.irs.gov/form8962](http://www.irs.gov/form8962).

Name shown on your return

Your social security number

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You cannot claim the PTC if your filing status is married filing separately unless you are eligible for an exception (see instructions). If you qualify, check the box.

## Part I Annual and Monthly Contribution Amount

<b>1</b>	Tax family size. Enter the number of exemptions from Form 1040 or Form 1040A, line 6d, or Form 1040NR, line 7d	<b>1</b>	
<b>2a</b>	Modified AGI. Enter your modified AGI (see instructions)	<b>2a</b>	
<b>b</b>	Enter the total of your dependents' modified AGI (see instructions)	<b>2b</b>	
<b>3</b>	Household income. Add the amounts on lines 2a and 2b	<b>3</b>	
<b>4</b>	Federal poverty line. Enter the federal poverty line amount from Table 1-1, 1-2, or 1-3 (see instructions). Check the appropriate box for the federal poverty table used. <b>a</b> <input type="checkbox"/> Alaska <b>b</b> <input type="checkbox"/> Hawaii <b>c</b> <input type="checkbox"/> Other 48 states and DC	<b>4</b>	
<b>5</b>	Household income as a percentage of federal poverty line (see instructions)	<b>5</b>	%
<b>6</b>	Did you enter 401% on line 5? (See instructions if you entered less than 100%.) <input type="checkbox"/> <b>No.</b> Continue to line 7. <input type="checkbox"/> <b>Yes.</b> You are not eligible to receive PTC. If advance payment of the PTC was made, see the instructions for how to report your excess advance PTC repayment amount.		
<b>7</b>	Applicable Figure. Using your line 5 percentage, locate your "applicable figure" on the table in the instructions	<b>7</b>	
<b>8a</b>	Annual contribution amount. Multiply line 3 by line 7	<b>8a</b>	
<b>b</b>	Monthly contribution amount. Divide line 8a by 12. Round to whole dollar amount	<b>8b</b>	

**Part II Premium Tax Credit Claim and Reconciliation of Advance Payment of Premium Tax Credit**

- 9 Are you allocating policy amounts with another taxpayer or do you want to use the alternative calculation for year of marriage (see instructions)?  
 **Yes.** Skip to Part IV, Shared Policy Allocation, or Part V, Alternative Calculation for Year of Marriage.  **No.** Continue to line 10.
- 10 See the instructions to determine if you can use line 11 or must complete lines 12 through 23.  
 **Yes.** Continue to line 11. Compute your annual PTC. Then skip lines 12–23.  **No.** Continue to lines 12–23. Compute your monthly PTC and continue to line 24.

Annual Calculation	(a) Annual enrollment premiums (Form(s) 1095-A, line 33a)	(b) Annual applicable SLCSP premium (Form(s) 1095-A, line 33b)	(c) Annual contribution amount (line 8a)	(d) Annual maximum premium assistance (subtract (c) from (b), if zero or less, enter -0-)	(e) Annual premium tax credit allowed (smaller of (a) or (d))	(f) Annual advance payment of PTC (Form (s) 1095-A, line 33c)
11 Annual Totals						
Monthly Calculation	(a) Monthly enrollment premiums (Form(s) 1095-A, lines 21–32, column a)	(b) Monthly applicable SLCSP premium (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), if zero or less, enter -0-)	(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						
15 April						
16 May						
17 June						
18 July						
19 August						
20 September						
21 October						
22 November						
23 December						
24 Total premium tax credit. Enter the amount from line 11(e) or add lines 12(e) through 23(e) and enter the total here						24
25 Advance payment of PTC. Enter the amount from line 11(f) or add lines 12(f) through 23(f) and enter the total here						25
26 Net premium tax credit. If line 24 is greater than line 25, subtract line 25 from line 24. Enter the difference here and on Form 1040, line 69; Form 1040A, line 45; or Form 1040NR, line 65. If you elected the alternative calculation for marriage, enter zero. If line 24 equals line 25, enter zero. Stop here. If line 25 is greater than line 24, leave this line blank and continue to line 27						26

**Part III 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 (see instructions)	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

# ACA Exemptions

## Resources

- ABA's *Effectively Representing Your Client Before the IRS*, 6th Edition (March 2015)
- CMS information for assistors:  
<https://marketplace.cms.gov/technical-assistance-resources/shared-responsibility-payment-and-exemptions.html>
- CBPP webinars:  
<http://www.healthreformbeyondthebasics.org/home/issues/exemptions-and-penalties/>
- [Irs.gov/aca](http://irs.gov/aca)

Coverage Exemption	Granted by Marketplace	Claimed on tax return	Code for Exemption
<b>Income below the filing threshold</b> — Your gross income or your household income was less than your applicable minimum threshold for filing a tax return.		✓	No Code See Part II
<b>Coverage considered unaffordable</b> — The minimum amount you would have paid for premiums is more than 8.05% of your <a href="#">household income</a> .		✓	A
<b>Short coverage gap</b> — You went without coverage for less than 3 consecutive months during the year.		✓	B
<b>Citizens living abroad and certain noncitizens</b> — You were: <ul style="list-style-type: none"> <li>• A U.S. citizen or resident who spent at least 330 full days outside of the U.S. during a 12-month period;</li> <li>• A U.S. citizen who was a bona fide resident of a foreign country or U.S. territory;</li> <li>• A resident alien who was a citizen of a foreign country with which the U.S. has an income tax treaty with a nondiscrimination clause, and you were a bona fide resident of a foreign country for the tax year;</li> <li>• Not lawfully present in the U.S. and not a U.S. citizen or U.S. national. For more information about who is treated as lawfully present for purposes of this coverage exemption, visit <a href="http://healthcare.gov">healthcare.gov</a>; or</li> <li>• A nonresident alien, including (1) a dual-status alien in the first year of residency and (2) a nonresident alien or dual-status nonresident alien who elects to file a joint return with a spouse. For definitions of resident alien and nonresident alien, see IRS Tax Topic 851 at <a href="http://www.irs.gov/taxtopics/tc851.html">www.irs.gov/taxtopics/tc851.html</a>.</li> </ul>		✓	C
<b>Members of a health care sharing ministry</b> — You were a member of a health care sharing ministry.	✓	✓	D
<b>Members of Indian tribes</b> — You were either a member of a Federally-recognized Indian tribe, including an Alaska Native Claims Settlement Act (ANCSA) Corporation Shareholder (regional or village), or you were otherwise eligible for services through an Indian health care provider or the Indian Health Service.	✓	✓	E
<b>Incarceration</b> — You were in a jail, prison, or similar penal institution or correctional facility after the disposition of charges.	✓	✓	F
<b>Aggregate self-only coverage considered unaffordable</b> — Two or more family members' aggregate cost of self-only employer-sponsored coverage was more than 8.05% of household income, as was the cost of any available employer-sponsored coverage for the entire family.		✓	G
<b>Resident of a state that did not expand Medicaid</b> — Your household income was below 138% of the federal poverty line for your family size and at any time in 2015 you resided in a state that didn't participate in the Medicaid expansion under the Affordable Care Act.		✓	G
<b>Member of tax household born, adopted, or died</b> — During 2015 a child was added to your tax household by birth or adoption, or a member of your tax household died during the year and you can't check the full-year coverage checkbox on your tax return.		✓	H
<b>Members of certain religious sects</b> — You are a member of a recognized religious sect.	✓		Need ECN See Part I
<b>Determined ineligible for Medicaid in a state that didn't expand Medicaid coverage</b> — You were determined ineligible for Medicaid solely because the state in which you resided didn't participate in Medicaid expansion under the Affordable Care Act.	✓		Need ECN See Part I
<b>General hardship</b> — You experienced a hardship that prevented you from obtaining coverage under a qualified health plan.	✓		Need ECN See Part I
<b>Coverage considered unaffordable based on projected income</b> — You didn't have access to coverage that is considered affordable based on your projected household income.	✓		Need ECN See Part I
<b>Unable to renew existing coverage</b> — You were notified that your health insurance policy was not renewable and you considered the other plans available unaffordable.	✓		Need ECN See Part I
<b>Certain Medicaid programs that are not minimum essential coverage</b> — You were (1) enrolled in Medicaid coverage provided to a pregnant woman that is not recognized as minimum essential coverage; (2) enrolled in Medicaid coverage provided to a medically needy individual (also known as Spend-down Medicaid or Share-of-Cost Medicaid) that is not recognized as minimum essential coverage; or (3) enrolled in Medicaid, and received minimum essential coverage for one or more months of the year by meeting a spend-down, but not in other months because the spend-down had not been met.	✓		Need ECN See Part I

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			
2			
3			
4			
5			
6			

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

- 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 Claimed on Your Return for Individuals.** 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)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
					Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
8																
9																
10																
11																
12																
13																

## Shared Responsibility Payment Worksheet

1. Enter the flat dollar amount . . . . .	1	
2. Enter the percentage income amount . . . . .	2	
3. Enter the larger of line 1 or line 2 . . . . .	3	
4. Enter the National Average Bronze Plan Premium . . . . .	4	
5. Enter the smaller of line 3 or line 4 here and on Form 1040, line 61; Form 1040A; line 38; or Form 1040EZ, line 11. <b>This is your shared responsibility payment</b> . . . . .	5	

# 1095-A

- Issued by health insurance marketplaces
- Does not include catastrophic plans
- Does not include SHOP plans
- Very few changes for the 2015 form

**Part I** Recipient Information

<b>1</b> Marketplace identifier	<b>2</b> Marketplace-assigned policy number	<b>3</b> Policy issuer's name		
<b>4</b> Recipient's name	<b>5</b> Recipient's SSN		<b>6</b> Recipient's date of birth	
<b>7</b> Recipient's spouse's name	<b>8</b> Recipient's spouse's SSN		<b>9</b> Recipient's spouse's date of birth	
<b>10</b> Policy start date	<b>11</b> Policy termination date	<b>12</b> Street address (including apartment no.)		
<b>13</b> City or town	<b>14</b> State or province	<b>15</b> Country and ZIP or foreign postal code		

**Part II** Covered Individuals

	<b>A.</b> Covered individual name	<b>B.</b> Covered individual SSN	<b>C.</b> Covered individual date of birth	<b>D.</b> Coverage start date	<b>E.</b> Coverage termination date
<b>16</b>					
<b>17</b>					
<b>18</b>					
<b>19</b>					
<b>20</b>					

**Part III** Coverage Information

Month	<b>A.</b> Monthly enrollment premiums	<b>B.</b> Monthly second lowest cost silver plan (SLCSP) premium	<b>C.</b> Monthly advance payment of premium tax credit
<b>21</b> January			



# 1095-B

- Government-sponsored MEC, including:
  - Medicaid
  - Medicare Part A
  - TRICARE
- Private insurance companies
  - including small group, large group, and individual market coverage
  - But not marketplace individual plans
  - SHOP plans
- Self-insured small employer coverage
  - will come from the employer

# Health Coverage

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► Information about Form 1095-B and its separate instructions is at [www.irs.gov/form1095b](http://www.irs.gov/form1095b).

## Part I Responsible Individual

1 Name of responsible individual		2 Social security number (SSN)	3 Date of birth (If SSN is not available)
4 Street address (including apartment no.)	5 City or town	6 State or province	7 Country and ZIP or foreign postal code
8 Enter letter identifying Origin of the Policy (see instructions for codes):			9 Small Business Health Options Program (SHOP) Marketplace identifier, if applicable

## Part II Employer Sponsored Coverage (see instructions)

10 Employer name			11 Employer identification number (EIN)
12 Street address (including room or suite no.)	13 City or town	14 State or province	15 Country and ZIP or foreign postal code

## Part III Issuer or Other Coverage Provider (see instructions)

16 Name		17 Employer identification number (EIN)	18 Contact telephone number
19 Street address (including room or suite no.)	20 City or town	21 State or province	22 Country and ZIP or foreign postal code

## Part IV Covered Individuals (Enter the information for each covered individual(s).)

(a) Name of covered individual(s)	(b) SSN	(c) DOB (If SSN is not available)	(d) Covered all 12 months	(e) Months of coverage												
				Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
23			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# 1095-C

- Furnished by Applicable Large Employers (ALE)
- Who is an ALE?
  - An employer who averaged 50 or more full-time and full-time equivalent employees in the prior calendar year
  - 2014 employees determine ALE status for 2015
- Form 1095-C is filed for each individual who was a full-time employee in 2015
  - Whether or not the individual was offered coverage
  - Whether or not the individual enrolled in coverage
  - Whether or not the ALE qualifies for 2015 transition relief from the ESRP
  - Not counting waiting periods

# 1095-C

- The main purpose of Form 1095-C is to help IRS enforce the Employer Shared Responsibility Provision
  - Employers can claim safe harbors on Form 1095-C
  - In some circumstances where it is unlikely that an ESRP will be owed, ALEs may give a simplified form or a letter to employees, instead of giving them a copy of Form 1095-C.
- 1095-C could also affect the Premium Tax Credit
  - Shows the lowest premium for employee-only coverage, if offered

# Employer-Provided Health Insurance Offer and Coverage

► Information about Form 1095-C and its separate instructions is at [www.irs.gov/form1095c](http://www.irs.gov/form1095c)

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600116

OMB No. 1545-2251

**2015**

## Part I Employee

## Applicable Large Employer Member (Employer)

1 Name of employee			2 Social security number (SSN)			7 Name of employer			8 Employer identification number (EIN)		
3 Street address (including apartment no.)						9 Street address (including room or suite no.)			10 Contact telephone number		
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code	

## Part II Employee Offer and Coverage

Plan Start Month (Enter 2-digit number):

	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)													
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)													

## Part III Covered Individuals

If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

(a) Name of covered individual(s)	(b) SSN	(c) DOB (If SSN is not available)	(d) Covered all 12 months	(e) Months of Coverage												
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# PTC Wrinkles

# Just when you think it's over...

- Spouses marry during the year
  - 26 C.F.R. § 1.36B-4(b)(2)
- Spouses divorce during the year
  - 26 C.F.R. § 1.36B-4T(b)(3)
- One parent enrolled the child in coverage, but the other parent ends up claiming the child
  - 26 C.F.R. § 1.36B-4T(a)(1)(ii)(B)
- Spouses told the Marketplace they would file jointly, but end up filing separate returns
  - 26 C.F.R. § 1.36B-4T(b)(4)
- QHP covers more than one tax household (from begin.)
  - 26 C.F.R. § 1.36B-3(h)

# Premium Tax Credit Wrinkles

## Changes in marital status – general rule

- Use the benchmark applicable for your marital status on the first day of each month
- The expected contribution is determined using your household income and family size at the end of the year
- 26 C.F.R. § 1.36B-4(b)(1)
- Remember,  $\$ \text{PTC} = \text{Benchmark premiums} - \text{expected contribution}$ 
  - Capped by actual premium



# Premium Tax Credit Wrinkles

1. Newlyweds – alternate calculation (optional)
  - Unmarried at beginning of year, married at year end, and at least one spouse received APTC
  - 26 C.F.R. § 1.36B-4(b)(2)
- Cannot be used to increase the PTC calculated under the general rule. Can be used to lower APTC repayment amount.
- Compute PTC separately for married and unmarried months
  - For unmarried months
    - Each spouse is allocated 50% of household income
    - Family size is the pre-marriage family size, except that dependents may be allocated as agreed

# Premium Tax Credit Allocation

## 2. Former spouses

- Taxpayers who are married during the year, legally divorce or separate by the end of the year, and who were enrolled in the same QHP at any time during the year
- Or, taxpayer has a dependent enrolled in the same plan as their former spouse
- Or, taxpayer has a dependent enrolled in the same plan as a dependent of their former spouse
- Treas. Reg. § 1.36B-4T(b)(3)

# Premium Tax Credit Allocation

## 2. Former spouses

- Must allocate premiums paid, APTC paid, and benchmark premiums
- One percentage is applied to all 3 allocated items
- Can agree on a percentage, or it's 50% by default
- If the plan covers a time period during which only one taxpayer or his or her dependents was enrolled in the plan, then 100% is allocated to that taxpayer.

# Premium Tax Credit Allocation

## 2. Former spouses

- Once again, it doesn't matter who actually made the premium payments.
- Form 1095-A will be sent to the person identified in exchange records as the tax filer
- The benchmark premiums are allocated whether or not APTC was paid.
  - Why is this different than for shifting enrollees? The regulations don't explain.
  - Makes it simpler to complete Form 8962.

# Premium Tax Credit Allocation

## 3. Shifting enrollees

- A dependent enrolled by one taxpayer but claimed by another. Treas. Reg. § 1.36B-4T(a)(1)(ii)(B).
- Should be mostly allocation of PTC between parents
- Parent enrolls child in health plan expecting to claim as dependent and receives APTC, but other parent ultimately properly claims child as dependent

# Premium Tax Credit Allocation

## 3. Shifting enrollees

- Premiums paid must be allocated between the parents
- If APTC was paid, APTC and benchmark premiums are also allocated
- One percentage is applied to all 3 allocated items
  - The parents can pick any allocation percentage
- If the parents don't agree, allocation percentage is  $\frac{\# \text{ of shifting enrollees claimed by claiming parent}}{\# \text{ of individuals enrolled in health plan with the shifting enrollees}}$

# Premium Tax Credit Allocation

## 3. Shifting enrollees: allocation percentage

- Example: Jane enrolls in a QHP with her 3 children and receives APTC. But at tax time, 1 of the children is properly claimed by his father John.
  - Perhaps the family court ordered Jane to sign form 8332
- If Jane and John can't agree on an allocation percentage, it will be 25%.
  - One shifting enrollee divided by 4 people on that enrollee's health plan

# Premium Tax Credit Allocation

## 3. Shifting enrollees

- It doesn't matter who actually paid the premiums. If John is entitled to claim one child, John is allocated 25% of the premiums that Jane paid.
- John must reconcile 25% of the advance premium tax credit payments paid towards Jane's plan.
- The benchmark is only allocated if APTC was paid.
  - Draft Form 8962 is not good on this point



# Premium Tax Credit Allocation

## 3. Shifting enrollees

- The 1095-A will come to Jane; she will need to give a copy to John
- John and Jane could both claim a PTC on their separate returns, if they are unmarried
- Both would fill out Form 8962, Part 4, Shared Policy Allocation
- If John had his own QHP during 2014, he would add his 1095-A amounts to the allocated amounts for his child. See Form 8962, line 34.

# Premium Tax Credit Allocation

## 4. Taxpayers filing as married filing separately or head of household

- Treas. Reg. § 1.36B-4T(b)(4).
- Must allocate advance credit payments received as married
- If claiming PTC, must allocate premiums
- Benchmark plan premiums are not allocated
  - This is getting confusing!

# Premium Tax Credit Allocation

4. Taxpayers filing as married filing separately or head of household
- Allocation percentage is 50%
    - Taxpayers not allowed to choose a different figure
  - If the plan covers a time period during which only one taxpayer or his or her dependents was enrolled in the plan, then 100% is allocated to that taxpayer.

# Premium Tax Credit Allocation

4. Taxpayers filing as married filing separately or head of household

- Form 1095-A will be sent to the person identified in exchange records as the tax filer
- Both taxpayers will complete form 8962 to reconcile APTC
  - Complete Part 4, shared policy allocation, except that the benchmark is not allocated

# Premium Tax Credit Allocation

5. Health plan covers more than one tax household (from the get-go)

- Treas. Reg. sec 1.36B-3(h)
- Example: 25-year-old nondependent on a parent's plan
- APTC should have been calculated separately by the exchange; should not need allocating
- Benchmark premiums are not allocated
- Premiums paid are allocated

# Premium Tax Credit Allocation

5. Health plan covers more than one tax household
- Premiums paid are allocated in proportion to the premiums for each taxpayer's benchmark plan
    - Mom, Dad, and their 25-year-old son Jeff are on a health plan with premiums of \$15,000. Mom & Dad's benchmark premium is \$12,000. Jeff's benchmark premium is \$6,000.
    - The premium allocated to Mom and Dad is \$10,000 ( $\$15,000 \times \$12,000 / \$18,000$ )

# Premium Tax Credit Allocation

5. Health plan covers more than one tax household
  - Notice again, it doesn't matter who actually pays the premiums. Jeff can claim his own PTC because he's not a tax dependent.
  - Two forms 1095-A will be sent, to:
    - Mom or Dad, depending on who the exchange listed first on the account; and
    - Jeff

# Premium Tax Credit Allocation

5. Health plan covers more than one tax household
- What will the forms 1095-A look like?
    - It depends on whether advance PTC payments were made. See draft instructions, page 2.
    - If advance payments were made, the forms 1095-A should be totally separate. The taxpayers should not need to do any allocating themselves.
    - If advance payments were not made, the forms 1095-A could be identical, and the taxpayers will need to allocate the premiums paid and figure out their correct benchmark premium



# Premium Tax Credit Allocation

- Recap
  - There are slightly different rules for each of the allocation situations described above
- Form 8962 is not final
  - <http://www.irs.gov/uac/Comment-on-Tax-Forms-and-Publications>

**Part IV Shared Policy Allocation**

Complete the following information for up to four shared policy allocations. See instructions for allocation details.

**Shared Policy Allocation 1**

30	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month
	Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

**Shared Policy Allocation 2**

31	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month
	Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

**Shared Policy Allocation 3**

32	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month
	Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

**Shared Policy Allocation 4**

33	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month
	Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

34 Have you completed shared policy allocation information for all allocated Forms 1095-A?  
 Yes. Multiply the amounts on Form 1095-A by the allocation percentages entered by policy. Add allocated amounts across all allocated policies with amounts for non-allocated policies from Forms 1095-A, if any, to compute a combined total for each month. Enter the combined total for each month on lines 12–23, columns (a), (b), and (f). Compute the amounts for lines 12–23, columns (c)–(e), and continue to line 24.

No. See the instructions to report additional shared policy allocations.

**Part V Alternative Calculation for Year of Marriage**

Complete line(s) 35 and/or 36 to elect the alternative calculation for year of marriage. For eligibility to make the election, see the instructions for line 9. To complete line(s) 35 and/or 36 and compute the amounts for lines 12–23, see the instructions for this Part V.

35	Alternative entries for your SSN	(a) Alternative family size	(b) Monthly contribution	(c) Alternative start month	(d) Alternative stop month
36	Alternative entries for your spouse's SSN	(a) Alternative family size	(b) Monthly contribution	(c) Alternative start month	(d) Alternative stop month

# IRS Collections and Due Process

# APTC repayment caps

Repayment Limits for Advance Premium Tax Credits, 2015 Tax Year

Income as percentage of poverty Line	Annual income for an individual	Repayment limit for an individual	Annual income for a family of four	Repayment limit for married taxpayers filing jointly
Under 200%	Under \$23,340	\$300	Under \$47,700	\$600
At least 200% but less than 300%	\$23,340 to \$35,010	\$750	\$47,700 to \$71,550	\$1,500
At least 300% but less than 400%	\$35,010 to \$46,680	\$1,250	\$71,550 to \$95,400	\$2,500
400% and above	\$46,680 or more	Full amount	\$95,400 or more	Full amount

# Repaying Premium Tax Credit

- For income tax and certain related credits and penalties, taxpayers have a statutory right to *pre-assessment* judicial review
  - 26 U.S.C. § 6211 – includes the Premium Tax Credit at (b)(4)
- IRS cannot change those items without giving appeal rights
- Message to clients: Don't file a tax return you believe is wrong!
  - You are self-assessing tax by putting it on your return. IRS can start collecting immediately.
  - Tax returns are signed under penalties of perjury.
  - An amended return might work later, but...
    - Discretionary, no appeal
    - Need documents to support changes; scrutinized much more closely than an original return

# Paying the Penalty

## Individual Shared Responsibility Payment

- IRS cannot use the Notice of Federal Tax Lien, levies, or criminal penalties to collect the ISRP
  - 26 U.S.C. § 5000A(g)(2)
- But... there is no statutory right to pre-assessment judicial review
- We don't know yet what pre-assessment administrative review IRS will offer, if any
- Post-assessment options:
  - Amended return
  - Audit reconsideration
  - Offer in compromise (26 U.S.C. § 7122)
  - Pay the tax and file a refund claim
    - This is the only way to get judicial review of the ISRP
    - 26 U.S.C. §§ 6511, 7422

# Questions?

## Resources:

- NHeLP's *The Advocate's Guide to MAGI*, available at [www.healthlaw.org](http://www.healthlaw.org)
- ABA's *Effectively Representing Your Client Before the IRS*, 6th Edition (March 2015)
  - [ACA Chapter](#) download available for \$28 (800-285-2221)
- Vermont Legal Aid's *Low-Income Taxpayers and the Affordable Care Act* available at [www.vtlegalaid.org](http://www.vtlegalaid.org)
- Nationwide list of Low-income Taxpayer Clinics:  
<http://www.irs.gov/Advocate/Low-Income-Taxpayer-Clinics/Low-Income-Taxpayer-Clinic-Map>

## Contact:

- Christine Speidel (VT Legal Aid) at [CSpeidel@vtlegalaid.org](mailto:CSpeidel@vtlegalaid.org)
- Wayne Turner (NHeLP/DC) at [turner@healthlaw.org](mailto:turner@healthlaw.org)



## THANK YOU

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