



MAGI 2.0

(it's complicated)

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Vermont Low Income Taxpayer Project

- Free federal tax help for individuals
 - Advice or representation for IRS disputes
 - Exams, 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

- New Developments and FAQs on Household Rules
 - Relief from the joint filing requirement
 - “Considered Unmarried” and same sex marriages
 - What definition of ‘child’ applies
- FAQs on Income and Tax Filing
 - IRS filing requirements
 - Social Security income
- New and Revised IRS Forms and Reconciliation
 - Reporting MEC, claiming Premium Tax Credits, exemptions, and penalties
- 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*

New Developments and FAQs on Household Rules

Domestic Abuse Survivors

- Relief from PTC joint filing requirement if
 - Living apart from abuser
 - File using “married, filing separately”
 - Attest that the relief applies (e.g., no documentation required)
- Broad definition of abuse including physical and emotional
- Includes abuse of a family member
- For FFMs, applicant should check “single”
- Limited to just 3 consecutive years
- 26 C.F.R. § 1.36B-2T(b)(2)(ii)

Abandoned Spouses

- Relief from joint filing requirement if:
 - Unable to locate spouse
 - After “reasonable diligence”
- For FFMs, applicant should check “single”
- Limited to just 3 consecutive years
- 26 C.F.R. § 1.36B-2T(b)(2)(ii)

“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.



Decree of Separate Maintenance

- Rarely used legal status available in some states
- Allows married individuals to file as “single” even if the couple has not yet obtained a final divorce decree.
(26 U.S.C. § 7703(a)(2))
- IRS will look to state law to determine if DoSM affects marital status (see *Boyer v. C.I.R.*, 732 F.2d 191, 194 (C.A.D.C., 1984))
- The following states do not provide for a “decree of separate maintenance” or legal separation action in court: Delaware, Florida, Georgia, Maryland, Mississippi, New Jersey, Pennsylvania, and Texas.
- A temporary order does not qualify; it must be a final order of legal separation.

Same Sex Marriages

- Marketplaces **must** recognize same sex marriages if they were valid in the state or foreign country in which they were celebrated
- Medicaid programs **may** recognize same sex marriages
- Individuals may have two household determinations – one for the Marketplace and one for Medicaid.

See

- [IRS Rev. Rule 2013-17](#)
- [CCIIO Guidance on Internal Revenue Ruling 2013-17 and Eligibility for Advance Payments of the Premium Tax Credit and Cost Sharing Reductions, Sept. 27, 2013](#)
- [CMS, Dear State Health Official Letter, Sept. 27, 2013](#)

Example: Same Sex Marriage

Mitch works as an attorney and lives with his husband Cam, who stays home caring for their daughter Lily. They file federal income taxes jointly and claim Lily as a dependent.

They live in Ohio, which does not recognize their marriage, and Mitch's employer coverage does not extend to Cam.

Cam's Marketplace household is three.

However, Cam's Medicaid household is two.
Lily's Medicaid household is three.



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)

All About Sneede

- Under *Sneede*, income could not be deemed to an applicant for or recipient of Medicaid from a person who was not financially responsible for the applicant/recipient (e.g., from a stepparent or sibling).
- Under MAGI rules, the stepparent and siblings may be in the same household as a child, and thus their income will count.
- The 9th Circuit modified its 1990 injunction so *Sneede* will not apply to MAGI Medicaid determinations, but will continue to apply to non-MAGI Medicaid determinations.



FAQs on Income and Tax Filing

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?

- For dependents, income tax returns are required to be filed by “every individual having for the taxable year gross income which equals or exceeds” the following amounts (2014 / 2015):
 - Unearned income of \$1,000 / \$1,050 or more
 - Earned income of \$6,200 / \$6,300 or more
 - For people who have both earned and unearned income, where the total is more than larger of \$1,000 / \$1,050 or earned income (up to \$5,850 / \$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?

- Only taxable Social Security is counted in “gross income” to determine whether someone has a filing requirement
 - <http://www.irs.gov/uac/Are-My-Social-Security-or-Railroad-Retirement-Tier-I-Benefits-Taxable%3F>
 - See IRS Pub. 501, Who Must File; 26 U.S.C. § 86
- If a dependent’s only income is from Social Security, there is no filing requirement
- If your unmarried child receives a Social Security benefit of \$6,000 per year, that does not count toward household income
 - The child would need to have other income over \$22,000 before any of her Social Security benefits would be taxable!
 - See IRS Publication 915

Who must file federal income taxes?

Filing Requirements for Children and Other Dependents

This chart will help you determine whether your dependent is required to file his or her own tax return.

Single dependents. Was your dependent either age 65 or older or blind?

- No.** Your dependent must file a return if **any** of the following apply.
- His or her unearned income was over \$1,000.
 - His or her earned income was over \$6,200.
 - His or her gross income was more than the **larger** of—
 - \$1,000, or
 - His or her earned income (up to \$5,850) plus \$350.
- Yes.** Your dependent must file a return if **any** of the following apply.
- His or her unearned income was over \$2,550 (\$4,100 if 65 or older **and** blind).
 - His or her earned income was over \$7,750 (\$9,300 if 65 or older **and** blind).
 - His or her gross income was more than the **larger** of—
 - \$2,550 (\$4,100 if 65 or older **and** blind), or
 - His or her earned income (up to \$5,850) plus \$1,900 (\$3,450 if 65 or older **and** blind).

Married dependents. Was your dependent **either** age 65 or older or blind?

- No.** Your dependent must file a return if **any** of the following apply.
- His or her unearned income was over \$1,000.
 - His or her earned income was over \$6,200.
 - His or her gross income was at least \$5 and his or her spouse files a separate return and itemizes deductions.
 - His or her gross income was more than the **larger** of—
 - \$1,000, or
 - His or her earned income (up to \$5,850) plus \$350.
- Yes.** Your dependent must file a return if **any** of the following apply.
- His or her unearned income was over \$2,200 (\$3,400 if 65 or older **and** blind).
 - His or her earned income was over \$7,400 (\$8,600 if 65 or older **and** blind).
 - His or her gross income was at least \$5 and his or her spouse files a separate return and itemizes deductions.
 - His or her gross income was more than the **larger** of—
 - \$2,200 (\$3,400 if 65 or older **and** blind), or
 - His or her earned income (up to \$5,850) plus \$1,550 (\$2,750 if 65 or older **and** blind).



In this chart, **unearned income** includes taxable interest, ordinary dividends, and capital gain distributions. It also includes unemployment compensation, taxable social security benefits, pensions, annuities, and distributions of unearned income from a trust. **Earned income** includes salaries, wages, tips, professional fees, and taxable scholarship and fellowship grants. **Gross income** is the total of your unearned and earned income.

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).

Who must file federal income taxes?

Example 1: A dependent earns \$6,100 per year at an after-school job.

- There is no filing requirement, so that income does not count toward the household income.

Example 2: A dependent earns \$6,400 per year at an after-school job.

- She has a filing requirement, so her MAGI will count toward the household income.

Who must file federal income taxes?

Example 3: 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 4: 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.

New and Revised IRS Forms and Reconciliation

ACA-related IRS Forms

- Form 1040 – revised to show ISRP, PTC, and APTC repayment
- Form 8962 – PTC claim and APTC reconciliation
- Form 8965 – Exemptions from the individual shared responsibility requirement
- Form 8965 Instructions – Worksheet for calculating the individual shared responsibility payment
- Form 1095-A – provided by Marketplace to document coverage and PTCs

For the year Jan. 1–Dec. 31, 2014, or other tax year beginning _____, 2014, ending _____, 20

Your first name and initial _____ Last name _____ Your social security number _____

If a joint return, spouse's first name and initial _____ Last name _____ Spouse's social security number _____

Home address (number and street). If you have a P.O. box, see instructions. _____ Apt. no. _____

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).

Foreign country name _____ Foreign province/state/county _____ Foreign postal code _____

Presidential Election Campaign
Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. You Spouse

Filing Status
Check only one box.
1 Single
2 Married filing jointly (even if only one had income)
3 Married filing separately. Enter spouse's SSN above and full name here. ▶
4 Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5 Qualifying widow(er) with dependent child

Exemptions
6a Yourself. If someone can claim you as a dependent, do not check box 6a.
6b Spouse
6c **Dependents:**
(1) First name _____ Last name _____ (2) Dependent's social security number _____ (3) Dependent's relationship to you _____ (4) if child under age 17 qualifying for child tax credit (see instructions)
If more than four dependents, see instructions and check here
6d Total number of exemptions claimed _____

Income
7 Wages, salaries, tips, etc. Attach Form(s) W-2 _____ 7
8a Taxable interest. Attach Schedule B if required _____ 8a
b Tax-exempt interest. Do not include on line 8a _____ 8b
9a Ordinary dividends. Attach Schedule B if required _____ 9a
b Qualified dividends _____ 9b
10 Taxable refunds, credits, or offsets of state and local income taxes _____ 10
11 Alimony received _____ 11
12 Business income or (loss). Attach Schedule C or C-EZ _____ 12
13 Capital gain or (loss). Attach Schedule D if required. If not required, check here 13
14 Other gains or (losses). Attach Form 4797 _____ 14
15a IRA distributions _____ 15a Taxable amount _____ 15b
16a Pensions and annuities _____ 16a Taxable amount _____ 16b
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E _____ 17
18 Farm income or (loss). Attach Schedule F _____ 18
19 Unemployment compensation _____ 19
20a Social security benefits _____ 20a Taxable amount _____ 20b
21 Other income. List type and amount _____ 21
22 Combine the amounts in the far right column for lines 7 through 21. This is your total income ▶ _____ 22

Adjusted Gross Income
23 Reserved _____ 23
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ _____ 24
25 Health savings account deduction. Attach Form 8889 _____ 25
26 Moving expenses. Attach Form 3903 _____ 26
27 Deductible part of self-employment tax. Attach Schedule SE _____ 27
28 Self-employed SEP, SIMPLE, and qualified plans _____ 28
29 Self-employed health insurance deduction _____ 29
30 Penalty on early withdrawal of savings _____ 30
31a Alimony paid b Recipient's SSN ▶ _____ 31a
32 IRA deduction _____ 32
33 Student loan interest deduction _____ 33
34 Reserved _____ 34
35 Domestic production activities deduction. Attach Form 8903 _____ 35
36 Add lines 23 through 35 _____ 36
37 Subtract line 36 from line 22. This is your adjusted gross income ▶ _____ 37



Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

	b	Tax-exempt interest. Do not include on line 8a	8b			
	9a	Ordinary dividends. Attach Schedule B if required			9a	
	b	Qualified dividends	9b			
	10	Taxable refunds, credits, or offsets of state and local income taxes			10	
	11	Alimony received			11	
	12	Business income or (loss). Attach Schedule C or C-EZ			12	
	13	Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>			13	
	14	Other gains or (losses). Attach Form 4797			14	
	15a	IRA distributions	15a		b	Taxable amount
	16a	Pensions and annuities	16a		b	Taxable amount
	17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E			17	
	18	Farm income or (loss). Attach Schedule F			18	
	19	Unemployment compensation			19	
	20a	Social security benefits	20a		b	Taxable amount
	21	Other income. List type and amount			21	
	22	Combine the amounts in the far right column for lines 7 through 21. This is your total income			22	
Adjusted Gross Income	23	Reserved		23		
	24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ		24		
	25	Health savings account deduction. Attach Form 8889		25		
	26	Moving expenses. Attach Form 3903		26		
	27	Deductible part of self-employment tax. Attach Schedule SE		27		
	28	Self-employed SEP, SIMPLE, and qualified plans		28		
	29	Self-employed health insurance deduction		29		
	30	Penalty on early withdrawal of savings		30		
	31a	Alimony paid b Recipient's SSN <input type="text"/>		31a		
	32	IRA deduction		32		
	33	Student loan interest deduction		33		
	34	Reserved		34		
	35	Domestic production activities deduction. Attach Form 8903		35		
	36	Add lines 23 through 35		36		
	37	Subtract line 36 from line 22. This is your adjusted gross income		37		

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 11320B

Form **1040** (2014)

38	Amount from line 37 (adjusted gross income)	38	
Tax and Credits	39a Check <input type="checkbox"/> You were born before January 2, 1950, <input type="checkbox"/> Blind, Total boxes <input type="checkbox"/> If: <input type="checkbox"/> Spouse was born before January 2, 1950, <input type="checkbox"/> Blind, checked ▶ 39a <input type="checkbox"/>		
	b If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b <input type="checkbox"/>		
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, \$6,200 Married filing jointly or Qualifying widower, \$12,400 Head of household, \$8,100	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 \$152,525 or less, multiply \$3,950 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) 9914 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"/> 8800 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 5406 if required	60b	
	61 Healthcare: individual responsibility (see instructions). Full-year coverage <input type="checkbox"/>	61	
	62 Taxes from: a <input type="checkbox"/> Form 9959 b <input type="checkbox"/> Form 9960 c <input type="checkbox"/> Instructions, enter code(s)	62	
	63 Add lines 56 through 62. This is your total tax	63	
Payments	64 Federal income tax withheld from Forms W-2 and 1099	64	
	65 2014 estimated tax payments and amount applied from 2013 return	65	
	66a Earned income credit (EIC)	66a	
	b Nontaxable combat pay election 66b	66b	
	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"/> Rented c <input type="checkbox"/> Rented d <input type="checkbox"/>	73	
	74 Add lines 64, 65, 66a, and 67 through 73. These are your total payments	74	
Refund	75 If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid	75	
	76a Amount of line 75 you want refunded to you, if Form 8888 is attached, check here ▶ <input type="checkbox"/>	76a	
	b Routing number ▶ <input type="checkbox"/> Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
	d Account number ▶		
	77 Amount of line 75 you want applied to your 2015 estimated tax ▶ 77		
	78 Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions ▶ 78		
	79 Estimated tax penalty (see instructions)	79	
Third Party Designee	Do you want to allow another person to discuss this return with the IRS (see instructions)? <input type="checkbox"/> Yes. Complete below. <input type="checkbox"/> No		
	Designee's name ▶ Phone no. ▶ Personal identification number (PIN) ▶		
Sign Here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		
	Your signature ▶ Date ▶ Your occupation ▶ Daytime phone number ▶		
	Spouse's signature. If a joint return, both must sign. ▶ Date ▶ Spouse's occupation ▶		
	If the IRS sent you an Identity Protection PIN, enter it here (see instructions) ▶		
Paid Preparer Use Only	Print/Type preparer's name ▶ Preparer's signature ▶ Date ▶		
	Check <input type="checkbox"/> if self-employed		
	Firm's EIN ▶ Firm's address ▶ Phone no. ▶		



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, \$6,200

Married filing jointly or Qualifying widow(er), \$12,400

Head of household, \$9,100

38	Amount from line 37 (adjusted gross income)		38
39a	Check <input type="checkbox"/> You were born before January 2, 1950, <input type="checkbox"/> Blind. <input type="checkbox"/> Spouse was born before January 2, 1950, <input type="checkbox"/> Blind. Total boxes checked ▶ 39a <input type="checkbox"/>		
b	If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b <input type="checkbox"/>		
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 \$152,525 or less, multiply \$3,950 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
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)		62

Other Taxes

Other Taxes

59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59	
60a	Household employment taxes from Schedule H	60a	
60b	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)	62	
63	Add lines 56 through 62. This is your total tax	63	

Payments

If you have a qualifying child, attach Schedule EIC.

64	Federal income tax withheld from Forms W-2 and 1099	64	
65	2014 estimated tax payments and amount applied from 2013 return	65	
66a	Earned income credit (EIC)	66a	
66b	Nontaxable combat pay election	66b	
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"/> Reserved d <input type="checkbox"/>	73	
74	Add lines 64, 65, 66a, and 67 through 73. These are your total payments	74	

Refund

Direct deposit? See instructions.

75	If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid	75	
76a	Amount of line 75 you want refunded to you . If Form 8888 is attached, check here <input type="checkbox"/>	76a	
76b	Routing number	76b	
76c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	76c	
76d	Account number	76d	
77	Amount of line 75 you want applied to your 2015 estimated tax	77	

Amount You Owe

78	Amount you owe . Subtract line 74 from line 63. For details on how to pay, see instructions	78	
79	Estimated tax penalty (see instructions)	79	

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? **Yes**. Complete below. **No**

Designee's name	Phone no.	Personal identification number (PIN)
-----------------	-----------	--------------------------------------

Sign Here

Joint return? See instructions. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent you an Identity Protection PIN, enter it here (see inst.)

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name	Firm's EIN		Phone no.	
Firm's address				



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
7 Recipient's spouse's name	8 Recipient's spouse's SSN	9 Recipient's spouse's date of birth
10 Policy start date	11 Policy termination date	12 Street address (including apartment no.)
13 City or town	14 State or province	15 Country and ZIP or foreign postal code

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					
18					
19					
20					

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			
23 March			
24 April			
25 May			
26 June			
27 July			
28 August			
29 September			
30 October			
31 November			
32 December			
33 Annual Totals			

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) <input type="checkbox"/>
---------------------------	-----------------------------	--

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
3	Household Income: Add the amounts on lines 2a and 2b	3	
4	Federal Poverty Line: Enter the federal poverty amount as determined by the family size on line 1 and the federal poverty table for your state of residence during the tax year (see instructions). Check the appropriate box for the federal poverty table used. a <input type="checkbox"/> Alaska b <input type="checkbox"/> Hawaii c <input type="checkbox"/> Other 48 states and DC	4	
5	Household Income as a Percentage of Federal Poverty Line: Divide line 3 by line 4. Enter the result rounded to a whole percentage. (For example, for 1.542 enter the result as 154, for 1.549 enter as 155.) (See instructions for special rules.)	5	%
6	Is the result entered on line 5 less than or equal to 400%? (See instructions if the result is less than 100%. <input type="checkbox"/> Yes. Continue to line 7. <input type="checkbox"/> No. You are not eligible to receive PTC. If you received advance payment of PTC, see the instructions for how to report your Excess Advance PTC Repayment amount.		
7	Applicable Figure: Using your line 5 percentage, locate your "applicable figure" on the table in the instructions	7	
8a	Annual Contribution for Health Care: Multiply line 3 by line 7 8a	b	Monthly Contribution for Health Care: Divide line 8a by 12. Round to whole dollar amount 8b

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

- 9** Did you share a policy with another taxpayer or get married during the year and want to use the alternative calculation? (see instructions)
 Yes. Skip to Part 4, Shared Policy Allocation, or Part 5, Alternative Calculation for Year of Marriage. **No. Continue to line 10.**
- 10** Do all Forms 1095-A for your tax household include coverage for January through December with no changes in monthly amounts shown on lines 21–32, columns A and B?
 Yes. Continue to line 11. Compute your annual PTC. Skip lines 12–23 and continue to line 24.
 No. Continue to lines 12–23. Compute your monthly PTC and continue to line 24.

Annual Calculation	A. Premium Amount (Form(s) 1095-A, line 33A)	B. Annual Premium Amount of SLCP (Form(s) 1095-A, line 33B)	C. Annual Contribution Amount (Line 8a)	D. Annual Maximum Premium Assistance (Subtract C from B)	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 Premium Amount (Form(s) 1095-A, lines 21–32, column A)	B. Monthly Premium Amount of SLCP (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						
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 11E or add lines 12E through 23E and enter the total here	24	
25 Advance Payment of PTC: Enter the amount from line 11F or add lines 12F through 23F 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 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	

Example: Claiming the PTC

- Please see the handouts

ACA Exemptions

Resources

- Vermont Legal Aid's *Low-Income Taxpayers and the Affordable Care Act*
- ABA's *Effectively Representing Your Client Before the IRS*, forthcoming 6th Edition
- 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/>

Coverage Exemption	Granted by Marketplace	Claimed on tax return	Code for Exemption
Coverage is considered unaffordable — You cannot afford coverage because the minimum amount you must pay for premiums is more than 8% of your household income .		✓	A
Short coverage gap — You went without coverage for less than 3 consecutive months during the year.		✓	B
Citizens living abroad and certain noncitizens — You are: <ul style="list-style-type: none"> • a U.S. citizen or resident who spent at least 330 full days outside of the U.S. during a 12-month period, • a U.S. citizen who is a bona fide resident of a foreign country or U.S. territory, or • neither a U.S. citizen or U.S. national nor an alien lawfully present in the U.S. 		✓	C
Household income below the filing threshold — Your household income is below the minimum threshold for filing a tax return.		✓	No Code See Part II
Members of a health care sharing ministry — You are a member of a health care sharing ministry.	✓	✓	D
Members of Federally-recognized Indian tribes — You are a member of a Federally-recognized Indian tribe.	✓	✓	E
Incarceration — You are in a jail, prison, or similar penal institution or correctional facility after the disposition of charges.	✓	✓	F
Members of certain religious sects — You are a member of a recognized religious sect.	✓		No Code See Part I
Limited benefit Medicaid and TRICARE programs — You are enrolled in certain types of Medicaid and TRICARE programs that are not minimum essential coverage. (Available only in 2014.)		✓	H
Fiscal year employer-sponsored plan — You were eligible, but did not purchase, coverage under an employer plan with a plan year that started in 2013 and ended in 2014. (Available only in 2014.)		✓	H
Hardships:			
• Two or more family members' aggregate cost of self-only employer-sponsored coverage is more than 8% of household income, as is the cost of any available employer-sponsored coverage for the entire family.		✓	G
• You purchased insurance through the Marketplace during the initial enrollment period but have a coverage gap at the beginning of 2014.		✓	G
• You applied for CHIP coverage during the initial open enrollment period and were found eligible for CHIP based on that application but have a coverage gap at the beginning of 2014.		✓	G
• You are an American Indian, Alaska native, or a spouse or descendent of either who is eligible for services through an Indian health care provider.	✓	✓	E
• Your gross income is below the filing threshold.		✓	No Code See Part II
• You are experiencing circumstances that prevent you from obtaining coverage under a qualified health plan.	✓		No Code See Part I
• You do not have access to affordable coverage based on your projected household income.	✓		No Code See Part I
• You are ineligible for Medicaid solely because the state in which you live does not participate in the Medicaid expansion under the Affordable Care Act.	✓		No Code See Part I
• You have been notified that your health insurance policy will not be renewed and you consider the other plans available unaffordable.	✓		No Code See Part I

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.

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 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																
9																
10																
11																
12																
13																

Shared Responsibility Payment Worksheet

If you or another member of your tax household had neither minimum essential coverage nor a coverage exemption for any month during 2014, use the Shared Responsibility Payment Worksheet, below, to figure your shared responsibility payment. You will enter the amount from line 14 of the worksheet on Form 1040, line 61; Form 1040A, line 38; or Form 1040EZ, line 11.

Complete the monthly columns by placing "X's" in each month in which you or another member of your tax household had neither minimum essential coverage nor a coverage exemption.												
Name	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1. Total number of X's in a month. If 5 or more, enter 5												
2. Total number of X's in a month for individuals 18 or over*												
3. One-half the number of X's in a month for individuals under 18*												
4. Add lines 2 and 3 for each month												
5. Multiply line 4 by \$95 for each month. If \$285 or more, enter \$285												
6. Sum of the number of X's on line 1 above for the year												
7. Enter your household income (see Household income , earlier)												
8. Enter your filing threshold (see Filing Thresholds For Most People , later)												
9. Subtract line 8 from line 7												
10. Multiply line 9 by 1% (.01)												
11. Is line 10 more than \$285? <input type="checkbox"/> Yes. Multiply line 10 by the number of months for which line 1 is more than zero <input type="checkbox"/> No. Enter the amount from line 14 of the Flat Dollar Amount Worksheet }												
12. Divide line 11 by 12.0												
13. Multiply line 6 by \$204												
14. Enter the smaller of line 12 or line 13 here and on Form 1040, line 61; Form 1040A, line 38; or Form 1040EZ, line 11. This is your shared responsibility payment												

*For purposes of figuring the shared responsibility payment, an individual is considered under 18 for an entire month if he or she did not turn 18 before the first day of the month. An individual turns 18 on the anniversary of the day the individual was born. For example, someone born on March 1, 1999, is considered age 18 on March 1, 2017.

Example: immigrants' tax filing

Rob is a skilled Jamaican farm worker. For the last 5 years he has worked in the U.S. from May through October under the H-2A agricultural guest worker program. Rob is not married. He has no children in the United States.



In 2014, Rob works in the U.S. under his H-2A visa for just over 6 months. He arrives on April 25 and leaves on November 10. He has no health insurance during that time. Rob's employer pays him \$12,150 total during the year. He has no other worldwide income and no adjustments, so his AGI is \$12,150.

Example: immigrants' tax filing

Rob will owe a penalty on his 2014 U.S. tax return

Rob is considered a resident for U.S. tax purposes, under the substantial presence test.

Rob was “lawfully present” in the U.S., under his visa.

His income is more than the filing threshold for a single person (\$10,150)

He was without health insurance for more than 2 months, while lawfully present in the U.S.



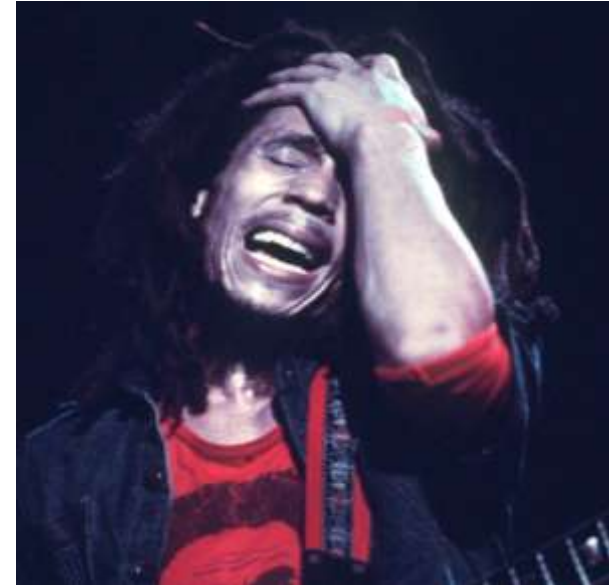
Why can't Rob get an exemption from the penalty?

- No affordability exemption is available, because Rob could have received a Premium Tax Credit. With such low income, his “expected contribution” would have been 2% of MAGI.
- What about a hardship exemption?

Example: immigrants' tax filing

What is Rob's ACA penalty for 2014?

- The flat dollar amount is \$7.92 per month (\$95 divided by 12)
- The percent of income amount is 1% of \$2,000 (12,150 – 10,150), divided by 12, which equals \$1.67 per month
- The flat dollar amount is used because it's larger. Rob's penalty is $\$7.92 \times 6 \text{ months} = \47.52 . Rob does not owe a penalty for April or November, because he was not "lawfully present" for those entire months.
- Rob's penalty amount can't exceed the monthly national average bronze plan premiums for six months, for a single person. For 2014, this figure is \$204 per month, so \$1224 for six months.
- Rob's penalty is \$47.53.



Example: immigrants' tax filing

What if Rob is married? His wife Venus lives in Jamaica and has never been to the U.S. Venus has no income.

- Venus could elect to be taxed as a U.S. resident, and file a joint tax return with Rob.
- To file a joint return, Venus needs an ITIN.
 - Application requires certified copies or original documents proving identity and foreign national status
- Does Venus want to file a U.S. tax return? She would have to report all her worldwide income to the I.R.S. until the election is revoked or suspended.
- IRS Pub. 519



Example: immigrants' tax filing

Rob and Venus file a joint U.S. tax return

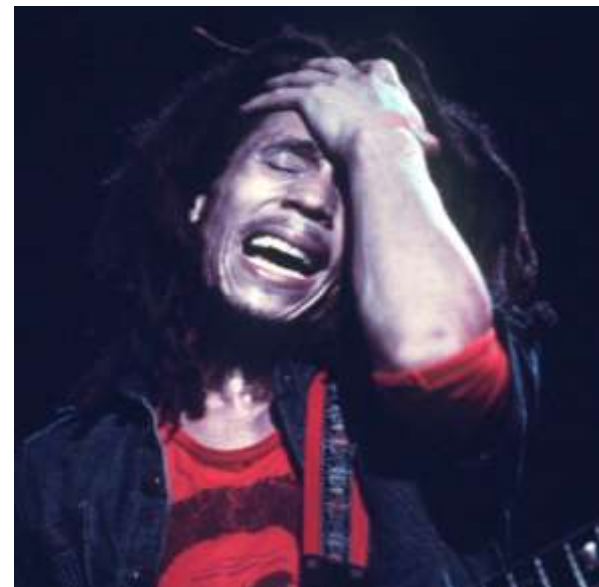
- Rob now qualifies for a penalty exemption
 - Rob's income is less than the filing threshold for married couples filing a joint tax return (\$20,300).
- Rob will save a little tax, too. His taxable income will be zero.
- Is it worth the hassle of getting an ITIN? Maybe not for 2014, but the penalty is a lot steeper for 2015 and 2016.



Example: immigrants' tax filing

Venus won't file a joint U.S. tax return

- Rob's penalty calculation changes, because his filing threshold is lower
 - The percent of income amount is 1% of \$8,200 ($12,150 - 3,950$), divided by 12, which equals \$6.83 per month
 - Phew! The flat dollar amount is still larger, so Rob's penalty does not change.
- If Rob's wages were $> \$13,454$, he would owe a larger penalty than when he was single
- If Rob wants to get insurance, he won't qualify for a PTC



Just when you think it's over...

PTC Wrinkles

- 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 4: 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 taxpayer sharing allocation 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 taxpayer sharing allocation 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 taxpayer sharing allocation 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 taxpayer sharing allocation 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 5: 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 5.

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

Form **8962** (2014)

IRS Procedures and Due Process

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

IRS Collections and Due Process

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
- Vermont Legal Aid's *Low-Income Taxpayers and the Affordable Care Act* available at www.vtlegalaid.org
- Nationwide list of Low-income Taxpayer Clinics: <http://www.irs.gov/Advocate/Low-Income-Taxpayer-Clinics/Low-Income-Taxpayer-Clinic-Map>

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THANK YOU

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