

Health Care Reform—New for 2014

Cross References

- Form 8965, *Health Coverage Exemptions*
- Form 8962, *Premium Tax Credit (PTC)*
- Form 1095-A, *Health Insurance Marketplace Statement*

The Health Care Reform Act was signed into law in March 2010, with tax provisions phasing in over a 6-year period.

Effective for 2010:

- The Small Employer Health Insurance Credit (Form 8941) provides employers with 25 or fewer full-time equivalent employees a tax credit if the employer provides non-elective contributions for the purchase of health insurance for its employees.
- Adult children coverage requires employers providing group health plans that offer dependent coverage to provide health benefits for any child of an employee who has not yet attained age 27 as of the end of the tax year.
- The Indoor Tanning Tax is a 10% excise tax on all indoor tanning services.

Effective for 2011:

- Employers with 100 or fewer employees can offer Simple Cafeteria Plans that avoid the nondiscrimination requirements for cafeteria plans, provided certain minimum eligibility and participation requirements and minimum contribution requirements are met.
- FSAs, HSAs, HRAs, and Archer MSAs can no longer reimburse tax free the cost of over-the-counter drugs unless the drug is prescribed by a doctor (or is insulin).

Effective for 2012:

- Health insurance companies are required to spend 80% or more of premium dollars on health care and not on profits or overhead (85% or more in the large group market). If the insurance company does not meet these percentages, a portion of the premium must be refunded to the customer. The rebates may be taxable or tax-free to the recipient, depending on whether the taxpayer received a tax benefit on the cost of the premiums.
- For plan years beginning on or after October 1, 2012, health reimbursement arrangements (HRAs) are subject to a \$1 per participant Patient-Centered Outcomes Research Trust Fund fee (\$2 for plan years ending before October 1, 2014, and \$2.08 for plan years ending before October 1, 2015). The fee is paid by filing Form 720, *Quarterly Federal Excise Tax Return*.
- Employers with 250 or more employees are required to report both the employer and employee's cost of employer sponsored group health plan coverage on the employee's W-2.

Effective for 2013:

- The AGI threshold for taxpayers under age 65 deducting medical expenses on Schedule A (Form 1040) is increased from 7.5% to 10% of AGI.
- The Additional Medicare Tax (Form 8959) imposes a 0.9% tax on wages plus self-employment earnings that exceeds a threshold amount. The threshold amounts are \$250,000 for MFJ, \$200,000 for Single, HOH, and QW, and \$125,000 for MFS. Employers are required to withhold the tax when an employee's wage exceeds \$200,000 for the year.
- The Net Investment Income Tax (Form 8960) imposes a 3.8% tax on the lesser of net investment income or the excess of modified AGI over a threshold amount. The threshold amounts are \$250,000 for MFJ and QW, \$200,000 for Single and HOH, and \$125,000 for MFS.
- Health FSAs cannot be a qualified benefit under a cafeteria plan unless the maximum amount available for reimbursement does not exceed \$2,500 for the plan year.

Effective for 2014:

- All non-exempt U.S. citizens and legal residents are required to maintain minimum essential health insurance coverage, or pay a penalty tax on line 61 of Form 1040. Exempt individuals use new Form 8965, *Health Coverage Exemptions*, to identify why they are exempt from the requirement to have health insurance.
- Taxpayers with household income below 400% of the Federal Poverty Level who purchase health insurance on the Health Insurance Exchange (Marketplace) may qualify for the Premium Tax Credit on new Form 8962, *Premium Tax Credit (PTC)*. The taxpayer must obtain new Form 1095-A, *Health Insurance Marketplace Statement*, from the Marketplace in order to claim the PTC on Form 8962.
- HRAs with more than one participant are subject to the Market Reform rules, which prohibit annual and lifetime limits on health benefits. An HRA must be integrated with other employer provided coverage that complies with the Market Reform rules, or be subject to a \$100 per day per employee (\$36,500 per year) penalty.

Effective for 2015:

- Employers with 100 or more full-time equivalent employees must offer affordable health insurance to its full-time employees or face a possible penalty if an employee purchases health insurance through an Exchange. The 100 or more threshold drops to 50 or more starting in 2016.

New Tax Forms for 2014

All taxpayers will fall under one of the following situations for tax year 2014:

- ***Taxpayers with health insurance.*** Most taxpayers receive health insurance coverage either through their employer, or through a government plan like Medicare. For these taxpayers, the only tax reporting will be to check the box next to line 61 of Form 1040 and to leave line 61 blank, indicating that everyone in the taxpayer's tax household has minimum essential coverage for the full year.
- ***Taxpayers with health insurance purchased through the marketplace.*** According to statistics from the Kaiser Family Foundation (www.kff.org), approximately 8 million individuals purchased health insurance through the marketplace for 2014 coverage.

There were about 149 million tax returns filed for the 2013 tax year, which indicates that about 5% of taxpayers will have purchased health insurance through the marketplace for the 2014 tax year. These taxpayers will receive new Form 1095-A, *Health Insurance Marketplace Statement*, which identifies which members of the taxpayer's tax household were covered by insurance, the monthly premiums paid, the applicable monthly premium amount of the second lowest cost silver plan (SLCSP), and any monthly advance payment of the premium tax credit. All taxpayers who receive Form 1095-A must file Form 8962, *Premium Tax Credit*, to reconcile any advanced payment of the premium tax credit with the actual premium tax credit allowed.

- **Taxpayers exempt from the requirement to have health insurance.** According to statistics from the Kaiser Family Foundation (www.kff.org), approximately 41 million individuals were uninsured in 2013. Of the 8 million who signed up for health insurance through the Marketplace in 2014, 57% (4.5 million) were uninsured prior to purchasing their current plan. Statistics also indicate that Medicaid enrollment has grown by 8 million due to the new Medicaid eligibility rules under the Health Care Reform Act. If we assume all other factors remain the same, that would indicate approximately 28.5 million individuals were still uninsured for 2014. Survey results for those uninsured in 2013 list the following reasons for being uninsured:
 - Insurance not affordable 32.8%.
 - Lost job 28.6%.
 - Employer did not offer insurance 11.2%.
 - Aged out/left school 8.8%.
 - Do not need insurance 1.7%.
 - Other 17.5%.

Unaffordable insurance is one of the exceptions to the requirement to have insurance. If the taxpayer is exempt from the requirement to have health insurance, the taxpayer must file Form 8965, *Health Coverage Exemptions*, to identify why they are not subject to the penalty for not having insurance. The only exception to filing Form 8965 is for taxpayers who do not file Form 1040 because their income is below the filing requirement. However, if a taxpayer below the filing requirement without insurance files Form 1040 to claim a refund of withheld taxes, Form 8965 must also be filed.

- **Taxpayers with no health insurance and no excuse.** For those taxpayers who did not have minimum essential coverage and do not qualify for an exemption from the requirement to have insurance, use the worksheet in the Form 8965 instructions to calculate the penalty reported on line 61 of Form 1040. This worksheet can also be found on page 1-11 of *TheTaxBook 1040 Edition/Deluxe Edition*.

TheTaxBook Health Care & Retirement Edition, Tab 1, and *TheTaxBook What's New In-Depth Edition*, Tab 2, provide detailed line-by-line instructions for Form 8965, *Health Coverage Exemptions*, Form 8962, *Premium Tax Credit*, and Form 1095-A, *Health Insurance Marketplace Statement*. The following is a summary of these new forms.

Health Coverage Exemptions (Form 8965)

Use Form 8965 to report a coverage exemption granted by the Marketplace or to claim a coverage exemption when filing Form 1040. Form 8965, Part I, is used to claim a coverage

exemption that was granted from the Marketplace. Form 8965, Part II, is used to claim a coverage exemption for being below the filing requirement when the taxpayer chooses to file Form 1040 (such as to claim a refund of withheld taxes). Form 8965, Part III, is used to claim a coverage exemption on the tax return. If a coverage exemption is only available from the Marketplace, the taxpayer must obtain an exemption certificate number from the Marketplace to enter in column (c) of Part I. See *Types of Coverage Exemptions—Form 8965*, page 1-12 of *TheTaxBook Health Care & Retirement Edition*, or page 1-10 of *TheTaxBook 1040 Edition/Deluxe Edition*, for a list of coverage exemptions and codes needed for filing Form 8965.

Hardship exemptions. In addition to the exemptions listed in the chart *Types of Coverage Exemptions—Form 8965*, a number of hardship exemptions are available by going to www.healthcare.gov. For details on these hardship exemptions and link to the online application, see *Hardship Exemption Application*, page 1-16, *TheTaxBook Health Care & Retirement Edition*.

Penalty for not having insurance. If the taxpayer (or member of the tax household) does not have insurance and does not have a coverage exemption, the penalty tax to report on line 61 of Form 1040 is calculated using the worksheet in the Form 8965 instructions. This worksheet has been reproduced on page 3-3 of *TheTaxBook Health Care & Retirement Edition*, and page 1-11 of *TheTaxBook 1040 Edition/Deluxe Edition*.

Premium Tax Credit (Form 8962)

For the approximately 8 million who purchased their health insurance through the marketplace, about 85% received advanced premium tax credits. Form 8962 must be filed to reconcile the Advanced Premium Tax Credit (APTC) with the actual Premium Tax Credit (PTC) that is allowed. If the taxpayer's APTC is greater than PTC, the difference (subject to income limitations) is paid back as an increase in tax on line 46 of Form 1040. If PTC exceeds APTC, the difference is treated as a reduction of tax (refundable credit) on line 69 of Form 1040.

Author's Comment

Even if the taxpayer purchased insurance through the Marketplace and did not receive any APTC, Form 8962 must be filed to determine whether or not the taxpayer is eligible for the PTC.

Form 8962, Part 1: Annual and monthly contribution amount. To calculate the PTC, a taxpayer must first determine his or her annual and monthly contribution amount. The monthly contribution amount is the amount the taxpayer would be required to pay as his or her share of premiums each month if he or she enrolled in the applicable SLCSP in the Marketplace. This amount is not the same as the amount the taxpayer is paying out of pocket for insurance. Line-by-line instructions for calculating the annual and monthly contribution amount and definitions of terminology used in Part 1 are found starting on page 1-17 of *TheTaxBook Health Care & Retirement Edition*.

Form 8962, Part 2: Premium tax credit (PTC) claim and reconciliation of advance payment of premium tax credit (APTC). The PTC is calculated in Part 2 of Form 8962 using information provided by Form 1095-A, *Health Insurance Marketplace Statement*. The PTC cannot be calculated without this form. If the taxpayer is required to complete Part 4 or Part 5, those parts must be completed before calculating the PTC in Part 2.

Premium for the applicable SLCSP. The Monthly Premium Amount of the Second Lowest Cost Silver Plan (SLCSP) is taken from Form 1095-A, lines 21 through 33, column B, and is entered on Form 8962, lines 11 through 23, column B. This amount is used in the calculation of the PTC and is based upon the SLCSP that is offered through the Marketplace where the taxpayer lives. Each state and each county within a state has a different SLCSP. Thus, if the taxpayer moved to a new county within a state during the year (or moved to a new state) and did not notify the Marketplace of the move, the SLCSP reported for the taxpayer on Form 1095-A may be incorrect. The taxpayer's SLCSP will also be incorrect under one of the following situations (if the taxpayer did not notify the Marketplace of the change):

- A new member was added to the tax family, such as a newborn, or a member of the tax family is no longer enrolled in the taxpayer's health plan, such as the death of a family member,
- A member of the tax family becomes eligible or loses eligibility for minimum essential coverage (such as starting a new job that offers health insurance, or losing a job that offered health insurance),
- The number of dependents claimed on the tax return is not the same as the number the taxpayer told the Marketplace he or she would claim at the time of enrollment.

If the taxpayer moved during the year, or any of the other situations above apply, and the Marketplace was not notified, see IRS Pub. 974 for information on how to determine the correct SLCSP.

Author's Comment

A tax seminar speaker said the IRS has indicated that IRS Pub. 974 will not be released until sometime in February.

Author's Comment

Notifying an insurance company for a change of address or change in family members covered under the policy is not the same as notifying the Marketplace. The Marketplace is the government agency in charge of the website that offers a number of health insurance plans by a number of private insurance companies. It is the Marketplace that determines the SLCSP for enrollees and it is the Marketplace that reports this information to the taxpayer on Form 1095-A. The taxpayer's insurance company does not have access to this information. We believe our tax clients are going to think they notified the Marketplace when they informed their insurance company of the change in circumstances, when in fact the Marketplace was not informed of the change. Thus, it will be the tax preparer's responsibility to research IRS Pub. 974 to determine the correct SLCSP for the taxpayer.

Author's Comment

A tax seminar speaker said a national tax preparation chain has indicated their minimum fee for filing Form 8962 will be \$295. Given the complexity of the form and the potential for incorrect information reported on the taxpayer's Form 1095-A, such a fee sounds reasonable.

Form 8962, Part 3: Repayment of excess advance payment of the premium tax credit.

If APTC is more than the PTC allowed, use Part 3 to determine the excess that must be repaid. If the taxpayer is below 400% of the Federal Poverty Level (FPL), the amount that must be repaid is limited. See *Table 5. Repayment Limitation*, page 1-29 of *TheTaxBook Health Care & Retirement Edition*, or page 11-14 of *TheTaxBook 1040 Edition/Deluxe Edition*, for this amount. This limitation does not apply for taxpayers with income above 400% of FPL.

Form 8962, Part 4: Shared policy allocation. In general, the PTC is only available for the taxpayer and those individuals that the taxpayer can claim as a dependent on his or her Form 1040. It is possible that the taxpayer purchased insurance for a member of his or her family where someone else claims such member as a dependent. For example, a divorced mother has custody of her two children, and purchases health insurance through the Marketplace for herself and her two children. However, due to the terms of a divorce decree, the mother agrees to sign over the dependency exemption to her former spouse, the non-custodial father of the two children. In this situation, Part 4 of Form 8962 must be completed to determine how much of the mother's APTC must be allocated to the father. Line-by-line instructions for Part 4, along with detailed examples of how to make these allocations can be found starting on page 1-29 of *TheTaxBook Health Care & Retirement Edition*.

Form 8962, Part 5: Alternative calculation for year of marriage. Part 5 is used to elect the alternative calculation for pre-marriage months. Making this election is optional, but may reduce the amount of excess APTC that must be repaid. If the taxpayer, his or her spouse, or any individual in the taxpayer's tax family had coverage under a qualified health plan for at least one month before the taxpayer's first full month of marriage, see IRC Pub. 974 for details on how to complete Part 5.

Health Insurance Marketplace Statement (Form 1095-A)

A taxpayer will receive a Form 1095-A if the taxpayer or a family member of the taxpayer enrolls in health insurance coverage through the Health Insurance Marketplace. Information from Form 1095-A is needed in order to complete Form 8962, *Premium Tax Credit (PTC)*. If the taxpayer received a Form 1095-A, Form 8962 must be filed with Form 1040, even if the taxpayer is otherwise below the filing requirement. Form 1095-A is filled out by the Marketplace. However, see *Premium for the applicable SLCS* above for scenarios where the information on Form 1095-A may be incorrect. A line-by-line explanation of Form 1095-A can be found starting on page 1-34 of *TheTaxBook Health Care & Retirement Edition*.