



## **AFFORDABLE CARE ACT**

### **Individual Health Care Coverage Responsibility in 2014 Penalty Tax on Individuals for Failure to Maintain Coverage**

Under the Affordable Care Act, (also referred to as “Obamacare”) and federal tax law, individuals are required to have minimum essential health coverage beginning in 2014. The provision goes into effect on January 1, 2014.

Under the Act the federal government has announced that a Health Insurance Marketplace will open for Oklahoma, and every other state in October of 2013.

The open enrollment period to purchase health insurance coverage for 2014 through the Health Insurance Marketplace runs from Oct. 1, 2013, through March 31, 2014.

The Health Insurance Marketplace is intended to help qualified individuals find minimum essential coverage that fits their budget and financial assistance to help with the costs of coverage beginning in 2014.

#### **Requirement to Maintain Coverage or Pay Penalty Tax**

If an individual fails to meet this requirement he or she will be required to make a payment to the Federal government when filing his or her federal income tax return.

The payment is a penalty tax for failing to maintain minimum essential health care coverage.

#### **Applicable Individuals**

In general, every individual will be an applicable individual subject to this penalty tax for failure to maintain minimum health coverage.

The Act gives individuals a choice: maintain minimum essential coverage for themselves and any nonexempt family members or include an additional payment with their Federal income tax return.

This individual requirement applies to each month in the calendar year. The amount of any penalty tax payment for failure to have minimum essential health coverage takes into account the number of months in a given year an individual is without minimal essential coverage or an exemption.

The requirement to maintain minimum essential health coverage and liability for a penalty tax for failure to do so generally applies to individuals of all ages, including children.

The adult or married couple who can claim a child or another individual as a dependent for federal income tax purposes is responsible for making the payment if the dependent does not have minimum coverage.

### **Required Minimum Health Coverage to Avoid Penalty**

The “minimum essential health coverage” that must be maintained by an individual is defined by the Act. If it is maintained the penalty tax will not be imposed.

Minimum essential health coverage includes employer-sponsored coverage (including COBRA coverage and retiree coverage), coverage purchased in the individual market, including a qualified health plan offered by the Health Insurance Marketplace (also known as an Affordable Insurance Exchange), Medicare Part A coverage and Medicare Advantage plans, most Medicaid coverage, Children's Health Insurance Program (CHIP) coverage, certain types of veterans health coverage administered by the Veterans Administration TRICARE, and certain other types of coverage.

### **Penalty Tax Amount Imposed for Failure to Maintain Health Coverage**

The amount of the penalty tax payment for individual failure to maintain minimum essential health cover in any taxable year is generally the sum of monthly penalty amounts for all months in the taxable year in which an individual for whom the taxpayer is liable under did not have minimum essential coverage.

The penalty payment amount for any taxable year may not exceed an amount equal to the national average premium for bronze-level qualified health plans offered through Affordable Insurance Exchanges for the applicable family size involved.

The monthly penalty amount for a month is equal to one-twelfth (1/12) of the greater of the following amounts:

- (1) the flat dollar amount, or
- (2) the percentage of income.

The flat dollar amount is the lesser of the following amounts: (a) the sum of the applicable dollar amounts for all nonexempt individuals without minimum essential coverage for whom the taxpayer is liable or (b) 300 percent of the applicable dollar amount.

The applicable dollar amount is \$95 for 2014, \$325 for 2015, and \$695 for 2016, and will be increased for calendar years beginning after 2016 by a cost-of-living adjustment. If an individual has not attained the age of 18 as of the beginning of a month, the applicable dollar amount for that individual is one-half (1/2) of the regular applicable dollar amount.

The percentage of income is calculated as the excess of the taxpayer's household income over the taxpayer's Federal income tax return filing threshold, multiplied by a percentage figure. The percentage figure is one percent (1%) for taxable years beginning in 2014, two percent (2%) for taxable years beginning in 2015, and two and one-half percent (2.5%) for taxable years beginning after 2015.

## **Reporting Coverage or Exemptions or Making Penalty Payments**

The Internal Revenue Service guidance provides that an individual will not have to account for coverage or exemptions or to make any payments until the individual files his or her 2014 federal income tax return in 2015. It is indicated that information will be made available later about how the income tax return will take account of coverage and exemptions. Insurers will be required to provide everyone that they cover each year with information that will help them demonstrate they had coverage beginning with the 2015 tax year.

The Affordable Care law prohibits the Internal Revenue Service from using liens or levies to collect any payment an individual owes related to the individual responsibility provision, if an individual included on an individual tax return does not have minimum essential coverage. However, if an individual owes a penalty payment for failure to maintain minimum essential health coverage the Internal Revenue Service may offset that liability against any tax refund that individual may be due.

## **Exemptions from Requirement to Maintain Coverage or Pay Penalty**

Under the Affordable Care Act and Federal regulations certain exclusions and exemptions from this requirement and penalty are allowed.

Individuals who have income so low they are not required to file a tax return for a year are automatically exempt from owing a shared responsibility payment for that year and do not need to take any further action to secure an exemption.

The other exemptions from the requirement to obtain minimum essential coverage under the Act include (1) a member of a religious sect that is recognized as conscientiously opposed to accepting any insurance benefits, (2) a member of a recognized health care sharing ministry, (3) a member of a federally recognized Indian tribe, (4) an individual who went

without coverage for less than three (3) consecutive months during the year, (5) an individual who is certified by an Affordable Health Care Exchange to have suffered a hardship that makes the individual unable to obtain coverage, (6) an individual who cannot afford coverage because the minimum amount the individual must pay for the premiums is more than eight percent (8%) of the individual's household income, and (7) an individual in a jail, prison, or similar penal institution or correctional facility, and an individual who is not a U.S. citizen, a U.S. national or an alien lawfully present in the U.S.

## **Planning and Guidance for Health Care Coverage Requirement and Penalty in 2014**

Guidance published by the Internal Revenue Service indicates that many individuals in the United States have health coverage today through employment or other health insurance arrangements that will count as minimum essential coverage and will not need to do anything more than continue the coverage that they have.

For individuals who do not have coverage, who anticipate discontinuing the coverage they have currently, or who want to consider whether more affordable options are available, published guidance indicates the Health Insurance Marketplace will open for every state and the District of Columbia in October of 2013.

The Health Insurance Marketplace is intended to help qualified individuals find minimum essential coverage that fits their budget and potentially financial assistance to help with the costs of coverage beginning in 2014.

The Health Insurance Marketplace is intended to also be able to assess whether applicants are eligible for Medicaid or the Children's Health Insurance Program (CHIP). For those who will become eligible for Medicare during 2013, enrolling for Medicare will also ensure that you have minimum essential coverage for 2014.

As indicated above, Internal Revenue Service published guidance states that the open enrollment period to purchase health insurance coverage for 2014 through the Health Insurance Marketplace runs from Oct. 1, 2013, through March 31, 2014.

It also states that if an individual is seeking information about how to obtain health care coverage or financial assistance to purchase health care coverage that the individual should visit the Health and Human Services website, [HealthCare.gov](http://HealthCare.gov).

For individuals seeking an exemption from the requirement to maintain minimum essential health coverage, the Health Insurance Marketplace is supposed to be able to provide certificates of exemption for many of the exemption categories.

The Internet link for the Health Insurance Marketplace is:  
[www.healthcare.gov/marketplace/individual/](http://www.healthcare.gov/marketplace/individual/)

The telephone contact information for the Health Insurance Market Place is 1-800-318-2596.

For additional information and assistance about application and effect of the individual requirement to maintain minimum essential health care coverage or pay a penalty tax in 2014, please contact attorneys at Gable Gotwals, David B. McKinney, Sheppard F. Mike Miers, Jr. and Madeline J. Taylor, 918-595-4800.

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