



IRS and HHS Issue Proposed Regulations on Individual Mandate

On January 30, 2013, the Internal Revenue Service (IRS) and the Department of Health and Human Services (HHS) issued two sets of proposed regulations related to the individual mandate provision of the Patient Protection and Affordable Care Act (PPACA).

The individual mandate requires most individuals to have minimum essential coverage or pay a penalty beginning in 2014. The penalty is now called a "shared responsibility payment." Some individuals may qualify for an exemption so they will not be required to have coverage or pay a penalty.

The proposed regulations confirm the individual mandate requirements and outline the process for requesting an exemption.

What Qualifies as Minimum Essential Coverage

An individual is considered to have minimum essential coverage for any month in which he or she is enrolled in one of the following types of coverage for at least one day:

- An employer group health plan
- An individual health insurance policy
- A government plan such as Medicare, Medicaid, Children's Health Insurance Program (CHIP), TRICARE or veterans coverage
- Student health coverage
- Medicare Advantage plan
- State high risk pool coverage
- Coverage for non-U.S. citizens provided by another country
- Refugee medical assistance provided by the Administration for Children and Families
- Coverage for AmeriCorp volunteers

All these types of plans qualify as minimum essential coverage, and there are no additional coverage requirements that must be met.

How Penalties will be Determined and Paid

The first penalties will be due when individuals file their 2014 tax returns in 2015. A penalty is determined by calculating the greater amount of either a flat dollar amount or set percentage of income. The annual penalties for 2014 through 2016 are noted below. Beginning in 2017, penalties will increase based on the cost of living.

- **2014:** Greater of \$95 per adult and \$47.50 per child under age 18 (maximum of \$285 per family) or 1% of income over the tax-filing threshold

- **2015:** Greater of \$325 per adult and \$162.50 per child under age 18 (maximum of \$975 per family) or 2% over the tax-filing threshold
- **2016:** Greater of \$695 per adult and \$347.50 per child under age 18 (maximum of \$2,085 per family) or 2.5% over the tax-filing threshold

If the penalty applies for less than a full calendar year, the penalty will be 1/12 of the annual amount per month without coverage.

Who is Exempt from Paying the Penalty for Not Having Coverage

Individuals who meet the following criteria will not pay a penalty if they do not have minimum essential coverage:

Individuals who cannot afford coverage. Coverage is considered unaffordable if an individual's contribution toward minimum essential coverage is more than 8% of the annual household income. The monthly contributions are calculated at 1/12 the annual household income to determine if they exceed the 8%.

- Taxpayers with income below the tax filing threshold, which is the amount required to file a federal tax return
- Individuals who qualify for a hardship exemption. This exemption is available to individuals who are not eligible for Medicaid because their state chose not to expand Medicaid, or to individuals who have a personal or financial hardship that keeps them from being able to afford coverage.
- Individuals who have a gap in minimum essential coverage of less than three consecutive months in a calendar year
- Members of religious groups that object to coverage on religious principles
- Members of health care sharing ministries. These are non-profit religious organizations where members share medical costs.
- Individuals in prison
- Individuals who are not U.S. citizens
- Members of Native American tribes

U.S. citizens residing in a foreign country are typically exempt from having minimum essential coverage if they meet certain requirements, such as residing abroad for an entire calendar year. And, residents of U.S. territories (Guam, American Samoa, Northern Mariana Islands, Puerto Rico, and Virgin Islands) are automatically deemed to have minimum essential coverage.

MORE INFORMATION

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