

This is a summary of Affordable Care Act updates and clarifications as they relate to 2015 income tax returns. It is intended to highlight certain points and issues for counselors. As always, refer to IRS forms, instructions, and publications for detailed information. Additional updates or clarifications will be issued as new information develops.

Tax Law Matters

1. **Shared responsibility payments (SRP):** Counselors and/or Reviewers need to make sure all exemptions are explored before SRP is calculated and added to the return. This includes giving the taxpayer an opportunity to review the marketplace-only hardship exemptions. If taxpayer states they have applied or will apply for a hardship exemption, the return can be completed using “PENDING” on F8965, Part I. Remind the taxpayer that the IRS will follow-up on all PENDING exemptions.
2. **All 1095-A forms:**
 - a) The marketplace (Mkt) will determine a taxpayer’s eligibility for PTC. Do not second-guess the Mkt decision. If the taxpayer has received a F1095-A with advance premium tax credit (APTC), eligibility for PTC is presumed and subject only to the calculation on F8962.
 - b) It is not necessary to “audit” the 1095-A forms. IRS recommends to accept F1095-A information as presented unless it is incomplete or erroneous.
 - c) Taxpayers can log into their Mkt account to retrieve their F1095-A including any corrections. If the Mkt enrolled the taxpayer in Medicaid, no F1095-A will be issued; instead taxpayer should receive F1095-B showing their coverage.
 - d) If the F1095-A received is incorrect, it is in taxpayer’s best interest to get a correct F1095-A when they have a Mkt policy and PTC. It may not be easy, but they should follow-up with the Mkt until resolved.
3. **Marketplace policies:** Generally, insurers renew policies automatically. If taxpayers wish to change or end their coverage, they should notify both the Mkt and the insurer. Failure to do so timely can result in an inaccurate F1095-A, unallowable APTC, and loss of premiums.
4. **TY 2014 returns:** Taxpayer may receive an IRS notice regarding ACA for 2014. Read the notice carefully and review the 2014 return to determine whether an amended return is needed. This would be the case where taxpayer paid SRP but did not have to because they were eligible for an exemption.

Form 8965 - Exemptions

1. **Form 1095-C:** Employers offers of coverage may be reported on F1095-C, if any. Please note that the cost amount shown is for the employee-only coverage. The cost

for family coverage is not shown. If needed for an exemption determination, the employee must provide the offer cost of family coverage (and may need to contact their employer to get it).

2. **Separate offers of coverage:** Employers in some states may offer stand-alone policies for the spouse or dependent(s). If testing the employer offer(s) for affordability (type A or G), add the offer costs for the policies needed to cover all persons shown on the return that are eligible for coverage and test the total cost.

Example: employer offers employee-only coverage, family coverage that would cover the employee and dependent children, and a separate policy that would cover the spouse. The employee always uses the self-only offer for the affordability test. To test for the affordability of the family offers, take the cost for the family coverage and add the cost for the spouse. Compare the total to the affordability threshold.

3. **No Employer Offer:** One or more persons shown on the return may not be eligible for an employer offer, even though there is an offer of family coverage by one or more employers. For example, a child over the age of 26 that is claimed by his/her parents may not be eligible under the taxpayer's employer offer of family coverage. In this case, the person(s) not eligible for an employer offer **cannot** use the employer offer affordability exemption but **can** use the marketplace coverage affordability (MCA) exemption (type A) when no other exemption applies. In completing MCA Wkt, line 1, combine all persons who were not eligible for employer coverage.

4. **Marketplace coverage affordability exemption:**

- a) Eligibility for government-sponsored coverage (e.g. Medicaid) may affect the result of the MCA test and avoid SRP. It does not matter whether taxpayer actually applied for the government-sponsored coverage.
- b) If a person shown on the return is eligible for coverage outside the individual market, they are not eligible for PTC. Those persons would not be included in the line 10 second-lowest cost silver plan (SLCSP) quote on MCA Wkt.
- c) For all persons, if household modified adjusted gross income (MAGI) is less than 138% of the federal poverty level (FPL) (100% for a Medicaid nonexpansion state), it is safe to assume that they were eligible for Medicaid and not eligible for PTC. The SLCSP on MCA Wkt line 10 would be zero.
- d) Your state/county may have higher income thresholds for Medicaid/CHIP coverage in which case no PTC would be allowed for the individual on the MCA Wkt. As shown on the attached chart*, the income threshold could be over 300% of FPL. Counselors are **not** expected to be Medicaid experts – use the chart*

information solely for the MCA exemption (MCA Wkt, line 10). For information on less traditional family arrangements (e.g. grandparents raising grandchild) and more details, go to Medicaid.gov and search your state/county. **Note:** do not use the chart for actual the PTC calculation on F8962 – leave that determination to the Mkt.

- e) Additionally, if there were some months of little or no income, individuals may have been eligible for Medicaid (even though their full-year income is over the threshold on the attached chart*). Taxpayer will need to state whether they would have been eligible for Medicaid, and may need to contact their Medicaid office to make this statement.
- f) If circumstances changed during the year, you'll need to complete more than one MCA Wkt. TaxWise (TW) allows only one MCA Wkt per return. So print the MCA Wkt before re-using it. You may also wish to print the Mkt quotes used to facilitate quality review.

* The chart generally scales the percentages down by a 5% disregard – see footnote 1. So 133% on the chart is really 138%.

- 5. **Marketplace look-up tool:** When looking up the lowest-cost bronze plan (LCBP) or the SL CSP for the MCA exemption, the income level is not relevant. The federal Mkt tool does not ask for the income level and only asks whether the individual was eligible for employer or other coverage. State Mkts may function differently. If asked for an income level, use an amount large enough (\$100,000 or more) so that the results are not impacted by PTC or Medicaid/CHIP eligibility.
- 6. **Nonexpansion states - Hint:** If household MAGI is less than 138% of the federal poverty line (FPL), a type G exemption can be claimed for each person that lived in a nonexpansion state at any time during the year. MAGI for this purpose includes the MAGI of dependents who need to file a return and untaxed social security. Household MAGI can be found on TW MCA Wkt line 2 and already includes dependents' MAGI entered on 1040 ACA Wkt. Line 3 on 1040 ACA Wkt shows the untaxed social security shown on the return **and** reminds the preparer to add a dependent's untaxed social security income, if any. The percentage of FPL is shown on line 6. **Note:** do not use F8962 for this purpose as activating F8962 with any entry can cause an efile reject if the incomplete form is left in the return.
- 7. **When to claim type H exemption:** Use type H when the box on 1040 line 61 cannot be checked because someone on the return does not have coverage for each month for which they are required to have coverage. This can happen because this individual or

another individual on the return does not have coverage and is either claiming a different exemption or paying SRP.

Claim type H exemption on F8965, Part III, for the months prior to birth or adoption or after death. If the person claiming type H did not have coverage for the month of birth, adoption or death, also claim type H for that month – no SRP ever applies to that month. Remember that one day of coverage means full coverage for the month.

8. **SRP:** A taxpayer is responsible for coverage for all persons shown on their return, which includes their spouse and claimed dependents. Taxpayer is not required to claim a dependent if they wish not to. If a taxpayer does not claim an individual that could be their dependent, the taxpayer can generally not claim any benefit with respect to that unclaimed dependent. Notably, though, the taxpayer can still claim the individual as their qualifying child for earned income credit purposes, if they otherwise qualify.

Form 8962 – Premium Tax Credit

1. **FPL over 400%:** When MAGI as shown on F8962 is over 400% of FPL, **all** the APTC must be repaid. In this case, there is no repayment cap. Follow the instruction in the middle of the TW form where headed “Annual Calculation.” Since all APTC must be repaid, it is not necessary to enter the monthly amounts (even if they differ). Simple enter the full amount of APTC shown on F1095-A on line 11 in column F. ***Do not enter any amounts in columns A or B.***
2. **FPL over 400% and MFJ:** Taxpayers may wish to consider whether filing MFS might be more advantageous. For ACA purposes, no PTC is allowed but the repayment cap applies. If the Mkt policy covers individuals that are not on the same return, this would be a shared policy and out of scope. Of course, the overall benefit needs to be determined as many tax benefits do not apply when filing MFS.
3. **FPL below 100%:** There are two limited exceptions which allow a taxpayer whose income is below 100% of FPL to claim PTC. First, the Mkt estimated that the taxpayer would be eligible for PTC by granting APTC. Second, if the taxpayer is ineligible for Medicaid because of their immigration status. In either case, mark the Yes bubble on TW 8962 line 6 and complete F8962. If neither exception applies, do not complete F8962 as it is not needed. Be sure to delete the form if not needed.
4. **MFS filing status:** When a taxpayer has received APTC and is filing MFS, it is first necessary to determine whether taxpayer qualifies for relief as an abused or abandoned spouse. If they do, check the box at the top of F8962 and complete the rest of the form.

If taxpayer does not qualify for relief, follow the instruction at the top of the form to enter the APTC in column F only – TW will apply the repayment cap properly.

5. **Eligibility for other coverage:** Even though a taxpayer meets the criteria for government coverage, e.g. age 65 for Medicare, they may not apply timely. When the government coverage becomes effective, it may be granted retroactively, e.g. Medicaid. Generally, taxpayers have three months to complete the enrollment process during which they remain eligible for PTC (if otherwise eligible). Beginning with the first full month of government-sponsored coverage or the fourth month after taxpayer has satisfied the criteria for coverage, taxpayer is no long eligible for PTC and APTC must be repaid.

Looking Forward

Taxpayers that purchase policies through the Mkt and receive APTC are well served to continually update their data with the Mkt.