

ACA Updates for the 2017 Tax Season

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- Premium tax credit reconciliation
 - Diagnosing a large repayment
 - Determining/resolving overlapping coverage
 - Common PTC errors
- Exemptions/SRP
 - To pay or not to pay

PTC – Diagnosing a Large Repayment

Consider: Is the 1095-A correct?

| | | | |
|--|---|--|---|
| Form 1095-A | Health Insurance Marketplace Statement | <input type="checkbox"/> VOID | OMB No. 1545-2232 |
| Department of the Treasury Internal Revenue Service | ▶ Information about Form 1095-A and its separate instructions is at www.irs.gov/form1095a . | <input type="checkbox"/> CORRECTED | 2015 |
| Part I Recipient Information | | | |
| 1 Marketplace identifier | 2 Marketplace-assigned policy number | 3 Policy issuer's name | |
| Part II Covered Individuals | | | |
| Part III Coverage Information | | | |
| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
| 21 January | This includes the actual premium paid plus the APTC (minus certain "extra" benefits, such as adult dental) | This is the benchmark plan that helps establish the PTC amount. It may be incorrect if: (1) no APTC was paid, or (2) a change in circumstance was not reported. | Advance payment of PTC |
| 22 February | | | |

What if the 1095-A is wrong?

- The taxpayer should call the Marketplace for an amended form
- Requests for amended forms don't always require filing delays
 - If an error doesn't affect the PTC calculation (e.g., incorrect address, social security number or birth date), seek a correction, but the consumer should file anyway. Don't wait.
 - If an error does affect the PTC calculation, get corrected information before filing. The consumer may be able to get the information over the phone.
 - Even the simplest corrections can take 3-4 weeks of processing because of batch mailing. (Third/next batch is end of March.)

Note: An incorrect second lowest cost silver plan (SLCSP) will not be amended. If the SLCSP is wrong, use the look-up tool to find the correct one to use on Form 8962 (FFM tool: www.healthcare.gov/tax-tool/)

Consider: Are the questions answered correctly in the software?

Are you required to repay all of the Excess APTC Received?

Yes

No

- This question is really asking: Is the taxpayer liable for unlimited APTC repayment?
- Answer NO in most cases.
- Only answer YES if the tax return:
 - Shows income over 400% FPL; or
 - Includes an undocumented immigrant who received APTC; or
 - Has a person who was eligible for the Trade Adjustment Assistance Health Care Tax Credit (HCTC)

| REPAYMENT LIMITS ON APTC (TY2016) | | |
|-----------------------------------|------------------|-----------------|
| Income (% FPL) | SINGLE taxpayers | OTHER taxpayers |
| Under 200% | \$300 | \$600 |
| 200% – 300% | \$750 | \$1,500 |
| 300% – 400% | \$1,275 | \$2,550 |
| 400% & above | None | None |

Consider: Are the questions answered correctly in the software?

Is your household income below 100% of the Federal poverty line, and do you meet all of the requirements under either "Estimated household income at least 100% of the Federal poverty line" or "Alien lawfully present in the United States"?

- Yes
- No

(This question appears only if taxpayer's income is under 100% FPL.)

Answer YES in most cases. Answer YES if:

1. The marketplace awarded APTC; or
2. The person is lawfully present but ineligible for Medicaid

Only answer NO if:

1. Income is below 100% FPL, no APTC was received, and #2 from above does not apply

Note: TaxSlayer will default select NO for this question.

Forms 1095-A, B, and C

Form 1095-A

Form 1095-A

- Issued by the Marketplace to people who enrolled in Marketplace coverage.
- Necessary to prepare Form 8962, which is required for people who received Advance Premium Tax Credits
- Corrections? Call the Marketplace that issued the form

Form 1095-B

Form 1095-B *Due March 2

- Issued by Medicaid, Medicare, insurers, and others who offer coverage.
- Individuals with coverage should receive this form.
- Useful in determining the months a person had coverage.

Form 1095-C

Form 1095-C *Due March 2

- Issued only by large employers (employers with 50 or more full-time EEs)
- Useful in determining the months a person had coverage or an offer of coverage and the cost of the offer of coverage. (May be helpful to calculate the affordability exemption.)
- Serves a dual purpose in (1) confirming that a taxpayer had coverage and (2) helping IRS determine whether an employer owes a shared responsibility payment for failure to offer affordable coverage.

Overlapping Coverage

In general, to be eligible for PTC, the taxpayer must not be eligible for (or enrolled in) other minimum essential coverage (MEC).

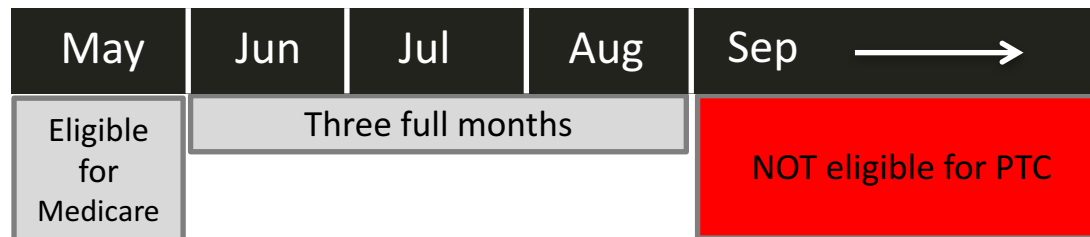
- **Many exceptions!**
 - **For any coverage conflict:**
 - People who are eligible for PTC on the first day of the month are considered eligible for the full month (even if they become eligible for other coverage later that month, for instance.)
 - **If a person is enrolled in APTC but later determined eligible Medicaid:**
 - The person is generally eligible for PTC for the entire calendar year even if also enrolled in Medicaid for some of those months.

Overlapping Coverage

More exceptions!

- **Eligibility for Medicare:** A person loses eligibility for PTC when they become Medicare-eligible, even if they fail to enroll in Medicare. But the loss of eligibility doesn't occur until *the first day of the fourth full month* after the person became eligible for Medicare.

Example: Freddie is enrolled in Marketplace coverage with APTC. His 65th birthday is May 17 and he is eligible to enroll in Medicare.



If he continues in the marketplace with APTC all year:

- He'll owe back APTC for Sept–Dec.
- And when he enrolls in Medicare Part B, he'll pay a higher premium.

**Equitable relief available until September 30, 2017 for people paying Part B penalty.

<https://www.cms.gov/Medicare/Eligibility-and-Enrollment/Medicare-and-the-Marketplace/Downloads/Limited-Equitable-Relief-Fact-Sheet.pdf>

Overlapping Coverage

More exceptions!

- **Eligibility for Employer-Sponsored Coverage:** In general, a person is not eligible for PTC if they have an affordable, minimum value offer of coverage from an employer. If the employer is large, the coverage offer will be indicated on Form 1095-C. (There is no similar reporting for small employers.)

| | | | |
|--|--|------------------------------------|----------------------------------|
| Form 1095-C Department of the Treasury Internal Revenue Service | Employer-Provided Health Insurance Offer and Coverage ▶ Do not attach to your tax return. Keep for your records. ▶ Information about Form 1095-C and its separate instructions is at www.irs.gov/form1095c | <input type="checkbox"/> VOID | OMB No. 1545-2251 2016 |
| | | <input type="checkbox"/> CORRECTED | |

| Part II Employee Offer of Coverage | Plan Start Month (Enter 2-digit number): | | | | | | | | | | | | |
|---|--|-----|-----|-----|-----|-----|------|------|-----|------|-----|-----|-----|
| | All 12 Months | Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec |
| 14 Offer of Coverage (enter required code) | | | | | | | | | | | | | |
| 15 Employee Required Contribution (see instructions) | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| 16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable) | | | | | | | | | | | | | |

- It's an affordable offer if: Line 14 says 1A
- Or Line 14 says 1B, 1C, 1D, or 1E and the cost on line 15 is less 9.66% of income
- This only tells you the cost of self-only coverage.

More exceptions!

- **SAFE HARBOR:** If the taxpayer informed the marketplace of the cost of employer-sponsored coverage and they awarded APTC anyway, the taxpayer can claim PTC.
- **Ask:** Did you provide accurate information about the cost of employer-sponsored coverage? If so, and the person received APTC, disregard the offer of coverage – they are eligible for PTC (if all other requirements are met).
- **NEW!** If the enrollee attempts to terminate APTC because of eligibility for other MEC, but the marketplace cannot discontinue APTC for the first calendar month after the enrollee notification, the enrollee is considered eligible for other MEC no earlier than the first day of the second calendar month. 1.36B-2(c)(4)(ii)

Example 1: Overlapping Coverage

- Sammie is offered health insurance at work.
- She reports the cost of coverage and the marketplace determined it was unaffordable.
- Sammie enrolls in marketplace coverage and receives APTC.
- At tax filing, she receives a Form 1095-C indicating she had affordable coverage.



Is Sammie required to repay her APTC?

- No, Sammie is protected by the safe harbor.

Example 2: Overlapping Coverage

- Sammie is auto-renewed. She doesn't report her employer-sponsored coverage at all.
- Form 1095-C indicates affordable coverage.

Is Sammie required to repay her APTC?

- Yes, the safe harbor does NOT apply because Sammie didn't accurately report the cost of employer-sponsored coverage.



Example 3: Overlapping Coverage

- Sammie is enrolled in Marketplace coverage starting January 1.
- She becomes eligible for employer-sponsored insurance beginning May 1.
- She calls the marketplace on April 23 to notify them of the change, but the APTC isn't terminated until May 5. (The marketplace allows insurers to take up to two weeks to terminate coverage.)



Is Sammie required to repay her APTC for May?

- No, under the new rule Sammie is treated as eligible for other MEC no earlier than the first day of the second calendar month after the first month in which she may enroll in other MEC. i.e., she gets an extra month of PTC eligibility.

Issue: APTC is Disallowed Due to Overlapping Coverage

Form 1095-A

Part III Coverage Information

| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
|-------------|--------------------------------|---|--|
| 21 January | \$300 | \$300 0 | \$200 |
| 22 February | \$300 | \$300 0 | \$200 |
| 23 March | \$300 | \$300 0 | \$200 |
| 24 April | \$300 | \$300 0 | \$200 |
| 25 May | \$300 | \$300 0 | \$200 |

- If Form 1095-A reflects an APTC that must be repaid, zero-out the SLCSP for the affected person.
- Why? The Form 8962 Instructions say to look up the SLCSP if there is an unreported change in circumstances. When you do, and report the availability of other MEC, the SLCSP will be zero for that person.

Issue: Multiple Forms 1095-A

- Many people have multiple 1095-As.
- Sometimes it's because of a change in plan selection. But other changes, like a change in income, have also triggered a new "policy" in the enrollment system in the past.

Form 1095-A

Part III Coverage Information

| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
|--------------|----------------------------------|--|--|
| 21 January | | | |
| 22 February | Column A | Column B | Column C |
| 23 March | | | |
| 24 April | | | |
| 25 May | Add the premiums together | <ul style="list-style-type: none"> ▪ If <u>same state</u>, SLCSP should be the same. ▪ If <u>different states</u>, add them. ▪ Or use tool. | Add the APTC together |
| 26 June | | | |
| 27 July | | | |
| 28 August | | | |
| 29 September | | | |
| 30 October | | | |

Example: Multiple Forms 1095-A

- Felicia and Murphy claim their 27-year-old daughter, Gwen, as a dependent. They enroll together as a household in the same plan but cannot be in the same “policy” (because Gwen is not a minor child and the plan won’t allow it.) They get separate Forms 1095-A.

Form 1095-A for Felicia and Murphy

| Part III Coverage Information | | | |
|--------------------------------------|--------------------------------|---|--|
| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
| 33 Annual Totals | \$10,800 | \$10,800 | \$4,800 |

Form 1095-A for Gwen

| Part III Coverage Information | | | |
|--------------------------------------|--------------------------------|---|--|
| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
| 33 Annual Totals | \$3,600 | \$10,800 | \$1,200 |

Do all Forms 1095-A include coverage for January through December, with no changes in monthly amounts?

Yes No

Please enter your annual Advance Premium Tax Credit information

Premium Amount (Form 1095-A, line 33A)

\$ 14,400 \$10,800 + \$3,600

Annual Premium Amount of SLCSP (Form 1095-A, line 33B)

\$ 10,800

Annual Advance Payment of PTC (Form 1095-A, line 33C)

\$ 6,000 \$4,800 + \$1,200

Issue: Failure to Pay Premiums

Form 1095-A

Part III Coverage Information

| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
|-------------|--------------------------------|---|--|
| 21 January | \$300 | \$300 | \$200 |
| 22 February | \$300 | \$300 | \$200 |
| 23 March | \$300 | \$300 | \$200 |
| 24 April | \$300 | \$300 | \$200 |
| 25 May | | \$300 | \$200 |

- There is a 3-month grace period for nonpayment. If the taxpayer doesn't catch up on all missed premiums, coverage is terminated retroactively as of the end of the first month of nonpayment.
- Taxpayer will owe back the APTC for that month of nonpayment.
- **OR** the taxpayer can pay the premium for the month prior to the tax deadline.
- If there are multiple months of APTC without a premium in column A, this is an error.

Example: Failure to Pay Premiums

- Greg had an unexpected car repair in April and could not afford to make his \$100 May premium for his marketplace insurance. He never made another payment and his coverage was terminated on July 31, retroactive to May 31.

| Form 1095-A | | | |
|-------------------------------|--------------------------------|---|--|
| Part III Coverage Information | | | |
| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
| 21 January | \$300 | \$300 | \$200 |
| 22 February | \$300 | \$300 | \$200 |
| 23 March | \$300 | \$300 | \$200 |
| 24 April | \$300 | \$300 | \$200 |
| 25 May | | \$300 | \$200 |

- If entered into tax software as-is, the program will trigger a repayment of the \$200 in APTC received in May.
- Alternative to repayment:** Greg can pay his share of the May premium (\$100), request a new 1095-A, and avoid APTC repayment for that month.
- Even though Greg didn't pay his premium for May, he is still considered covered for that month!

Issue: Only Column A of Form 1095-A is Completed

| Form 1095-A | | | |
|-------------------------------|--------------------------------|---|--|
| Part III Coverage Information | | | |
| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
| 21 January | \$300 | \$300 | \$200 |
| 22 February | \$300 | \$300 | \$200 |
| 23 March | \$300 | \$300 | \$200 |
| 24 April | \$300 | | |
| 25 May | \$300 | | |

Warning! If you enter the Form 1095-A exactly as written, no PTC will be awarded.

Instead:

- Determine eligibility for the credit for the months a premium was paid.
- If she is eligible for the PTC, use the Tax Tool to look up the SLCSP for Column B (or call your state marketplace)

Example: Only Column A of Form 1095-A is Completed

- Carolina received APTC for marketplace coverage beginning January 1. At enrollment, she had a data-matching inconsistency on her income. It wasn't resolved in time and she lost her APTC but continued to pay the full premium for two months.
- Even though she didn't receive APTC in April and May, she meets all of the eligibility criteria for PTC.
- In tax software, enter the SLCSP for April and May. (If you're not sure of the SLCSP, look it up.)

| Form 1095-A | | | |
|-------------------------------|--------------------------------|---|--|
| Part III Coverage Information | | | |
| Month | A. Monthly enrollment premiums | B. Monthly second lowest cost silver plan (SLCSP) premium | C. Monthly advance payment of premium tax credit |
| 21 January | \$300 | \$300 | \$200 |
| 22 February | \$300 | \$300 | \$200 |
| 23 March | \$300 | \$300 | \$200 |
| 24 April | \$300 | \$300 | |
| 25 May | \$300 | \$300 | |

- Leave the APTC column BLANK for those months

SRP: To Pay or Not to Pay

ACA Executive Order and Current Tax Filing Season

The IRS is currently reviewing the Jan. 20, 2017, executive order to determine the implications. Taxpayers should continue to file their tax returns as they normally would.

The instruction for individual taxpayers involving the Affordable Care Act has been to indicate on their Form 1040 filing whether they had health insurance, an exemption from coverage or made a shared responsibility payment. In recent years, tax returns silent in that regard were still processed. This year, the IRS put in place system changes that would reject tax returns during processing in instances where the taxpayer didn't provide that information.

The recent executive order directed federal agencies to exercise authority and discretion available to them to reduce potential burden. Consistent with that, the IRS has decided to make changes that would continue to allow electronic and paper returns to be accepted for processing in instances where a taxpayer doesn't indicate their coverage status.

However, legislative provisions of the ACA law are still in force until changed by the Congress, and taxpayers remain required to follow the law and pay what they may owe.

Processing silent returns means that taxpayer returns are not systemically rejected by the IRS at the time of filing, allowing the returns to be processed and minimizing burden on taxpayers, including those expecting a refund. When the IRS has questions about a tax return, taxpayers may receive follow-up questions and correspondence at a future date, after the filing process is completed. This is similar to how we handled this in previous years, and this reflects the normal IRS post-filing compliance procedures that we follow.

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For more information and resources, please visit:

www.healthreformbeyondthebasics.org

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