



Appendix

Affordable Care Act Provisions

AFFORDABLE CARE ACT APPENDIX OUTLINE

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1 INTRODUCTION

The Affordable Care Act (ACA) was enacted in 2010 to improve the quality and affordability of health insurance, reduce the number of uninsured individuals in the United States by expanding public and private insurance coverage, and lower health care costs for individuals and the government. For example, the ACA includes provisions to protect people with pre-existing conditions and to provide family coverage that includes children up to age 26.¹

To assist in achieving its goals, the ACA includes a number of tax provisions—impacting both individuals and employers. The ACA tax provisions can be viewed as a set of “carrots” and “sticks.” The “carrots” provide tax credits to encourage eligible individuals and employers to take certain actions. In contrast, “sticks” are penalties that can apply if an individual or employer does not take a particular action, such as certain employers offering health insurance to their full-time employees.

Legislation enacted in 2017 and 2018 temporarily suspended some of the special ACA taxes. The Tax Cuts and Jobs Act (TCJA) of 2017 reduced the individual penalty to zero starting in 2019.

For years 2014 through 2018, the ACA requires individuals to report whether they have health insurance that meets the definition of “minimum essential coverage.” If not, these individuals may be required to make an individual shared responsibility payment when they file their tax return.

In addition, taxpayers seeking health insurance through the Health Insurance Marketplace might be eligible for a premium tax credit to reduce the health insurance cost. High-income taxpayers must determine if they are subject to additional Medicare taxes on their net investment income and their wages and self-employment income.

Employers face exposure to an employer shared responsibility payment, while small employers might qualify for a health insurance credit. Due to varying definitions and goals of the ACA, many employers are ineligible for the tax credit and have no exposure to the shared responsibility payment. Each of these provisions is discussed in this appendix to your book.

2 INDIVIDUAL SHARED RESPONSIBILITY PAYMENT

The ACA’s “individual mandate” was deemed a “tax” by the U.S. Supreme Court.² It requires a taxpayer and members of the taxpayer’s family to have minimum essential coverage (MEC) or to meet an exemption from MEC. Individuals not covered by an employer-sponsored health plan, Medicare, Medicaid, or other public insurance program must secure a private insurance policy or pay a penalty for each month they do not have health coverage or meet an exemption. The penalty is called the individual shared responsibility payment (ISRP).³

The TCJA of 2017 retained the ISRP provision (§ 5000A) but reduced the penalty to be zero starting in 2019. Thus, individuals are not required to have health insurance after 2018. Congress kept the ISRP provision in the law because some of the terms used in that provision are relevant to other ACA provisions.

As of June 2018, two states—New Jersey and Vermont—enacted legislation to impose the equivalent of the ISRP at the state level, based on the Federal rule.⁴ The rationale is to help stabilize the health insurance market in the state and support the ACA.

¹U.S. Department of Health and Human Services, Key Features of the Affordable Care Act; www.hhs.gov/healthcare/about-the-aca/index.html.

²*National Federation of Independent Business v. Sebelius*, 132 S.Ct. 2566 (2012).

³§ 5000A.

⁴The “New Jersey Health Insurance Market Preservation Act” (A3380) is effective starting in 2019. Vermont’s individual mandate (via H.696) is effective starting in 2020. Both bills were enacted in May 2018.

As a result, the ISRP is relevant to all individuals for 2018 Federal purposes, and to residents of some states after 2018.

2a Minimum Essential Coverage

MEC is the level of coverage required by the ACA, and it is intended to ensure that the health insurance purchased covers the essential health benefits needed by a family. In general, the ISRP applies in any month that a taxpayer (or a member of the taxpayer's household) does not have MEC. For ACA purposes, the household (the "shared responsibility family") includes the taxpayer, spouse (if filing jointly), and any individual the taxpayer can treat as a dependent.⁵

In general, MEC includes:

- Most types of employer-sponsored coverage or coverage purchased directly from health insurers (e.g., Blue Cross Blue Shield, Humana, Aetna, etc.).
- Most coverage through government-sponsored programs (including Medicaid, Medicare, and certain benefits for veterans and their families).
- Coverage under health plans offered through the Health Insurance Marketplace (also called "exchanges") operated by a state or the Federal government.
- Other health coverage designated by the Department of Health and Human Services as MEC.

Health insurance options available on the Federal health care exchange are classified as Bronze (minimum coverage), Silver, Gold, and Platinum (the most comprehensive coverage). The cost of coverage increases from Bronze to Platinum plans. In addition, health insurance costs more for older individuals. Insurance costs can also vary based on geographic area.

If all members of the "shared responsibility family" had coverage for all months of the year, then compliance is easy. The taxpayer merely checks the appropriate box on Form 1040, Form 1040A, or Form 1040EZ; nothing more is needed. See, for example, line 61 on the 2017 Form 1040:

61	Health care: individual responsibility (see instructions)	Full-year coverage	<input type="checkbox"/>	61		
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If all members of the family did not have coverage for all months of the year, then the taxpayer must determine whether any exemptions apply. If no exemptions apply, the individual shared responsibility payment must be computed and paid. If owed, the payment is reported on the appropriate line of Form 1040, Form 1040A, or Form 1040EZ. Thus, the payment is made along with one's Federal income tax.

MEC Exemptions

Some taxpayers are exempt from carrying MEC. Exemptions from MEC (and therefore, from the ISRP) are reported to the IRS on Form 8965, Health Coverage Exemptions. Two broad classes of exemptions are available: (1) those granted by the Health Insurance Marketplace that covers the taxpayer's state (or if none, the Federal Marketplace), and (2) exemptions claimed by the taxpayer when filing Form 8965.

⁵Reg. § 1.5000A-1(d)(4).

Exemptions granted by an exchange include religious conscience exemption, general hardship (as defined by the Department of Health and Human Services), and unaffordability based on projected income. When an exchange grants an exemption, the taxpayer is provided an Exemption Certificate Number (ECN) that is used when the Form 8965 is filed.

Exemptions claimed by the taxpayer when filing Form 8965 include a short coverage gap (less than three consecutive months during the year), undocumented immigrants, individuals for whom the lowest cost plan option exceeds a specified percentage of household income (8.16 percent in 2017; 8.05 percent in 2018), or income below the filing threshold (see Exhibit 1).⁶ Household income for ISRP purposes is adjusted gross income increased by any tax-exempt interest and tax-exempt foreign income.⁷

EXAMPLE

1

Larry had health coverage from his employer for January through July 2018. He quit his job at the end of July and did not have coverage for the balance of the year. Larry does not meet the short coverage gap exemption because his period without coverage is not less than three consecutive months. Unless Larry meets a different exemption, he will owe an individual shared responsibility payment for August through December 2018.⁸

The IRS provides an online interview tool that can be used to determine whether an exemption is available: www.irs.gov/uac/am-i-eligible-for-a-coverage-exemption-or-required-to-make-an-individual-shared-responsibility-payment.

EXHIBIT 1		Filing Requirements for Most Taxpayers	
Filing Status		2017 Gross Income	2018 Gross Income
Single			
Under 65		\$10,400	\$12,000
65 or older		11,950	13,600
Married, filing jointly			
Both spouses under 65		\$20,800	\$24,000
One spouse 65 or older		22,050	25,300
Both spouses 65 or older		23,300	26,600
Married, filing separately			
All		\$ 4,050	\$ *
Head of household			
Under 65		\$13,400	\$18,000
65 or older		14,950	19,600
Qualifying widow(er)			
Under 65		\$16,750	\$24,000
65 or older		18,000	25,300
*Any amount of gross income will require a return to be filed.			

⁶Rev.Proc. 2016–24, 2016–18 I.R.B. 677.

⁷§ 5000A(c)(4)(B); household income is increased by the income of any dependents in the household who must file a tax return. The definition

of household income differs for purposes of the Premium Tax Credit (discussed later).

⁸Reg. § 1.5000A–3(j).

A summary of the various exemptions available appears in Exhibit 2.

EXHIBIT 2

MEC Exemptions

Types of Coverage Exemptions

This chart shows all of the coverage exemptions available for 2017, including information about where each can be obtained and the code that is to be used on Form 8965 when you claim the exemption. If your coverage exemption was granted by the Marketplace, you will need to enter the Exemption Certificate Number (ECN) provided by the Marketplace (see the instructions for [Part I](#)). For additional detail about the eligibility rules for the coverage exemptions that are claimed on the tax return, see the instructions for Parts II and III, later.

Coverage Exemption	Granted by Marketplace	Claimed on Tax Return	Code for Exemption
Income below the filing threshold —Your gross income or your household income was less than your applicable minimum threshold for filing a tax return.		✓	No Code See Part II
Coverage considered unaffordable —The required contribution is more than 8.16% of your household income.		✓	A
Short coverage gap —You went without coverage for less than 3 consecutive months during the year.		✓	B
Citizens living abroad and certain noncitizens —You were: <ul style="list-style-type: none"> • A U.S. citizen or a resident alien who was physically present in a foreign country or countries for at least 330 full days during any period of 12 consecutive months; • A U.S. citizen who was a bona fide resident of a foreign country or countries for an uninterrupted period that includes the entire tax year; • A bona fide resident of a U.S. territory; • A resident alien who was a citizen or national of a foreign country with which the U.S. has an income tax treaty with a nondiscrimination clause, and you were a bona fide resident of a foreign country for an uninterrupted period that includes the entire tax year; • Not lawfully present in the U.S. and not a U.S. citizen or U.S. national. For more information about who is treated as lawfully present in the U.S. for purposes of this coverage exemption, visit www.HealthCare.gov; or • A nonresident alien, including (1) a dual-status alien in the first year of U.S. residency and (2) a nonresident alien or dual-status alien who elects to file a joint return with a U.S. spouse. This exemption doesn't apply if you are a nonresident alien for 2017, but met certain presence requirements and elected to be treated as a resident alien. For more information, see Pub. 519. 		✓	C
Members of a health care sharing ministry —You were a member of a health care sharing ministry.		✓	D
Members of Indian tribes —You were either a member of a Federally-recognized Indian tribe, including an Alaska Native Claims Settlement Act (ANCSA) Corporation Shareholder (regional or village), or you were otherwise eligible for services through an Indian health care provider or the Indian Health Service.	*	✓	E
Incarceration —You were in a jail, prison, or similar penal institution or correctional facility after the disposition of charges.		✓	F
Aggregate self-only coverage considered unaffordable —Two or more family members' aggregate cost of self-only employer-sponsored coverage was more than 8.16% of household income, as was the cost of any available employer-sponsored coverage for the entire family.		✓	G
Resident of a state that didn't expand Medicaid —Your household income was below 138% of the federal poverty line for your family size and at any time in 2017 you resided in a state that didn't participate in the Medicaid expansion under the Affordable Care Act.		✓	G
Member of tax household born or adopted during the year —The months before and including the month that an individual was added to your tax household by birth or adoption. You should claim this exemption only if you also are claiming another exemption on your Form 8965.		✓	H
Member of tax household died during the year —The months after the month that a member of your tax household died during the year. You should claim this exemption only if you also are claiming another exemption on your Form 8965.		✓	H
Members of certain religious sects —The Marketplace determined that you are a member of a recognized religious sect.	✓		Need ECN See Part I
Ineligible for Medicaid based on a state's decision not to expand Medicaid coverage —The Marketplace found that you would have been determined ineligible for Medicaid solely because the state in which you resided didn't participate in Medicaid expansion under the Affordable Care Act.	✓		Need ECN See Part I
General hardship —The Marketplace determined that you experienced a hardship that prevented you from obtaining coverage under a qualified health plan.	✓		Need ECN See Part I
Coverage considered unaffordable based on projected income —The Marketplace determined that you didn't have access to coverage that is considered affordable based on your projected household income.	✓		Need ECN See Part I
Certain Medicaid programs that are not minimum essential coverage —The Marketplace determined that you were (1) enrolled in Medicaid coverage provided to a pregnant woman that isn't recognized as minimum essential coverage; (2) enrolled in Medicaid coverage provided to a medically needy individual (also known as Spend-down Medicaid or Share-of-Cost Medicaid) that isn't recognized as minimum essential coverage; or (3) enrolled in Medicaid coverage provided to a medically needy individual and were without coverage for other months because the spend-down had not been met.	✓		Need ECN See Part I

*The coverage exemption for members of Indian tribes is no longer granted by the Marketplace, except in Connecticut. See the instructions for Part I, later, to claim the exemption.

Source: IRS Form 8965 instructions.

EXAMPLE**2**

Luke Bishop is single with no dependents. In 2018, Luke had household income for ISRP purposes of \$60,000. During 2018, Luke's employer offered him the option of purchasing self-only coverage at a cost of \$5,000. Luke declined the coverage as he felt he could not afford it. Further, he did not purchase health insurance from any other source (including the Health Insurance Marketplace).

Luke can claim an affordability exemption from carrying MEC because the cost of the insurance offered by his employer (\$5,000) is more than 8.05% of his household income (\$4,830; $\$60,000 \times 8.05\%$). Luke is not required to determine if any other coverage would have been affordable (including Marketplace coverage).

Luke completes Form 8965 (Health Coverage Exemptions), using Part III to document that the insurance coverage is considered unaffordable (Exemption Type: A; see Exhibit 2). Luke's completed Form 8965 appears on p. 7 (the 2017 form is used because the 2018 form was not available when this appendix was prepared). As a result, Luke does not owe an ISRP in 2018 (but he also had no health insurance).

If an individual did not have an offer of health coverage from an employer and does not obtain coverage elsewhere, additional work is needed to determine if the affordability exemption is met. The individual must determine the cost of the lowest cost Bronze plan that could have been obtained on the exchange. For 2018, if the cost of that plan exceeds 8.05 percent of household income, the affordability exemption is met. This information can be obtained from the individual's state exchange website or Federal exchange if there is not a state exchange.

EXAMPLE**3**

Karen, age 51, is single and self-employed. She did not purchase insurance for any month of 2018. Her household income for 2018 is \$41,000. Using the exchange website for her state, she learns that the lowest cost Bronze plan would have cost her \$378 per month (\$4,536 for the year). Because the cost exceeds 8.05% of her household income ($\$41,000 \times 8.05\% = \$3,301$), she meets the affordability exemption for 2018 and does not owe an individual shared responsibility payment. Karen must attach Form 8965 to her Form 1040.

If Karen were instead age 41, her lowest cost Bronze plan would have cost \$264 per month (\$3,168 for the year). In this scenario, Karen would not meet the affordability exemption because this cost is less than 8.05% of her household income. Unless Karen meets a different exemption, she will need to compute an individual shared responsibility payment for 2018.

2b Individual Shared Responsibility Payment Computation

Individuals without minimum essential coverage or an MEC exemption in 2018 will pay an ISRP of the greater of a flat dollar amount of \$695 per adult and \$347.50 per child up to a maximum of \$2,085 per family (three times the flat dollar amount), or 2.5 percent of household income in excess of the filing threshold (see Exhibit 3 on p. 8).⁹ The ISRP cannot be greater than the national average cost of a Bronze plan premium (\$272 per month per individual for 2017).¹⁰ For a family, this monthly maximum is capped at five individuals (\$1,360 per shared responsibility family of five or more for 2017).

⁹§ 5000A(c)(2) and (3); after 2016, the \$695 flat amount is adjusted annually for inflation.

¹⁰Rev.Proc. 2017-48, 2017-36 I.R.B. 229. As of June 1, 2018, the IRS had not yet published the 2018 amount.

Form **8965**
 Department of the Treasury
 Internal Revenue Service

Health Coverage Exemptions

► Attach to Form 1040, Form 1040A, or Form 1040EZ.
 ► Go to www.irs.gov/Form8965 for instructions and the latest information.

OMB No. 1545-0074

2017

Attachment Sequence No. **75**

Name as shown on return

Luke Bishop [Example 2]

Your social security number

123-45-6789

Complete this form if you have a Marketplace-granted coverage exemption or you are claiming a coverage exemption on your return.

Part I **Marketplace-Granted Coverage Exemptions for Individuals.** If you and/or a member of your tax household have an exemption granted by the Marketplace, complete Part I.

	(a) Name of Individual	(b) SSN	(c) Exemption Certificate Number
1			
2			
3			
4			
5			
6			

Part II **Coverage Exemptions Claimed on Your Return for Your Household**

7 If you are claiming a coverage exemption because your household income or gross income is below the filing threshold, check here. ☐

Part III **Coverage Exemptions Claimed on Your Return for Individuals.** If you and/or a member of your tax household are claiming an exemption on your return, complete Part III.

	(a) Name of Individual	(b) SSN	(c) Exemption Type	(d) Full Year	(e) Jan	(f) Feb	(g) Mar	(h) Apr	(i) May	(j) June	(k) July	(l) Aug	(m) Sept	(n) Oct	(o) Nov	(p) Dec
8	Luke Bishop	123-45-6789	A	X												
9																
10																
11																
12																
13																

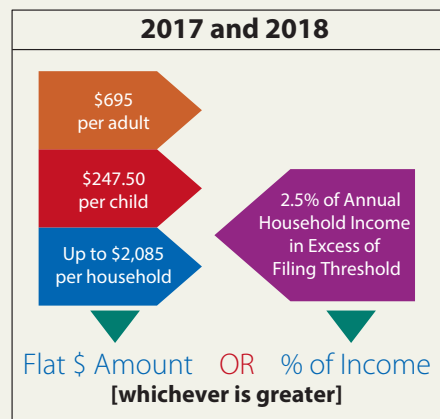
For Privacy Act and Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 37787G

Form **8965** (2017)

EXHIBIT 3

Individual Shared Responsibility Payment



Note: The ISRP dollar amounts are subject to an annual inflation adjustment; there was not sufficient inflation to generate an adjustment in 2017 or 2018.

ISRP Calculation

EXAMPLE

4

Continue with the facts of Example 2, except that in 2018, Luke's household income for ISRP purposes is \$100,000.

Now, Luke cannot claim an MEC affordability exemption. Luke's affordability threshold is \$8,050 (8.05% of \$100,000), and he was provided the option of purchasing self-only coverage from his employer at a cost of \$5,000. As a result, unless some other MEC exemption applies, Luke is subject to an ISRP in 2018.

Assuming no other MEC exemption applies, Luke's ISRP is \$2,200, the greater of:

\$695 (the flat dollar amount for 2018), or
\$2,200 [2.5% of household income in excess of his filing threshold (\$12,000); (\$100,000 – \$12,000) × 2.5%].

Because \$2,200 does not exceed the maximum penalty amount, Luke owes an ISRP of \$2,200. Luke reports this amount on the appropriate line of the form he files (line 61 of the 2017 Form 1040).

61 Health care: individual responsibility (see instructions) Full-year coverage ☐ 61 2,200

Note: In 2017, the maximum penalty amount was \$3,264 (\$272 per month for a Bronze plan). As of June 1, 2018, the 2018 maximum penalty amount had not been released (but will be equal to or higher than the 2017 amount).

EXAMPLE

5

The Simon family (husband John, wife Lisa, and their 5-year-old son, Matthew) has \$50,000 of household income in excess of the filing threshold in 2018. They have no health coverage for any month and do not meet any exemption. Their ISRP is calculated as follows:

Simon Family			2017
2 adults; 1 child	Flat Dollar Amount	John	695.00
		Lisa	695.00
		Matthew	347.50
	Total		<u>\$1,737.50</u>
OR			
Household Income: \$50,000	% of Income	2.5%	<u>\$1,250.00</u>
ISRP (greater of flat dollar amount or % of income)			<u>\$1,737.50</u>

Note: The calculated ISRP is less than the overall limit: the national average cost of a Bronze plan [\$9,792 in 2017 (\$272 × 12 × 3); 2018 limit not yet announced by the IRS].

3 PREMIUM TAX CREDIT

Individuals and families whose household incomes are at least 100 percent but no more than 400 percent of the Federal poverty level (also called the Federal poverty line, or FPL) may be eligible to receive a Federal subsidy (the premium tax credit, or PTC) if they purchase insurance via the Health Insurance Marketplace (the Marketplace).¹¹

3a Qualifying for the Premium Tax Credit

According to § 36B and its regulations, qualifications for the PTC are:

- Insurance coverage must be purchased through the Health Insurance Marketplace (also referred to as an exchange).
- Household income must be at least 100 percent of the Federal Poverty Line (FPL) and not more than 400 percent of the FPL. The definition of household income for the PTC begins with the ISRP household income definition and adds nontaxable Social Security benefits.¹² For 2018 tax returns, the FPL for claiming a PTC is \$12,060 for a single person, with an additional \$4,180 added to that amount for each person in the household (for 2017 returns, these amounts are \$11,880 and \$4,140, respectively). The Department of Health and Human Services provides these amounts each year.¹³
- Any minimum essential coverage (MEC) offered by the employer must *not* be affordable. For 2018, this means the self-only coverage offered did not cost the employee more than 9.56 percent of household income. For 2017, this percentage was 9.69 percent.¹⁴ If the employer also offered coverage to other family members, they are not eligible for the PTC, if the self-only coverage for the employee is affordable.
- The individual did not obtain employer-provided coverage even if unaffordable.
- The individual is not eligible for government-sponsored coverage, such as Medicare.
- The individual is not a dependent.
- If married, the individual files jointly (unless the abused spouse rule applies).¹⁵

Several elements of PTC eligibility and computation change annually. For example, the FPL amounts change annually, as does the “applicable percentage” and the affordability factor.

The IRS website includes an interactive tool to help determine if individuals are eligible for the PTC. See www.irs.gov/uac/Am-I-Eligible-to-Claim-the-Premium-Tax-Credit.

3b Calculating and Claiming the Premium Tax Credit

The PTC amount is the cost of the *second lowest cost Silver plan* (SLCSP) less the amount the insured is deemed to be able to contribute based on his or her household income.¹⁶ Form 8962 (Premium Tax Credit) is used to claim the credit. To assist in determining what the individual should contribute to health care coverage (using the FPL), the IRS provides a calculation based on the taxpayer’s household income as a percentage of the FPL (called the “applicable figure”). A table in the Form 8962 instructions provides this information (see Exhibit 4).

¹¹§ 36B.

¹²§ 36B(d)(2).

¹³The Federal Poverty Guidelines for the prior year are used; different amounts apply to Alaska and Hawaii. See <https://aspe.hhs.gov/prior-hhs-poverty-guidelines-and-federal-register-references>.

¹⁴Rev.Proc. 2016–24, 2016–18 I.R.B. 677; Rev.Proc. 2017–36, 2017–21 I.R.B. 1251.

¹⁵Reg. § 1.36B–2T(b)(2).

¹⁶§ 36B(b).

EXHIBIT 4

2017 Applicable Figure Table



If the amount on line 5 is less than 133, your applicable figure is 0.0204. If the amount on line 5 is between 300 through 400, your applicable figure is 0.0969.

IF Form 8962, line 5 is . . .	ENTER on Form 8962, line 7 . . .	IF Form 8962, line 5 is . . .	ENTER on Form 8962, line 7 . . .	IF Form 8962, line 5 is . . .	ENTER on Form 8962, line 7 . . .	IF Form 8962, line 5 is . . .	ENTER on Form 8962, line 7 . . .
less than 133	0.0204	175	0.0526	218	0.0707	261	0.0854
133	0.0306	176	0.0530	219	0.0711	262	0.0857
134	0.0312	177	0.0535	220	0.0714	263	0.0859
135	0.0318	178	0.0540	221	0.0718	264	0.0862
136	0.0324	179	0.0544	222	0.0721	265	0.0865
137	0.0330	180	0.0549	223	0.0725	266	0.0868
138	0.0336	181	0.0554	224	0.0728	267	0.0871
139	0.0342	182	0.0558	225	0.0732	268	0.0874
140	0.0348	183	0.0563	226	0.0736	269	0.0877
141	0.0354	184	0.0568	227	0.0739	270	0.0880
142	0.0360	185	0.0573	228	0.0743	271	0.0883
143	0.0366	186	0.0577	229	0.0746	272	0.0886
144	0.0372	187	0.0582	230	0.0750	273	0.0889
145	0.0378	188	0.0587	231	0.0753	274	0.0892
146	0.0384	189	0.0591	232	0.0757	275	0.0895
147	0.0390	190	0.0596	233	0.0760	276	0.0898
148	0.0396	191	0.0601	234	0.0764	277	0.0901
149	0.0402	192	0.0605	235	0.0768	278	0.0904
150	0.0408	193	0.0610	236	0.0771	279	0.0907
151	0.0413	194	0.0615	237	0.0775	280	0.0910
152	0.0417	195	0.0620	238	0.0778	281	0.0913
153	0.0422	196	0.0624	239	0.0782	282	0.0916
154	0.0427	197	0.0629	240	0.0785	283	0.0919
155	0.0432	198	0.0634	241	0.0789	284	0.0922
156	0.0436	199	0.0638	242	0.0793	285	0.0925
157	0.0441	200	0.0643	243	0.0796	286	0.0928
158	0.0446	201	0.0647	244	0.0800	287	0.0931
159	0.0450	202	0.0650	245	0.0803	288	0.0933
160	0.0455	203	0.0654	246	0.0807	289	0.0936
161	0.0460	204	0.0657	247	0.0810	290	0.0939
162	0.0464	205	0.0661	248	0.0814	291	0.0942
163	0.0469	206	0.0664	249	0.0817	292	0.0945
164	0.0474	207	0.0668	250	0.0821	293	0.0948
165	0.0479	208	0.0671	251	0.0824	294	0.0951
166	0.0483	209	0.0675	252	0.0827	295	0.0954
167	0.0488	210	0.0679	253	0.0830	296	0.0957
168	0.0493	211	0.0682	254	0.0833	297	0.0960
169	0.0497	212	0.0686	255	0.0836	298	0.0963
170	0.0502	213	0.0689	256	0.0839	299	0.0966
171	0.0507	214	0.0693	257	0.0842	300 thru 400	0.0969
172	0.0511	215	0.0696	258	0.0845		
173	0.0516	216	0.0700	259	0.0848		
174	0.0521	217	0.0704	260	0.0851		

Line 8a

Multiply line 3 by line 7 and enter the result on line 8a, rounded to the nearest whole dollar amount.

Line 8b

Divide line 8a by 12.0 and enter the result on line 8b, rounded to the nearest whole dollar amount.

Source: IRS Form 8962 instructions.

Individuals can choose to receive their PTC in advance, and the Marketplace will send the money directly to the insurer to reduce the monthly insurance payments. Alternatively, individuals can receive the PTC as a refundable credit when they file their tax return for the year. Most individuals choose to receive their PTC in advance.

In either case, however, taxpayers must complete Form 8962 when their tax return is filed in order to reconcile to the proper PTC amount, based on facts as known at year-end. Taxpayers who claim the PTC cannot use Form 1040EZ (they must use either Form 1040A or Form 1040).

Taxpayers who enrolled in health care coverage via the Marketplace (and thus potentially eligible for the PTC) will receive information necessary to complete Form 8962 by the end of January each year [Form 1095-A (Health Insurance Marketplace Statement)]. Included in this information statement are the actual monthly health insurance premium payments, the monthly second lowest cost Silver plan (SLCSP) premiums for the individual(s), and any PTC received in advance. This information also is reported to the IRS.

Taxpayers who received the credit in advance must compute the credit based on actual income that year and reconcile with the amounts that were subsidized through the Marketplace. They receive a refund (if the advance credit was too low) or owe an additional tax obligation (if the advance credit was too high).¹⁷

Julie Samuels, age 30, meets the PTC eligibility requirements. Her household income for 2017 is \$30,200. Julie purchased a Silver plan from the Health Insurance Marketplace that cost \$348 per month. The cost of her second lowest cost Silver plan (SLCSP; also referred to as the *benchmark plan*) was \$312 per month. Julie claimed \$80 per month as an Advance PTC (\$960 for the year; $\$80 \times 12$).

- Julie's income was 254% of the FPL (\$30,200/\$11,880). Using this figure, she determines that her applicable percentage is 8.33% (see Exhibit 4).
- This means that Julie is deemed able to contribute \$209.64 per month to the cost of the SLCSP ($1/12$ of $\$30,200 \times 8.33\%$). The balance of the cost of the SLCSP represents Julie's PTC of \$102.36 per month ($\$312.00 - \209.64).
- Julie's 2017 Form 1095-A (Health Insurance Marketplace Statement) would provide the following information for each month: (1) the cost of the insurance she actually purchased, (2) the SLCSP cost, and (3) any Advance PTC.
- Julie uses this information to compute and reconcile her correct PTC on Form 8962 (Premium Tax Credit). Based on this information, Julie will claim a net PTC of \$268 on her 2017 individual income tax return ($\$1,228$ PTC $-$ $\$960$ Advance PTC; Julie's completed Form 8962 is shown on p. 13).

EXAMPLE

6

4 EMPLOYER SHARED RESPONSIBILITY PAYMENT

Businesses that employ 50 or more full-time employees (or a combination of full-time and part-time employees that equate to 50 full-time employees) but do not offer health insurance to their full-time employees (and their dependents up to age 26) will pay a tax penalty if the government has subsidized a full-time employee's health care through a PTC. This penalty commonly is known as the employer mandate [or the employer shared responsibility payment (ESRP)]. These employers, referred to as "applicable large employers" must also file Form 1095-C (Employer-Provided Health Insurance Offer and Coverage) with each full-time employee and the IRS. The forms are due to the employees by January 31 of the next year.¹⁸

¹⁷At the end of the year, taxpayers might discover that their household income unexpectedly exceeds 400% of the FPL. Rather than repaying their PTC, the taxpayer might be able to make a deductible contribution to an Individual Retirement Account, which would reduce household income and preserve the PTC. This contribution must be made by April 15.

¹⁸§ 4980H addresses the penalty while § 6056 addresses the Form 1095-C filing requirement. A penalty up to \$250 per form (adjusted annually for inflation) is possible for failure to issue the Form 1095-C or for errors (§ 6721 and § 6722).

Form 1095-A	Health Insurance Marketplace Statement	<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED	OMB No. 1545-2232 <div style="font-size: 2em; font-weight: bold;">2017</div>
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="font-size: 0.8em;">Department of the Treasury Internal Revenue Service</div> <div style="text-align: center;"> <p>▶ Do not attach to your tax return. Keep for your records.</p> <p>▶ Go to www.irs.gov/Form1095A for instructions and the latest information.</p> </div> </div>			

Part I Recipient Information

1 Marketplace identifier	2 Marketplace-assigned policy number	3 Policy issuer's name	
4 Recipient's name		5 Recipient's SSN	6 Recipient's date of birth
7 Recipient's spouse's name		8 Recipient's spouse's SSN	9 Recipient's spouse's date of birth
10 Policy start date	11 Policy termination date	12 Street address (including apartment no.)	
13 City or town	14 State or province	15 Country and ZIP or foreign postal code	

Part II Covered Individuals

A. Covered individual name	B. Covered individual SSN	C. Covered individual date of birth	D. Coverage start date	E. Coverage termination date
16				
17				
18				
19				
20				

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			
23 March			
24 April			
25 May			
26 June			
27 July			
28 August			
29 September			
30 October			
31 November			
32 December			
33 Annual Totals			

Form **8962**Department of the Treasury
Internal Revenue Service**Premium Tax Credit (PTC)**

► Attach to Form 1040, 1040A, or 1040NR.
► Go to www.irs.gov/Form8962 for instructions and the latest information.

OMB No. 1545-0074

2017
Attachment
Sequence No. **73**

Name shown on your return

Julie Samuels [Example 6]

Your social security number

123-45-6789

You cannot take the PTC if your filing status is married filing separately unless you qualify for an exception (see instructions). If you qualify, check the box ☐ . . . ☐

Part I Annual and Monthly Contribution Amount

1	Tax family size. Enter the number of exemptions from Form 1040 or Form 1040A, line 6d, or Form 1040NR, line 7d	1	1
2a	Modified AGI. Enter your modified AGI (see instructions)	2a	30,200
b	Enter the total of your dependents' modified AGI (see instructions)	2b	0
3	Household income. Add the amounts on lines 2a and 2b (see instructions)	3	30,200
4	Federal poverty line. Enter the federal poverty line amount from Table 1-1, 1-2, or 1-3 (see instructions). Check the appropriate box for the federal poverty table used. a <input type="checkbox"/> Alaska b <input type="checkbox"/> Hawaii c <input type="checkbox"/> Other 48 states and DC	4	11,880
5	Household income as a percentage of federal poverty line (see instructions)	5	254%
6	Did you enter 401% on line 5? (See instructions if you entered less than 100%). <input checked="" type="checkbox"/> No. Continue to line 7. <input type="checkbox"/> Yes. You are not eligible to take the PTC. If advance payment of the PTC was made, see the instructions for how to report your excess advance PTC repayment amount.		
7	Applicable Figure. Using your line 5 percentage, locate your "applicable figure" on the table in the instructions	7	.0833
8a	Annual contribution amount. Multiply line 3 by line 7. Round to nearest whole dollar amount	8a	2,516
	b Monthly contribution amount. Divide line 8a by 12. Round to nearest whole dollar amount	8b	210

Part II Premium Tax Credit Claim and Reconciliation of Advance Payment of Premium Tax Credit

- 9** Are you allocating policy amounts with another taxpayer or do you want to use the alternative calculation for year of marriage (see instructions)?
☐ **Yes.** Skip to Part IV, Allocation of Policy Amounts, or Part V, Alternative Calculation for Year of Marriage. ☒ **No.** Continue to line 10.
- 10** See the instructions to determine if you can use line 11 or must complete lines 12 through 23.
☒ **Yes.** Continue to line 11. Compute your annual PTC. Then skip lines 12–23 and continue to line 24.
☐ **No.** Continue to lines 12–23. Compute your monthly PTC and continue to line 24.

Annual Calculation	(a) Annual enrollment premiums (Form(s) 1095-A, line 33A)	(b) Annual applicable SLSP premium (Form(s) 1095-A, line 33B)	(c) Annual contribution amount (line 8a)	(d) Annual maximum premium assistance (subtract (c) from (b), if zero or less, enter -0-)	(e) Annual premium tax credit allowed (smaller of (a) or (d))	(f) Annual advance payment of PTC (Form(s) 1095-A, line 33C)
11 Annual Totals	4,176	3,744	2,516	1,228	1,228	960
Monthly Calculation	(a) Monthly enrollment premiums (Form(s) 1095-A, lines 21–32, column A)	(b) Monthly applicable SLSP premium (Form(s) 1095-A, lines 21–32, column B)	(c) Monthly contribution amount (amount from line 8b or alternative marriage monthly calculation)	(d) Monthly maximum premium assistance (subtract (c) from (b), if zero or less, enter -0-)	(e) Monthly premium tax credit allowed (smaller of (a) or (d))	(f) Monthly advance payment of PTC (Form(s) 1095-A, lines 21–32, column C)
12 January						
13 February						
14 March						
15 April						
16 May						
17 June						
18 July						
19 August						
20 September						
21 October						
22 November						
23 December						

24	Total premium tax credit. Enter the amount from line 11(e) or add lines 12(e) through 23(e) and enter the total here	24	1,228
25	Advance payment of PTC. Enter the amount from line 11(f) or add lines 12(f) through 23(f) and enter the total here	25	960
26	Net premium tax credit. If line 24 is greater than line 25, subtract line 25 from line 24. Enter the difference here and on Form 1040, line 69; Form 1040A, line 45; or Form 1040NR, line 65. If line 24 equals line 25, enter -0-. Stop here. If line 25 is greater than line 24, leave this line blank and continue to line 27	26	268

Part III Repayment of Excess Advance Payment of the Premium Tax Credit

27	Excess advance payment of PTC. If line 25 is greater than line 24, subtract line 24 from line 25. Enter the difference here	27	
28	Repayment limitation (see instructions)	28	
29	Excess advance premium tax credit repayment. Enter the smaller of line 27 or line 28 here and on Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44	29	

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 37784Z

Form **8962** (2017)

600117

1095-CForm
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.

► Go to www.irs.gov/Form1095C for instructions and the latest information.☐ VOID

OMB No. 1545-2251

☐ CORRECTED**2017****Part I Employee****Applicable Large Employer Member (Employer)**

1 Name of employee	2 Social security number (SSN)	7 Name of employer	8 Employer identification number (EIN)
3 Street address (including apartment no.)		9 Street address (including room or suite no.)	10 Contact telephone number
4 City or town	5 State or province	6 Country and ZIP or foreign postal code	11 City or town
		12 State or province	13 Country and ZIP or foreign postal code

Part II Employee Offer of Coverage**Plan Start Month (Enter 2-digit number):**

	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)													

Part III Covered IndividualsIf Employer provided self-insured coverage, check the box and enter the information for each individual enrolled in coverage, including the employee. ☐

(a) Name of covered individual(s)	(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 60705M

Form **1095-C** (2017)

Employers that *do not offer coverage* to at least 95 percent of their full-time employees and their dependents up to age 26, and have at least one full-time employee who receives a PTC (or another ACA subsidy), are assessed a maximum annual penalty of \$2,320 (in 2018; \$2,260 in 2017) per full-time employee, excluding the first 30 employees from the assessment. Employers that *do offer coverage* to at least 95 percent of their full-time employees and their dependents up to age 26, but such coverage is either not minimum value or affordable, and have at least one full-time employee receiving a PTC, are subject to a maximum annual penalty of \$3,480 (in 2018; \$3,390 in 2017) for each full-time employee receiving a PTC (or another ACA subsidy).¹⁹ This penalty, however, cannot exceed the penalty that would have been assessed had the employer not offered health insurance coverage at all. These maximum annual penalties are prorated and assessed on a monthly basis. As a result, the penalties will be less for employers that are in compliance for some (but not all) months of the calendar year.

Employers with fewer than 50 full-time and full-time equivalent employees are exempt from the ESRP and the filing of Form 1095-C. The determination of whether an employer has enough employees to be subject to the penalty is determined based on the prior year.

The employer shared responsibility payment is a complex provision in terms of definitions, special rules, and record keeping. The regulations include 50 definitions.²⁰ A few key definitions follow:

- **Affordable:** The cost of coverage to the employee must be no greater than 9.56 percent of the employee's household income (for 2018; 9.69 percent for 2017).²¹ Because an employer does not know an employee's household income, the regulations provide safe harbors. For example, one safe harbor uses the employee's W-2 wages to determine if the lowest cost plan offered to the employee is affordable.
- **Minimum value:** The plan covers at least 60 percent of the expected benefits to be incurred under the plan.
- **Full-time employee:** For the calendar month, someone who works on average at least 30 hours per week.
- **Full-time equivalent employee:** Employees who are not full-time employees. For any month in the measurement period, the hours of these employees for the month are totaled (but not to exceed 120 hours for the month) and the total is divided by 120.

In 2017, Maple Company had 35 full-time employees each month of the year. Each month Maple also had 40 employees working 20 hours per week. For 2018, Maple is an applicable large employer because it has 50 or more full-time (35) and full-time equivalent employees ($3,440/120 = 28.67$) in the prior year. This means that starting January 1, 2018, Maple needs to take action to avoid exposure to the employer shared responsibility payment. That is, it needs to offer coverage to at least 95 percent of its full-time employees and their dependents up to age 26. That coverage should also be minimum value and affordable using the safe harbors. Maple must also maintain records to enable it to issue Form 1095-C to each full-time employee by January 31, 2019.

EXAMPLE

7

¹⁹The ESRP is based on statutory amounts (\$2,000 and \$3,000, respectively) that are adjusted annually for inflation. See Notice 2015-87, 2015-52 I.R.B. 889 and <https://www.irs.gov/affordable-care-act/employers/questions-and-answers-on-employer-shared-responsibility-provisions-under-the-affordable-care-act#Calculation>.

²⁰Reg. § 54.4980H-1.

²¹Rev.Proc. 2016-24, 2016-18 I.R.B. 677.

The employer shared responsibility payment can potentially apply to any applicable large employer whether that employer is a for-profit business, a tax-exempt organization or a government entity. Not all employers need to spend time counting how many employees they have. Large companies, such as Disney, Google, and the U.S. government, know they have 50 or more full-time and full-time equivalent employees. Employers close to the 50-level mark will need to pay careful attention in counting employees in the base year (prior year).

The employer shared responsibility payment makes worker classification a more significant issue. Misclassified workers who are actually employees might cause a small employer to really be an applicable large employer. Even an employer who is already an applicable large employer can have exposure if there are enough misclassified full-time workers who were not offered coverage (because the employer thought they were contractors rather than employees).

The employer shared responsibility payment is assessed by the IRS only. There is no tax form for computing it. The IRS can identify employers potentially liable for the payment after individuals file their returns for the year. This provides the IRS information on which individuals claimed a PTC. IRS computers can then identify who claimed the PTC and received a Form 1095-C, indicating they are a full-time employee of an applicable large employer. The IRS will then look at the information in more detail to determine if a payment is owed.

It is important for employers to be aware of the penalty and take actions to avoid it as the exposure can be significant. This payment is not deductible.²²

EXAMPLE

8

Taffy Corporation is an applicable large employer. Taffy did not offer coverage to the required number of full-time employees and their dependents up to age 26²³ for 2017, and one of these employees claimed a PTC. Assuming that Taffy had 90 full-time employees for each month of 2017, its penalty is \$135,600 $[(90 - 30) \times \$2,260]$.

Assume Taffy did offer coverage to the required number of employees but that coverage was either not minimum value or affordable, and six full-time employees claimed a PTC for 2017. Taffy's penalty would be \$20,340 $(\$3,390 \times 6)$.

This example assumes that Taffy's violation and employee claiming of a PTC occurred for every month of 2017. The payment is calculated only for months where there was a violation (such as no offer of coverage or a full-time employee claiming the PTC).

5 SMALL EMPLOYER HEALTH INSURANCE CREDIT

A tax credit is available to qualified small employers for nonelective contributions to purchase health insurance for its employees.²⁴ To qualify for the credit in 2018, the employer must have no more than 25 full-time equivalent employees whose annual full-time wages average no more than \$53,000. The employer must pay at least half the cost of the health insurance premiums and purchase the insurance through the Small Business Health Options Program (SHOP).²⁵ The credit is 50 percent of the health insurance premiums paid. It is subject to a phaseout if the employer has more than 10 full-time equivalent employees and/or has annual full-time wages that average more than \$26,500 (\$26,200 in 2017).²⁶

An eligible employer may only claim this credit for two consecutive years. Employers claiming the credit must reduce their health insurance premium deduction by the

²²§ 275(a)(6).

²³Per Reg. § 54.4980H-1(a), Taffy must offer coverage to at least 95% of its full-time employees and their dependents up to age 26 to avoid the \$2,260 per full-time employee penalty. This is the penalty amount for 2017; the amount is adjusted annually.

²⁴§ 45R.

²⁵§§ 45R(d)(1) and (4). The wage amount is indexed for inflation.

²⁶§ 45R(c). The credit percentage for tax-exempt employers is 35%.

credit amount.²⁷ The purpose of the credit is to encourage small employers to provide coverage to employees.

6 ADDITIONAL MEDICARE TAXES ON HIGH-INCOME INDIVIDUALS

Two provisions result in increased Medicare taxes for high-income individuals: (1) an additional .9 percent tax on *wages* received in excess of specified amounts and (2) an additional 3.8 percent tax on *unearned income*.

6a Additional Tax on Earned Income

An additional .9 percent Medicare tax is imposed on wages and self-employment income in excess of \$250,000 for married taxpayers filing a joint return (\$125,000 if married filing separately) and \$200,000 for all other taxpayers.²⁸ Unlike the general 1.45 percent Medicare tax on wages or 2.9 percent Medicare tax included in the self-employment tax, the additional tax on a joint return is on the *combined* earned income of the employee and the employee's spouse. As a result, the Medicare tax rate for employees is:

1. 1.45 percent on the first \$200,000 of wages (\$125,000 on a married filing separate return; \$250,000 of combined wages on a married filing joint return), and
2. 2.35 percent (1.45% + .9%) on wages in excess of \$200,000 (\$125,000 on a married filing separate return; \$250,000 of combined wages on a married filing joint return).

This additional tax on earned income is computed and reported on Form 8959, Additional Medicare Tax, and included with the Federal taxes reported on Form 1040.

Additional Medicare Tax on Earned Income

Jenna, who is single, earns wages of \$500,000 in 2018. Jenna will pay \$2,900 of Medicare taxes on the first \$200,000 of her wages ($\$200,000 \times 1.45\%$) and \$7,050 of Medicare taxes on her wages in excess of \$200,000 ($\$300,000 \times 2.35\%$). In total, her Medicare tax will be \$9,950, of which \$2,700 ($\$300,000 \times .9\%$) represents Jenna's additional Medicare tax.

EXAMPLE

9

Patrick and Paula file a joint return in 2018. During the year, Patrick earns wages of \$125,000 and Paula earns wages of \$175,000—so their total wages are \$300,000. Patrick and Paula will pay total Medicare taxes of \$4,800 [$(\$250,000 \times 1.45\%) + (\$50,000 \times 2.35\%)$], of which \$450 ($\$50,000 \times .9\%$) represents Patrick and Paula's additional Medicare tax.

EXAMPLE

10

Although employers are not subject to the additional .9 percent Medicare tax, they must withhold the tax on wages paid to any employee in excess of \$200,000, regardless of the marital status of the employee.²⁹

Return to the facts of Example 10. In 2018, neither Patrick's nor Paula's employer will withhold the additional Medicare tax as both have wage amounts less than \$200,000. Therefore, Paula will have \$2,537.50 of Medicare tax withheld ($\$175,000 \times 1.45\%$), and Patrick will have \$1,812.50 of Medicare tax withheld ($\$125,000 \times 1.45\%$). Total Medicare tax withheld is \$4,350 ($\$2,537.50 + \$1,812.50$). Patrick and Paula will have to pay an additional \$450 of Medicare taxes when they file their return. The tax is reported on Form 8959 attached to their Form 1040.³⁰

EXAMPLE

11

²⁷ § 280C(h).

²⁸ § 3101(b)(2). The base amounts are not indexed for inflation.

²⁹ § 3102(f).

³⁰ Couples in this situation may have to make estimated tax payments to cover the additional Medicare taxes.

The additional Medicare tax also applies to self-employed individuals—with net earnings from self-employment, and any wage income, used for the threshold computations. As a result, the tax rate for the Medicare tax on self-employment income, for an individual without wage income, is:

1. 2.9 percent on the first \$200,000 of net earnings from self-employment (\$125,000 on a married filing separate return; \$250,000 on a married filing joint return), and
2. 3.8 percent (2.9% + .9%) on net earnings from self-employment in excess of \$200,000 (\$125,000 on a married filing separate return; \$250,000 on a married filing joint return).

For single or married taxpayers with both wage and self-employment income, the thresholds are reduced (but not below zero) by the amount of wages taken into account in determining the additional .9 percent Medicare tax on wages.³¹ Although self-employed individuals are allowed an income tax deduction for part of the self-employment tax, this additional .9 percent Medicare tax will *not* create a deduction (i.e., the deduction is determined without regard to this additional tax).³²

EXAMPLE

12

Henry, a single individual, has wage income of \$180,000 and self-employment income of \$80,000 for 2018. His earned income of \$260,000 is \$60,000 above the additional Medicare tax threshold for single individuals of \$200,000. Thus, Henry owes this additional tax. In computing this tax, Henry reduces the \$200,000 threshold by the \$180,000 of wage income, giving him a revised threshold of \$20,000. In computing the additional tax on his \$80,000 of self-employment income, he reduces this amount by \$20,000 to derive \$60,000 of income subject to the tax. Henry's additional Medicare tax, reported on Form 8959, is \$540 ($\$60,000 \times .009$).

If an individual has negative self-employment income (a loss), it is treated as zero in computing the additional Medicare tax.

EXAMPLE

13

Janet, a single individual, has wage income of \$220,000 and self-employment income of (\$30,000) for 2018. Janet owes additional Medicare tax of \$180 ($\$20,000 \times .009$).

6b Additional Tax on Unearned Income (Net Investment Income Tax)

An additional 3.8 percent Medicare tax is imposed on the unearned income of individuals, estates, and trusts.³³ Also known as the net investment income tax, the tax is 3.8 percent of the lesser of:³⁴

1. Net investment income, or
2. The excess of modified adjusted gross income over \$250,000 for married taxpayers filing a joint return (\$125,000 if married filing separately) and \$200,000 for all other taxpayers.³⁵

In general, “net investment income” includes interest, dividends, annuities, royalties, rents, income from passive activities, and net gains from the sale of investment property less deductions allowed in generating that income.³⁶ Modified adjusted gross income (MAGI) is adjusted gross income (AGI) increased by any foreign earned income exclusion.³⁷ Thus, for individuals who do not have any excluded foreign earned income, MAGI is the same as AGI.

³¹ § 1401(b)(2)(B).

³² § 164(f).

³³ § 1411.

³⁴ § 1411(a)(1).

³⁵ § 1411(b). The base amounts are not indexed for inflation.

³⁶ § 1411(c). Certain income, including qualified retirement plan distributions, tax-exempt income, and any untaxed gain from the sale of a principal residence, is excluded from this definition.

³⁷ § 1411(d).

The additional tax on unearned income is computed and reported on Form 8960 (Net Investment Income Tax—Individuals, Estates, and Trusts) and included with the Federal taxes reported on Form 1040.

Additional Medicare Tax on Unearned Income

In 2018, Jill, a single taxpayer, generates net investment income of \$50,000, which along with other income produces MAGI of \$180,000. As Jill's MAGI does not exceed \$200,000, she need not pay the additional Medicare tax on unearned income.

EXAMPLE

14

Assume the same facts as in Example 14, except that Jill has net investment income of \$85,000 and MAGI of \$220,000.

In this case, she pays a Medicare tax on the lesser of (1) \$85,000 (her net investment income) or (2) \$20,000 (the amount by which her MAGI exceeds the \$200,000 threshold). As a result, Jill's additional Medicare tax on unearned income is \$760 ($\$20,000 \times 3.8\%$).

EXAMPLE

15

Assume the same facts as Example 15, except that Jill's MAGI is \$290,000 (and includes her net investment income).

Because her MAGI exceeds the threshold amount by \$90,000, she pays a Medicare tax on the entire \$85,000 of net investment income. As a result, Jill's additional Medicare tax on unearned income is \$3,230 ($\$85,000 \times 3.8\%$).

EXAMPLE

16

The 3.8 percent additional Medicare tax on unearned income is *in addition to* the additional .9 percent Medicare tax on wages or self-employment income. Taxpayers who have both high wages (or self-employment income) *and* high investment income may be subject to both taxes.

Assume the same facts as Example 16, except that Jill reports MAGI of \$325,000 (including \$240,000 of wages and \$85,000 of net investment income).

In this case, in addition to her \$3,230 additional Medicare tax on unearned income, Jill also is subject to an additional Medicare tax on wages of \$360 ($\$40,000 \times .9\%$, her wages in excess of \$200,000).

EXAMPLE

17

7 INFORMATION REPORTING

The Affordable Care Act added new information reporting forms and requires employers to include certain health insurance information on Form W-2. A brief explanation follows:

- **Form 1095-A (Health Insurance Marketplace Statement):** This form is issued by the exchange to individuals who purchase coverage on the exchange. It includes information necessary to compute and reconcile the PTC.³⁸ Generally, an individual who received a Form 1095-A will need to include Form 8962, Premium Tax Credit (PTC), on their Form 1040 or 1040A.

³⁸§ 36B(f)(3) and Reg. § 1.36B-5.

- **Form 1095-B (Health Coverage):** This form is issued by any provider of minimum essential coverage (MEC), including the government and any employer who self-insures.³⁹ An applicable large employer that self-insures may use Form 1095-C rather than 1095-B to avoid having to issue two different forms to full-time employees.
- **Form 1095-C (Employer-Provided Health Insurance Offer and Coverage):** Applicable large employers issue this form to any employee who was a full-time employee for any month of the year, even if no health insurance was offered.⁴⁰
- **Form W-2 (Wage and Tax Statement):** Employers who offer health coverage to employees must include the value of the insurance (the portions paid by the employee and the employer) in Box 12 of Form W-2 using code DD.⁴¹ This amount is not taxable to the employee; it is instead an information item. The IRS provides transition relief for this reporting. Employers who issued fewer than 250 Form W-2s in the prior year do not need to enter the health insurance information in Box 12, until further notice by the IRS.

8 THE FUTURE OF THE AFFORDABLE CARE ACT

Even prior to its enactment in 2010, the ACA faced opposition. Various concerns of ACA opponents include its complexity, a desire to not expand the government's role in health care, whether the various health insurance exchanges are sustainable, and the new taxes it added. After enactment, Republican legislators passed bills to repeal it even though they knew that then-President Obama would not approve its repeal and did not have the votes to override a veto. After the November 2016 election, with Republicans in control of both houses of Congress and the White House, repeal and replacement of the ACA became a priority. However, legislation proposed in 2017 failed to gain sufficient support in Congress. Despite failure to repeal all of the ACA, the ISRP was eliminated starting in 2019. In addition, a few other provisions, such as the medical device excise tax, were suspended (but not repealed).

³⁹§ 6055 and Regulations.

⁴⁰§ 6056 and Regulations.

⁴¹§ 6051(a)(14) and Notice 2012-9, 2012-4 I.R.B. 315.