

Affordable Care Act Updates and Clarifications – TY2014

This is a summary of Affordable Care Act updates and clarifications as they relate to 2014 income tax returns. It is intended to be used primarily by the more experienced site counselors to resolve difficult ACA questions. Other counselors should be generally aware of the subject areas of these updates and consult with the more experienced counselors when preparing a return with these issues. Additional updates or clarifications will be issued as new information develops. Changes from the March 23 version of this document are marked by a vertical line in the margin.

Please give special attention to item 13 below regarding Forms 1095-A. Counselors are encouraged to acquaint themselves with all items.

Tax Law Matters

1. **Complete Return:** Tax-Aide counselors are to prepare an accurate, complete tax return including any shared responsibility payment (SRP) that is due. Omitting the SRP is not an option.
2. **Shared Responsibility Payments:** The IRS has expressed concern that a SRP may be shown on a return when the taxpayer is actually entitled to an exemption. Review any SRP situation to confirm it is actually due. If additional guidance is needed, consult with a more experienced counselor or your local instructor or contact the NTTTC through the OneSupport Help Center.
3. **Code DD:** Employers may report the cost of employer-sponsored health coverage in Form W-2 box 12 with code DD. This is considered minimum essential coverage for the people covered by the plan for the portion of the year that each was covered. A code DD on the W-2 does not mean the plan was in place all year nor does the lack of a code DD on the W-2 indicate a lack of employer coverage – the interview with the taxpayer is still the primary means to gather coverage information.

Counselors may also see that an employer has elected to report employee contributions to health insurance in Box 14 – this is informational only.

4. **“Pending” Exemption:** A Tax-Aide counselor may file the return with “Pending” on Form 8965 Part I as a marketplace Exemption Certificate Number if the taxpayer has applied for a marketplace exemption or if the discussion with the taxpayer leads to a reasonable determination that the exemption application will be filed immediately. In questionable circumstances, the Local Coordinator has the discretion to require the taxpayer to file the exemption before using the “Pending” code. Inform the taxpayer that the IRS will follow up on all “Pending” exemptions.

5. **Dependent not Claimed:** For purposes of the SRP, a taxpayer is responsible for a dependent whether claimed on the tax return or not. For an individual that can be (but is not) claimed on a return, use the 7th or subsequent line on the 1040 ACA Wkt and indicate when they are under age 18 (an override may be necessary). If the individual is 17 years old for any day during a month, the individual is considered under age 18 for the full month. Also list unclaimed dependents on Form 8965 Part I or III, as applicable, if entitled to an exemption.

If no one claims a person for whom advance premium tax credit (APTC) was paid, the person who applied for the marketplace policy is responsible for repaying all the APTC. See Pub 974.

6. **Premium Tax Credit:** When computing premium tax credit (PTC) or reconciling APTC, determining whether the taxpayer is eligible for PTC for the month can be complicated. If a coverage family member is (or could be) covered by a government plan, no PTC may be allowable. Pub 974 provides guidance on when PTC may not be claimed. Usually, PTC cannot be claimed for a month later than the month after government coverage is approved. This may be some time after the individual first becomes eligible for coverage.

There are special rules for individuals who delay in applying for government coverage or who lose coverage because they did not pay their share of premiums.

If government coverage is granted retroactively, PTC can still be claimed until the month following the coverage determination.

See also item 19 below.

7. **PTC and Unlawfully Present Person:** When a marketplace policy covers individuals who are lawfully present (and eligible for PTC) and individuals who are not lawfully present (not eligible for PTC), the SLCSF shown on Form 8962 must be for those eligible for PTC only. Pub 974 provides guidance and examples. However, TaxWise may not permit the entries shown in Pub 974 so overrides may be needed.
8. **Household Income:** For the ACA worksheet and forms that refer to household modified adjusted gross income (MAGI), include the MAGI of each individual in the tax household claimed as a dependent who is **required** to file his or her own tax return because his/her income exceeds the thresholds listed in Pub 4012, pg. ACA-7. Note that although a dependent may be required to file a return because self-employment net income is \$400 or more, the dependent's income is not included in the household income for ACA purposes until the pg. ACA-7 threshold is crossed.

Be careful to not confuse household MAGI with the gross income exemption (7b on Form 8965), which refers to the taxpayer/spouse's gross income only – the 7b exemption does **not** refer to **household** income/MAGI.

9. **Lump-sum social security payments:** The taxable portion of a lump sum social security payment received in 2014 must be included in the household MAGI for 2014 regardless of whether the benefits are attributable to 2013 or an earlier year. For PTC and the marketplace affordability exemption purposes, MAGI also includes the untaxed portion of social security lump-sum payments. If the lump-sum is received by a dependent, include the lump-sum as you would regular social security (only when the dependent has a filing requirement).
10. **Impact of PTC on Deductible Health Insurance Premiums Paid:** To determine the amount of health insurance premiums that may be deducted on Schedule A when itemizing, the amount of PTC (if any) must be factored in. The total PTC, whether received as advance payments in 2014 or as a credit in 2015 on the 2014 tax return, must be deducted from the gross health insurance premiums for 2014.
Tip: Stated another way, the amount of insurance premium that can be claimed is the out-of-pocket payments made by the taxpayer in 2014 reduced by any additional PTC claimed on the 2014 Form 1040 Line 69 or increased by any excess APTC on Line 46 that must be paid back.
Note: Your state may not follow this IRS computation. Training Specialists are encouraged to determine their state's treatment and provide guidance to their state.
11. **ACA and Education Benefits:** If a taxpayer purchased insurance from the marketplace and s/he also has an option of claiming either an education credit or the tuition and fees adjustment to gross income, test for which education benefit is better after entering the ACA information. Reducing household income with the tuition and fees adjustment may result a higher PTC which in turn results in a lower overall tax versus claiming an education credit.
Note: This strategy also applies when the taxpayer is slightly over 400% of FPL (and therefore has to repay all APTC) and also applies to other adjustments to gross income, such as a contribution to a traditional IRA (if the IRA requirements are met).
12. **Scholarship Income and Education Benefits:** It may be more advantageous to report a scholarship as taxable income instead of a reduction in the qualified education expenses in order to maximize an education credit. The scholarship thus reported on a dependent student's return as taxable income is considered earned income for ACA purposes and the dependent student may cross a filing threshold (Pub 4012, pg. ACA-7). If the dependent student crosses a filing threshold, the dependent student's income is includible in the taxpayer's household MAGI for both Form 8962 and Form 8965/SRP purposes. The ACA implications need to be considered in the education benefits analysis to determine which method yields the lowest overall tax liability. Use TaxWise to compute the results of various alternatives in this analysis.

Note: Scholarship income is considered unearned income for purposes of the kiddie tax. Returns affected by the kiddie tax are out of scope.

13. **Penalty for Underpayment of Taxes:** A taxpayer may owe a penalty if s/he underpaid the taxes due for 2014 during the year. The Tax-Aide policy is to default Form 2210 Line 9 to zero so no penalty will show on Form 1040 – this policy has not changed. If there is an underpayment penalty due **and** there is excess APTC that must be repaid, IRS Notice 2015-9 provides penalty relief for the taxpayer. Penalty relief may also apply if the taxpayer cannot pay their return balance due by April 15 and the balance due is attributable to repayment of the excess APTC. However, the IRS may still automatically assess a penalty against the taxpayer and send a letter demanding payment. Per Notice 2015-9, a taxpayer who received excess APTC should respond to such a demand with a letter that contains the statement: “I am eligible for the relief granted under Notice 2015-9 because I received excess advance payment of the premium tax credit.” **Tip:** no penalty applies for any SRP that may be due and the IRS should properly handle this.

In Notice 2015-30, the IRS has expanded relief for both the underpayment of estimated tax penalty and the failure to pay tax (by April 15) penalty due to incorrect or delayed Forms 1095-A. This expanded relief is broad and it is not necessary to show that the underpayment/late payment is due to the incorrect or delayed Form 1095-A. As a result, in any instance where a penalty is assessed and the taxpayer received a 1095-A, relief from the penalties is available by responding: “I am eligible for relief granted under Notice 2015-30 because I received an incorrect or delayed form 1095-A.”

14. **Births or Deaths:** The entire month of birth or death of a taxpayer or a dependent is deemed to be covered by health insurance. No exemption is needed for that month.
- a) If covered by health insurance during all full months lived, check Full on 1040 ACA Wkt (example: born in November, has minimum essential coverage for December → check Full)
 - b) If not covered by health insurance but eligible for an exemption for some or all full months lived, check Exm and on Form 8965 indicate the appropriate exemption and months to which it applies (example: born in November, no coverage for December → apply short gap exemption ‘B’ on Form 8965 Part III for December only; which means no SRP)
 - c) If covered by neither health insurance nor an exemption for some or all full months lived, check the months for which a SRP should be calculated on 1040 ACA Wkt. Do not select None as that computes the penalty for all 12 months (example: born in September, no coverage and no exemption for October – December, check

Oct/Nov/Dec on 1040 ACA Wkt to pay the SRP for those three months; do not check None)

15. **Exemption for “Not Lawfully Present”:** One of the possible exemptions applies to individuals who are not lawfully present in the U.S. (Code ‘C’ for Form 8965 Part III). If an individual does not have a social security number, s/he will need an individual taxpayer identification number (ITIN) to file the tax return (or apply for the ITIN with the return). However, an ITIN by itself does not confirm whether the person is lawfully or not lawfully present in the United States. A good interview is essential.

Taxpayers with an ITIN who are not lawfully present in the U.S., may have tax family members that are lawfully present, e.g., they were born in the U.S. or otherwise legal residents. The lawfully present family members are required to have health insurance or an exemption or the taxpayer must make a SRP.

Tip: Inform the taxpayer that if any individual on the tax return is not lawfully present in the U.S., that individual is entitled to an exemption from health care coverage. Also reaffirm to the taxpayer that the information on the tax return will not result in any U.S. government action regarding those individuals' presence in the U.S. ITINs are for federal tax reporting only and do not serve any other purpose.

16. **All 1095-A forms:**

- a) The marketplace will determine a taxpayer’s eligibility to buy from the marketplace and therefore their eligibility for PTC. Do not second-guess the marketplace decision. If the taxpayer has received a Form 1095-A, eligibility for PTC is presumed and subject only to the calculation on Form 8962.
- b) It is not necessary to “audit” the 1095-A forms nor to determine whether the taxpayer paid their share of the premiums. IRS recommends to accept the Form 1095-A information as presented. **See item 19 below.**
- c) Taxpayers can log into their marketplace account to retrieve their Form 1095-A including any corrections. If the marketplace enrolled the taxpayer in Medicaid, no Form 1095-A will be issued.

17. **Multiple Forms 1095-A:** If there is more than one Form 1095-A for a tax household, the computation of the PTC is based on the second lowest cost silver plan (SLCSP) for the applicable tax family members on a monthly basis as if they were on the same policy or the second-lowest cost overall if more than one policy is required (do not simply add the amounts in column B of Form 1095-A). Complete Form 8962 as follows:

- a) Column A (actual plan cost) – add up and enter the amounts from all the Forms 1095-A received.

- b) Column B (second lowest cost silver plan) – identify the tax family members that had the marketplace coverage for each month and look up and enter the SLCSPP quote for those family members as if they were on one policy, if possible.
- c) Column C (APTC, if any) – add up and enter the amounts from all Forms 1095-A.

There is an exception to this rule found in the Form 8962 instructions dealing with the Form 1095-A for policies issued in two or more different states. In such a rare instance, the Column B amounts are the sum of the separate Form 1095-A SLCSPP amounts.

18. **Incomplete Forms 1095-A.** Some 1095-A forms may have **Column B** blank or filled-in for some, but not all, the months of coverage. To complete the missing months:

- a) Use the amount for the filled-in months (when the missing months have the same coverage as the filled-in months);
- b) Use the applicable coverage quote for 2014 on healthcare.gov/taxes or the applicable state exchange; or
- c) If the taxpayer spoke with the marketplace and received oral information, use that quote.

If none of the above are possible, the taxpayer will need to get a corrected Form 1095-A, which will not be available until at least March.

Note: If the taxpayer added optional coverages, such as dental, their premium payments may differ from the amounts reported on Form 1095-A which are for minimum essential coverage only. For PTC purposes, only pediatric dental can be added to the basic minimum essential coverage premium.

19. **Incorrect Forms 1095-A.** IRS recommends to use the data as presented on Form 1095-A, as corrected – if a corrected Form 1095-A has been received.

If the data is later updated to the taxpayer's detriment, the IRS will not pursue the additional tax and the taxpayer is not required to amend the return. If amending the return for updated Form 1095-A data would reduce the taxpayer's tax liability, an amended return can be filed.

20. **Affordability Exemption.** The following clarify certain situations when there is a lack of health insurance coverage and no other exemption applies. Be sure to use the worksheets found in the Form 8965 instructions.

- a) IRS has clarified that Line 1 of the marketplace affordability worksheet in the Form 8965 instructions is correct: the lowest cost bronze plan quote will be for all individuals on the return that did not have an offer of employer coverage and who

did not qualify for another exemption. That means that the bronze cost would include, *for example*, the taxpayer and spouse who are on Medicare or Medicaid.

When there is no employer offer of coverage and any nonexempt, uninsured member of the tax household *would have been eligible for government-sponsored coverage* (Medicaid, Medicare, CHIP, etc.), Line 10 SLCSP will NOT include those individuals. The effect is that no PTC is computed for those individuals (because no PTC would have been allowed).

As an example, assume two grandparents on Medicare are raising an uninsured grandchild: Line 1 is the bronze cost for all three; but Line 10 SLCSP is for the grandchild alone. This will make the affordability exemption much more likely to apply to the grandchild (the grandparents have coverage and do not need to claim the exemption). The attached Example Affordability Calculation demonstrates this.

- b) The marketplace affordability exemption is based on annual income, but the exemption can be applied on a monthly basis. For example, the taxpayer has market coverage for two months, no coverage for the other ten months and falls below the affordability threshold for the year. The PTC can be claimed for the two months of marketplace coverage (subject to Form 8962 calculation). The affordability exemption can be claimed for the ten uninsured months.
- c) It is not necessary to determine whether an individual is actually eligible for Medicaid.

i) Expansion states:

When the household MAGI (increased for untaxed social security benefits) is above 138% of the federal poverty line, the tax family is not eligible for Medicaid and is eligible for a PTC. Line 10 SLCSP will include all the uninsured individuals that need the affordability exemption.

When the household MAGI (increased for untaxed social security benefits) is below 138%, the tax family would have been eligible for Medicaid *and not eligible for PTC*. In this case, Line 10 SLCSP will be zero.

ii) Non-expansion states:

When the household MAGI (increased for untaxed social security benefits) is above 100% of the federal poverty line, the tax family is not eligible for Medicaid and is eligible for a PTC. Line 10 SLCSP will include all the uninsured individuals that need the affordability exemption.

When the household MAGI (increased for untaxed social security benefits) is below 100% of the federal poverty line, the tax family would have been eligible

for Medicaid and would therefore not be eligible for the PTC. In this case, Line 10 SLCSP will be zero.

Tip: When the household MAGI (increased for untaxed social security benefits) is 0% to 138% of FPL and the tax family lived in a *non-expansion* state during any part of the year and did not have minimum essential coverage, use code G exemption for the whole year – the affordability calculation/exemption is not needed.

TaxWise

- A. **TaxWise Examples** – IRS Pub 5157A contains examples of TaxWise forms and worksheets associated with the Affordable Care Act (ACA) tax provisions. Examples 1–4 are applicable to Tax-Aide.
- B. **1040 ACA Wkt** – this worksheet is used to calculate any SRP and to activate Form 8962 if anyone on the return purchased insurance through the marketplace and/or Form 8965 if anyone on the return is claiming an exemption. ***Read the expanded instructions at the top of the form very carefully and address each item person by person.***
1. Select **Full** if the person had minimum essential coverage the entire year (or full months lived if born or died in 2014).
 2. Select **None** for all twelve months or select the applicable **Jan-Dec** months solely to compute the SRP. ***Click only if the SRP applies.***
 3. Select **Mkt** if the person purchased insurance through the marketplace for one or more months during the year.
 4. Select **Exm** if the person is claiming an exemption for one or more months during the year.
 5. To add a nondependent that can be (but is not) claimed on a return, use the 7th or subsequent line and indicate when they are under age 18 (an override may be necessary). If the dependent is 17 years old for any day during a month, the dependent is considered under age 18 for the full month.
 6. Input of dependents' MAGI on line 7 is for SRP purposes; it carries to Form 8965 for the household filing threshold exemption; it does ***not*** carry to Form 8962, where the PTC is computed or reconciled.
 7. 1040 Line 61 will be checked by TaxWise when all tax family members are shown with **Full**. If 1040 line 61 box is red, F3 to get the red out.

C. Form 8962

1. There are expanded instructions at the top of the page regarding MFS status when not applying for relief. If applying for abused/abandoned spouse relief, check the box at the top of the form and follow the instructions carefully. Pub 974 also provides guidance for the taxpayer on documenting their entitlement for relief – do not attach such documentation to the return.
2. Line 2b – must re-enter dependents' MAGI – which is increased for untaxed social security benefits of the taxpayer and dependents – only if the dependent actually has a filing requirement based on the threshold in Pub 4012 page ACA-7.
3. If a taxpayer elected to **not** take APTC payments, s/he may receive a Form 1095-A with Part III Column B blank.
 - a) See above for incomplete Forms 1095-A.
 - b) If the taxpayer's household income exceeds 400% of the federal poverty line and no APTC is reported on Form 1095-A, Form 8962 is not required to be filed. Go to 1040 ACA Wkt and uncheck marketplace; then delete Form 8962 from the tree. (The return may reject if an unnecessary Form 8962 is included.)
4. When the Line 5 percentage of federal poverty line exceeds 400% and there is an APTC that must be repaid, enter the APTC amount only in Column F of line 11 or lines 12-23. Use F3 to remove any red of unused lines. Leave Columns A and B blank. There are special calculations for shared policies and the alternate calculation** which may produce a different result.
5. In shared policy** situations where the SLCSF shown on Form 1095-A does not align with the tax family members for which a PTC is being computed, it is necessary to look up the appropriate SLCSF.
6. If the alternative calculation** is used for the year of marriage and some PTC is allowed, TaxWise may not carry the allowed PTC to Line 24. An override on Line 24 may be required.

** Due to the lateness of IRS guidance, Tax-Aide has decided that Part IV, shared policies, and Part V, alternate calculation, are out of scope. References to shared policies and alternate calculation are presented for informational purposes.

D. Form 8965

1. Part II exemptions are entire year exemptions for the tax household. Do not enter any exemptions in Part III if Part II applies.
2. TaxWise shows the filing threshold, household MAGI (from the entry on 1040 ACA Wkt) and the gross income for the return. If capital transactions were summarized

for input on the Cap Gn Wkt, the gross income must be recalculated to remove any capital transactions that were losses. In all cases, confirm the accuracy of the amounts presented when claiming either the 7a or 7b exemption.

3. Part I and III – additional 7th and 8th lines have been added. As noted by the “*” note at the top of the TaxWise form, these lines are for e-filing only and are not printed. If used, manually add lines 7 and 8 to the taxpayer’s printed copy of the return or print the screen for the taxpayer’s copy of the return. If paper filing, do not use lines 7 or 8 and instead attach a supplemental statement with the applicable information.

Looking forward

Remind a taxpayer who purchased coverage in the marketplace to update their information with the marketplace if s/he experiences a change in circumstances (adds or loses a dependent, increase or loss of income, moved to another coverage area, etc.). Leaving outdated information with the marketplace may result in excess APTC that may have to be repaid or less than permitted APTC which results in the taxpayer’s portion of the premiums being higher each month.

Open enrollment has generally ended, but there may be exceptions due to some technical problems experienced by the various marketplaces. Also, individuals who may wish to purchase coverage through the marketplace may be eligible for a Special Enrollment Period if they experienced a specified life event at any time during the year or were subject to a SRP on their 2014 tax return (special enrollment period through April 30, 2015).

IRS recently confirmed that when a taxpayer would not be eligible for marketplace enrollment because the enrollment has lapsed, they may elect to **not** claim an exemption on their 2014 return for a month so as to trigger a SRP. At that point, the special enrollment period through April 30, 2015 is available to the taxpayer.

Refer individuals to the applicable marketplace website or registry of free assistors in your area.

Example Affordability Calculation

MFJ ages 69, 67 (Beginning of Year)

Dependent grandchild age 10 (Beginning of Year)

Collier County, FL 34110

Retirement income	\$	30,000			
Total Social Security	\$	20,000			
Medicare costs	\$	2,578			
Form 8962 MAGI	\$	50,000			
Form 8965 MAGI	\$	34,000	8% =	\$	2,720

Affordability Worksheet

(A) Affordability Threshold						
Enter 8% of your household income (see Household income). For this purpose, increase household income by the amount of any premium that is paid through a salary reduction arrangement and excluded from gross income.						2,720
(B) Required Contribution Amount						
For each member of your tax household, enter in the columns provided the annual premium for the first option below that applies to that person. If the monthly premium is the same for the whole year, enter the annual premium in the space for each month. If the premiums cover only part of the year, use the Annualized Premium Worksheet to determine what the annualized premium would be for each month. Once you have figured the annualized premium, enter it in the space for each month.						
Options (use the first that applies to each member of your tax household, including you, for each month):						
1. The lowest cost self-only policy offered to each member of your tax household by his or her employer.						
2. The lowest cost family policy* offered by your employer or your spouse's employer (if you are filing a joint return).						
3. The amount from the Marketplace Coverage Affordability Worksheet.						
For each individual, coverage is unaffordable and the individual is exempt if (B), the Required Contribution Amount, is greater than (A), the Affordability Threshold.						
Members of your tax household (enter one name per column):	grandchild					
Premium for:						
January	14,429					
February	14,429					
March	14,429					
April	14,429					
May	14,429					
June	14,429					
July	14,429					
August	14,429					
September	14,429					
October	14,429					
November	14,429					
December	14,429					
*The policy must cover everyone in your tax household: for whom a personal exemption deduction is claimed on your tax return, who is not eligible for employer coverage, and who does not qualify for another coverage exemption.						

Example Affordability Calculation (cont)

MFJ ages 69, 67 (Beginning of Year)	
Dependent grandchild age 10 (Beginning of Year)	
Collier County, FL 34110	
Retirement income	\$ 30,000
Total Social Security	\$ 20,000
Medicare costs	\$ 2,578
Form 8962 MAGI	\$ 50,000
Form 8965 MAGI	\$ 34,000

Marketplace Coverage Affordability Worksheet

1. Enter the monthly premium for the lowest cost bronze plan that covers everyone in your tax household for whom a personal exemption deduction is claimed, who is not eligible for employer coverage, and who does not qualify for another coverage exemption for the month. To find the lowest cost bronze plan go to the Marketplace for your area	1,202.40	All three on return Form 8965 MAGI
2. Enter your household income (see Household income)	34,000	
3. Enter the total of all nontaxable social security benefits received by you, your spouse, and each claimed dependent who must file a tax return*	16,000	
4. Add lines 2 and 3	50,000	
5. Enter the federal poverty line for the number of individuals in your tax household less any dependents not claimed. See the instructions for Form 8962, line 4	19,530	
6. Divide line 4 by line 5. If the result (without rounding) is less than 1.0 or more than 4.0, skip lines 7 through 10 and enter -0- on line 11.	2.5602	
7. Multiply line 6 by 100 and round to the nearest whole number. Enter the applicable figure for the result from the table in the instructions for Form 8962, line 7	0.0820	
8. Multiply line 4 by line 7	4,100	
9. Divide line 8 by 12.0	342	
10. Enter the monthly premium for the second lowest cost silver plan premium that covers everyone in your tax household for whom a personal exemption deduction is claimed, who is not eligible for minimum essential coverage (other than coverage in the individual market), and who does not qualify for another coverage exemption for the month. To find the second lowest cost silver plan go to the Marketplace for your area	132.18	Grandchild only
11. Subtract line 9 from line 10	(209.82)	
12. Subtract line 11 from line 1. If zero or less, enter -0-. This is the individual's required contribution for the month	1,202.40	
13. Is the individual eligible for this coverage for every month of the year?	Yes	
Yes. Multiply line 12 by 12.0. This is the annualized premium. Enter this amount in the space for every month on the Affordability Worksheet .	14,429	
No. Use the Annualized Premium Worksheet to determine what the annualized premium would be for each month the individual was eligible for the coverage being tested. Enter the annualized premium in the space for the appropriate months on the Affordability Worksheet.		