Exemptions and the Share Responsibility Payment

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Exemption from What?

• Having to have insurance coverage
• Having to pay the Shared Responsibility Payment

What Exemptions Are Available?

• The client is uninsured for less than 3 consecutive months of the year
• The lowest-priced coverage available to the client would cost more than 8.05% of the household income – THE AFFORDABILITY FACTOR
• The client doesn’t have to file a tax return because the income is too low
• They are a member of a federally recognized tribe or eligible for services through an Indian Health Services provider
What Exemptions Are Available?

• They are a member of a recognized health care sharing ministry
• They are a member of a recognized religious sect with religious objections to insurance, including Social Security and Medicare
• They are incarcerated (either detained or jailed), and not being held pending disposition of charges

What Exemptions Are Available?

• Certain Medicaid programs that are not minimum essential coverage — They were:
  – (1) Enrolled in Medicaid coverage provided to a pregnant woman that is not recognized as minimum essential coverage;
  – (2) Enrolled in Medicaid coverage provided to a medically needy individual (also known as Spenddown Medicaid or ShareofCost Medicaid) that is not recognized as minimum essential coverage; or
  – (3) Enrolled in Medicaid, and received minimum essential coverage for one or more months of the year by meeting a spenddown, but not in other months because the spenddown had not been met

What Exemptions Are Available?

• They are not lawfully present in the U.S.
• Aggregate self-only coverage considered unaffordable — Two or more family members’ aggregate cost of self only employer sponsored coverage was more than 8.05% of household income, as was the cost of any available employer sponsored coverage for the entire family
• Member of tax household born, adopted, or died — For 2015 a child was added to the tax household by birth or adoption, or a member of the tax household died during the year and they can’t check the full year coverage checkbox on your tax return
What Exemptions Are Available?

- Determined ineligible for Medicaid in a state that didn’t expand Medicaid coverage
- Resident of a state that did not expand Medicaid
  - The household income was below 138% of the federal poverty line for the family size and at any time in 2015 they resided in a state that didn’t participate in the Medicaid expansion under the Affordable Care Act

What Exemptions Are Available?

- General hardship — They experienced a hardship that prevented them from obtaining coverage under a qualified health plan
- Coverage considered unaffordable based on projected income — They didn’t have access to coverage that is considered affordable based on the projected household income
- Unable to renew existing coverage — They were notified that the health insurance policy was not renewable and other plans available were unaffordable

What Exemptions Are Available?

- Citizens living abroad and certain noncitizens — The client was:
  - A U.S. citizen or resident who spent at least 330 full days outside of the U.S. during a 12 month period;
  - A U.S. citizen who was a bona fide resident of a foreign country or U.S. territory;
  - A resident alien who was a citizen 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 the tax year;
  - Not lawfully present in the U.S and not a U.S. citizen or U.S. national
  - A nonresident alien, including (1) a dual-status alien in the first year of residency and (2) a nonresident alien or dual-status nonresident alien who elects to file a joint return with a spouse
What is a Hardship Exemption?

• They were homeless
• They were evicted in the past 6 months or were facing eviction or foreclosure
• They received a shut-off notice from a utility company
• They recently experienced domestic violence
• They recently experienced the death of a close family member
• They experienced a fire, flood, or other natural or human-caused disaster that caused substantial damage to their property
• They filed for bankruptcy in the last 6 months
• They had medical expenses they couldn’t pay in the last 24 months which resulted in substantial debt

• They experienced unexpected increases in necessary expenses due to caring for an ill, disabled, or aging family member
• They expected to claim a child as a tax dependent who’s been denied coverage in Medicaid and CHIP, and another person is required by court order to give medical support to the child – in this case, they do not have the pay the penalty for the child
• As a result of an eligibility appeals decision, they are eligible for enrollment in a qualified health plan (QHP) through the Marketplace, lower costs on the monthly premiums, or cost-sharing reductions for a time period when they weren’t enrolled in a QHP through the Marketplace
• They experienced another hardship in obtaining health insurance

How to Apply for an Exemption

• If they are applying for an exemption based on
  – Coverage being unaffordable
  – Membership in a health care sharing ministry
  – Membership in a federally-recognized tribe
  – Incarcerated
  – Income below the filing requirement
  – Citizens living abroad and certain noncitizens
  – Aggregate self-only coverage considered unaffordable
How to Apply for an Exemption

- Resident of a state that did not expand Medicaid
- Member of tax household born, adopted, or died
- They can claim these exemptions when they fill out their 2015 federal tax return, which is due in April 2016

Must Have an Exemption Certificate Number

- Members of certain religious sects
- Determined ineligible for Medicaid in a state that didn’t expand Medicaid coverage
- General hardship
- Coverage considered unaffordable based on projected income
- Unable to renew existing coverage
- Certain Medicaid programs that are not minimum essential coverage

Marketplace Application

- All applications require documents to support your clients position
- Enter the ECN received from the Marketplace for the individual listed in column (a)
- The certificate number will be placed in Column (c)
- If the client was granted a coverage exemption from the Marketplace, but didn’t receive an ECN, or don’t know their ECN, they must contact the Marketplace to obtain the ECN
- If the Marketplace hasn’t processed the application before the client files, enter “pending”
### What Happens after the Client applies for an Exemption?

- After the client submits the application, The Marketplace will review it and determine eligibility
- The time it takes to receive a response will depend on how complicated the request is, how complete the application is, and whether the client needs to submit supporting documentation after they apply
- The Marketplace will mail a notice of the exemption eligibility result
- If the client is granted an exemption, the Marketplace notice will show the unique exemption certificate number (ECN)

### There is an Appeal Process

- If the client doesn’t agree with the results of the exemption application, the client can ask for an appeal
- The Appeal
  - The Health Insurance Marketplace must receive the appeal request within 90 days of the date of the notice of the application results
  - The client can have someone request or participate in the appeal
  - That person can be a friend, relative, lawyer, or other individual
  - The outcome of an appeal could change the eligibility of other members of the household
  - To appeal the results of the exemption application, there is a phone number your client can call 1-800-318-2596
  - The client can also mail an appeal request form or a letter requesting an appeal to Health Insurance Marketplace – Exemption Processing, 465 Industrial Blvd., London, KY 40741

### How Long will a Hardship Exemption last?

- Hardship exemptions are usually provided for the month before the hardship, the months of the hardship, and the month after the hardship
- However, the Marketplace may provide the exemption for additional months after the hardship, including up to a full calendar year
- For a hardship exemption based on affordability, the exemption will be granted for the remaining months in the coverage year
- For individuals ineligible for Medicaid solely based on a state’s decision not to expand coverage, the hardship exemption will be granted for the entire calendar year
- For individuals eligible for Indian Health Services, the hardship exemption will be granted on a continuing basis
  - It may be kept for future years without having to submit another application as long as there are no changes to your membership in a tribe or eligibility for services from an Indian health care provider
Form 8965

- Form 8965 is the exemption form that must be attached to the tax return
- Part 1 Marketplace granted exemption
- Part 2 Exemption for the household
- Part 3 Exemption for individuals
The Individual Shared Responsibility Payment

The Penalty: Resistance is Futile and Expensive

- How the Penalty is Calculated
- What coverage your client must have and by when to avoid the penalty
- How the penalty changes as we move through the years
- Where to place the penalty on the tax forms
Enrollment period

• Your client can generally buy Marketplace health insurance only during the annual Open Enrollment period. Upcoming dates to know:
  • November 1, 2015: 2016 Open Enrollment starts
  • January 31, 2016: 2016 Open Enrollment ends
  • January 1, 2016: 2016 coverage can begin depending on when registered with the Marketplace

Enrollment

• If the client hasn’t enrolled in coverage by January 31, 2016, then, they generally can’t buy Marketplace health coverage for 2016 until the next open enrollment period for coverage the following year
• To continue health coverage in 2016, they can renew the current health plan or choose a new health plan through the Marketplace during the 2016 open enrollment period
• If they did not have health coverage during 2015, they may have to pay a fee
• The fee in 2015 is higher than it was in 2014 — 2% of the income or $325 per adult/$162.50 per child, whichever is more

Confusion

• Due to expected confusion in the early years of the program, more people may face penalties
• The ACA forbids the IRS from aggressive efforts to collect the penalty from people who don’t pay
• The biggest stick the agency may have is to withhold tax refunds from those who owe penalties
Key Issues

• The penalty amount is based on income
• Part of income is exempt from the penalty
• The penalty is a monthly penalty
• Your client could be responsible for other individuals' penalties
• Families have special rules
• Paying the penalty will likely cost less than buying health insurance
• It's possible to get an exemption

Individual Shared Responsibility Payment (ISRP)

• In 2015 EVERYONE must either:
  Have Minimal Essential Coverage
  Or
  Have a Coverage Exemption
  Or
  Make a Shared Responsibility Payment

% Penalty Worksheet Form 8965

...
Flat Amount Worksheet

When Would an Individual Need to Make a Payment?

- A payment may be due for an individual and dependents if they do not have:
  - MEC for every month of the year
  - An exemption for the months without MEC
- This information is reported on the federal income tax return

How is the Payment Computed?

- The amount is based on the national average premium for a bronze level health plan.
Calculating Shared Responsibility Penalty for 2014

• The penalty is the greater of:
  – a flat dollar amount; or
  – a specific percentage of income.

  • For 2015, the penalty amount will be the greater of $325 per adult and $162.50 per child under age 18 (maximum of $975 per family) OR
  • 2% of income over the tax-filing threshold (currently, $10,300 for a 2015 single return, or $20,600 for a joint return)

2016

• If the client does not have health insurance in 2016, they will pay the higher of these two amounts:
  – 2.5% of your yearly household income
  – $695 per person ($347.50 per child under 18) The maximum penalty per family using this method is $2,085

Penalty is Capped

• Rev. Proc. 2015-15
  – This revenue procedure provides the monthly national average bronze plan premium for 2015

• Monthly National Average Bronze Plan Premium is $207 per individual or $1035 for a family of five or more members
Sample Calculation Single

- Single individual, no dependents
- No MEC for any month in the year
- Does not qualify for an exemption
- Household Income $65,000 - filing threshold
  - Percentage of Income
    - $65,000 - $10,300 = $54,700 x 2% = $1094
    - Flat dollar amount $325
    - Greater of these 2 amounts = $1,094
  - Bronze level cap = $207 x 12 = $2484
- The 2015 Shared Responsibility Payment = $1094

Prorated for each Month without Coverage

- The 2015 shared responsibility penalties are payable when individuals file their 2015 federal income tax returns in 2016
- If the penalty applies for less than a full calendar year, it is prorated to 1/12 of the annual penalty for each month without coverage

Sample Calculation Family

- Facts:
  - Married w/four children under 18
  - No minimum essential coverage for any month
  - Does not qualify for an exemption
  - Household income = $70,000/filing threshold = $20,600
- Payment calculation
  - Percentage of income:
    - $70,000 - $20,600 = $49,400
    - 2% x $49,400 = $988
  - Flat dollar: $1,300 = $325 x 2 + ($162.50 x 4)
- 2015 ISRP = $1,035
  - $1,300 is > than the national average for bronze level coverage $1,035 for a family of five or more
What Information Documents Will be Issued in 2015?

• Form 1095-A – Marketplace Purchase
  — Received By January 31, 2016
  — Issued by the insurance company with whom your client purchased insurance through the Marketplace
• Provides:
  — Documentation of coverage by month
  — Premiums AND
  — Advanced Payments of the Premium Tax Credit

Form 8962
Applies Only to Form 1095-A

• Part 1 – Annual and Monthly Contribution
• Part 2 – PTC Claim and Reconciliation
• Part 3 – Repayments of Excess of Advanced Payment
• Part 4 – Shared Policy Allocations
• Part 5 – Alternative Calculation for Marriage

2015

• Also your client may receive
  — Form 1095-B Health Insurance Coverage
  — Form 1095-C, Employer Provided Health Insurance Coverage
### Form W-2

- Box 12 of Form W-12 generally will also be used in 2015 to report health insurance BUT
  - Only reports a gross amount
  - Does not report who was covered
  - Does not report months covered
  - Does not report when insurance was offered
  - Does not provide adequate information to determine the coverage or penalties

### Information Required on Form 1095-B

- Name, address and EIN for the person required to file the return
- Name, address and TIN, or date of birth of the responsible individual
- Name and TIN or date of birth for each individual covered under the policy or program
- For each covered individual, the months for which the individual was enrolled in coverage and entitled to receive benefits
- In addition, name, address and EIN of the employer sponsored plan
- Whether the coverage is a qualified health plan enrolled through the Small Business Health Options Program (SHOP) and the SHOP's unique identifier

### Information Required on Form 1095-C

- The employer's name, address, EIN;
- Name and phone number of the employer's contact person;
- Identification of the calendar year for which the information is reported;
- Certification as to whether the employer offered to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under its group health plan by calendar month;
- The months during the calendar year for which coverage under the plan was available;
- Each full-time employee’s share of the lowest cost monthly premium (self-only) for coverage providing minimum value offered to that full-time employee under the employer-sponsored plan, by calendar month;
- The number of full-time employees for each month during the calendar year; and
- The name, address, and taxpayer identification number of each full-time employee during the calendar year and the month, if any, during which the employee was covered under the plan.
### Highlights of the Final Regulations

- Reporting is required for a deceased participant
- Forms 1095 can be provided at the same time as the Form W-2 and in the same envelope without restrictions
- The required forms must be mailed to the last known address or the address the reporting entity uses for requesting information about coverage
- The IRS TIN matching program is not permitted to verify TIN’s for the §6055 reporting

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### When Does Your Client Pay the Penalty?

- Payment, if due, is reported and paid with the tax return
- IRS cannot place a lien or levy to collect the penalty but
- Can take the penalty due from refund of current year return or future returns

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### Summary

- Everyone Must:
  - Have Minimum Essential Coverage or
  - An Exemption or
  - Make a shared responsibility payment
- MEC is reported on the Tax return
- Exemptions are reported on Form 8965 filed with the tax return
- The Shared Responsibility Payment is reported on the tax return
1040

1040 A

1040 EZ

Payments, Credits, and Tax

7. Federal Income tax withheld from Form W-2 and 1099
   a. Earned Income Credit (EIC) (see instructions)
   b. Nonrefundable credit per return
   c. Add lines 7a and 7b. These are your total payments and credits
   d. Tax. Use the amount on line 7c to find your tax in the tax table in the
   instructions. Then, enter the tax from the table on line 8
   e. Health care individual responsibility (see instructions) Full year coverage
   f. Add lines 7 and 8. This is your total tax.
Collecting the Penalty

- The shared responsibility payment is paid to the IRS when the client files their federal income taxes
- The IRS has limited tools to collect the penalty money
  - It’s not allowed to send you to jail or put a lien on your house, the standard techniques it uses for collecting unpaid income taxes. This could mean the health insurance penalty will be hard to enforce
- Although the IRS’s collection tools are limited, it’s not totally impotent to collect from folks who’d rather not pay
  - For example, it can withhold the payment amount from any tax refund due.
- If the client owes both taxes and a penalty, it’s not clear how the IRS will credit a tax payment that doesn’t include the penalty payment

EXAMPLE

- For example, let's say the client owes $1000 in taxes as well as a $325 shared responsibility payment
- The client does not want to pay the shared responsibility payment, so they write the IRS a check for $1000 for the taxes and send it in with the return, leaving the $325 health insurance penalty unpaid
- We don’t yet know how the IRS will credit that $1000 check
  - Will it credit all of the money paid toward taxes owed, leaving the less-enforceable health insurance penalty unpaid?
  - Or, will it credit $325 toward the shared responsibility penalty first, and the remaining $675 toward taxes owed?
  - That would result in you having $325 of unpaid federal income taxes
  - The IRS could then use its regular collection techniques to collect the remaining $325 of unpaid federal income taxes
  - Whether the IRS will do this is, as of yet, unknown

Form 8965

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- Part 1 Marketplace granted exemption
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Time for Questions

The Scoop

Join CALT for The Scoop! The Scoop is a FREE live 30-60 minute session that is held twice a month, briefing you on current hot issues, recent court cases and new IRS procedures.

To register: https://attendee.gotowebinar.com/rt/6051053754922735106

All Scoops are usually on Wednesdays from 8 to 9 AM central time.

- October 21, 2015
- October 28, 2015
- November 4, 2015
- November 18, 2015
- December 16, 2015
- December 30, 2015

ACA Webinars

- Premium Tax Credit: October 21, 2015 - Noon to 1 pm (CST) – 1 hour of CPE
- Shared Allocations: October 22, 2015 – Noon to 2 pm (CST) – 2 hours of CPE
- Employer Issues and Cadillac Tax: October 23, 2015 – Noon to 2 pm (CST) – 2 hours of CPE
Repair Regulations Webinars

• October 26, 2015 Buildings: Betterments ~ Noon to 1 pm CST
• October 27, 2015 Buildings: Restoration ~ Noon to 1 pm CST
• October 28, 2015 Buildings: Adaptation ~ Noon to 1 pm CST
• October 29, 2015 Dispositions ~ Noon to 1 pm CST
• October 30, 2015 Other Remaining Issues of Importance ~ Noon to 1 pm CST

January
Getting Ready for Filing Season Webinars

• Free- Getting Ready for Filing Season – January 12, no CPE offered
• EITC Due Diligence – January 14 - $35.00
• Identity Theft – January 19 - $35.00
• 1 hour each CPE for EITC Due Diligence and Identity Theft

Tour of the CALT Website
### CALT Staff

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