

Family Law and Affordable Care Act Tax Issues

Introduction

The Affordable Care Act (“ACA”) requires most U.S. citizens and lawfully present immigrants to have basic medical coverage for themselves and their dependents. If you do not have such coverage, you may have to pay a penalty when you file your taxes. Although the President recently signed a new law repealing the tax penalty, this repeal does not take effect until you file your tax return in 2020 (for tax year 2019).

This publication provides general information about how factors such as tax filing status, child custody, and changes in family composition may impact your medical coverage and taxes.

How does the IRS determine my marital status for tax filing purposes?

Under IRS rules, your marital status is determined by whether you were single, married, legally separated, or divorced on the last day of the calendar year.

I’m married and would like to get tax credit to help pay for medical coverage. What do I need to do when I file my taxes?

Most people who are legally married must file as “married filing jointly” to be eligible for Premium Tax Credit to help pay for their medical coverage. Our publication [Taxes and the Affordable Care Act- Premium Tax Credit](#) has more information.

There are some exceptions to this general rule. We discuss them below.

I am a domestic violence survivor. I cannot file taxes jointly with my spouse. What should I do?

You may be eligible for the domestic violence exception to the joint filing requirement for Premium Tax Credit. You must show:

- you live apart from your spouse at the time you file your return

AND

- you are a survivor of domestic violence

You may claim this exception for a maximum of three years.

My spouse left and I cannot find him/her. What should I do?

You may be eligible for an “abandoned spouse” exception to the joint filing requirement for Premium Tax Credit. You must show:

- you live apart from your spouse at the time you file your tax return

AND

- you have been unable to find your spouse after making reasonable efforts to do so

You may claim this exception for a maximum of three years.

I lived apart from my spouse for the last part of the year. Do I have to file jointly with my spouse to get Premium Tax Credit?

If you lived apart from your spouse **for the last six months of the tax year**, you may be eligible to file as “Head of Household” and

exempt from the joint filing requirement for Premium Tax Credit. You must show:

- You paid more than half the costs of keeping up the home during the tax year

AND

- You provided the main home for a child, stepchild, or foster child for more than six months of the year

If you are married and meet the “Head of Household” filing requirements, you can file as “married, filing separately” and still be eligible for Premium Tax Credit. **Your spouse will be treated as married** and will not be eligible for Premium Tax Credit, since you filed separately. (S/he may be eligible for the “Head of Household” exception if s/he provided the main home for different children than the ones you include on your tax returns.)

My marital status changed during the tax year. What filing status should I use?

If you got married or divorced after you purchased a Qualified Health Plan, you must report your change in marital status to Healthplanfinder. Changes in marital status, household size, and income may affect the amount of your Premium Tax Credit. If you do not report changes when they happen, you may end up owing money when you file your tax return.

My spouse died during the tax year. What filing status should I use?

If your spouse died during the tax year, you are considered married for the entire tax year and IRS allows you to file jointly or separately. To claim Premium Tax Credit, you must file as “married, filing jointly.”

I am legally married to my same sex spouse. Can I file as married and claim Premium Tax Credit?

Yes, if you live in Washington state. The IRS will recognize your marriage for federal income tax purposes because your marriage is legally valid in Washington state.

Do I have to get health insurance for everyone in my family?

Probably. The ACA requires you, your spouse, and your dependents to have qualifying health insurance for the entire year, unless you are eligible for an exemption. See our publication [Tax Issues for Immigrants under the Affordable Care Act](#).

Can I get Premium Tax Credits for my child?

Yes, so long as you qualify to claim the child as a dependent on your tax return. In order for you to claim a child as a dependent on your tax return, all of these must be true:

- The child is a citizen or resident of the U.S., Canada, or Mexico (note: eligibility for tax credits is limited to U.S. citizens and lawfully present immigrants)
- The child lived with you at least half the year
- The child was under age 19 by the end of the tax year (or under age 24 if a full-time student, or any age if disabled)
- The child has a qualifying relationship to you (can be your child, grandchild, younger sibling, or younger niece or nephew)
- The child is not paying more than half of his own support (if the child does

pay more than half, s/he may qualify as another type of dependent)

I do not have custody of my children. Will I have to pay a tax penalty if they are not insured?

The parent who qualifies to claim the child as a dependent on his/her tax return faces a tax penalty if the child is not covered. In most cases, this would be the custodial parent with whom the child lives most of the time during the tax year. If the custodial parent signs IRS form 8332 allowing the non-custodial parent to claim the child as a dependent, the non-

custodial parent can get Premium Tax Credit for the child and may face a tax penalty if the child is not insured.

I have custody of my children. The other parent is required to provide health insurance under a child support order but has not done so. Will I face a penalty?

If your child has been denied Washington Apple Health and the other parent is required by court order to provide health insurance for the child, you may qualify for a hardship exemption.

This publication provides general information concerning your rights and responsibilities. It is not a substitute for specific legal advice.

This information is current as of January 2018.

© 2018 Northwest Justice Project — 1-888-201-1014.

(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial use only.)