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The Individual Mandate for Health Insurance Coverage: In Brief

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Introduction

Since January 1, 2014, most individuals have had to maintain health insurance coverage or pay a penalty for noncompliance implemented through the Internal Revenue Code (IRC).[1] To comply with this individual mandate, individuals need to maintain minimum essential coverage, which includes most types of public and private health insurance coverage. Some individuals are exempt from the mandate and not subject to its associated penalty.

The individual mandate was established under the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) and works in conjunction with other ACA provisions. Under the ACA, a number of federal requirements applicable to private health insurance issuers went into effect intending to improve access to private health insurance for sick individuals or those at high risk of becoming ill.[2] The individual mandate works in tandem with the requirements by encouraging healthy individuals to participate in the market so that insurers' risk pools are not primarily composed of individuals who are at high risk of using health care services.

The individual mandate was modified under the 2017 tax revision, P.L. 115-97, which was enacted on December 22, 2017. The law effectively eliminates the penalty associated with the individual mandate beginning in 2019 (i.e., the penalty is in effect through 2018). However, the 2017 tax revision does not make any other substantive changes to the statutory language establishing the mandate and its associated penalty.

This report provides an overview of the individual mandate, its associated penalty, and the exemptions from the mandate. It discusses the ACA reporting requirements designed, in part, to assist individuals in providing evidence of having met the mandate. The report includes the most recent national- and state-level data on the application of the mandate's penalty for tax year (TY) 2014 and TY2015.

The information provided in this report is based on current law and its implementing regulations and guidance. As of the date of this report, guidance has not been issued regarding the effective elimination of the individual mandate penalty in 2019.

Individual Mandate

Most individuals are required to maintain *minimum essential coverage* for themselves and their dependents. The types of coverage that are considered minimum essential coverage are listed in Section 5000A of the IRC and its implementing regulations.[3] Most types of comprehensive coverage are considered minimum essential coverage, including public coverage, such as coverage under programs sponsored by the federal government (e.g., Medicaid, Medicare), as well as private insurance (e.g., employer-sponsored insurance and nongroup, or individual, insurance).[4]

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[1] 26 U.S.C. §5000A.

[2] The federal requirements include guaranteed issue and renewability, nondiscrimination based on health status, coverage of preexisting health conditions, and rating restrictions. For more information about these and other requirements, see CRS Report R42069, *Private Health Insurance Market Reforms in the Patient Protection and Affordable Care Act (ACA).*

[3] 26 U.S.C. §5000A(f) and 26 C.F.R. §1.5000A-2.

[4] The Internal Revenue Service (IRS) has a chart that shows the types of coverage that do and do not qualify as minimum essential coverage at https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Minimum-Essential-Coverage.

The statute identifies types of coverage consisting of limited benefits, such as dental-only insurance, that are not considered minimum essential coverage.[5]

The Essential Health Benefits and Minimum Essential Coverage

The essential health benefits and minimum essential coverage are independent concepts that are often conflated.

Section 1302 of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) lists 10 categories from which services and benefits must be included to comprise the essential health benefits. Health plans offered in the nongroup and small-group markets must cover the essential health benefits.

Section 5000A of the Internal Revenue Code and its implementing regulations list the types of coverage that are considered minimum essential coverage, but they do not specify how that coverage must be designed (i.e., they do not require that the essential health benefits are covered).

The only way in which minimum essential coverage and the essential health benefits intersect is when a person has a nongroup or small-group health plan. In both situations, the person would have a health plan that is considered minimum essential coverage and that also covers the essential health benefits. No other type of coverage that is identified as minimum essential coverage is required to comply with the requirement to cover the essential health benefits.

Penalty

Individuals who do not comply with the mandate, or who have dependents who do not comply,[6] may be required to pay a penalty annually for each month of noncompliance, to be implemented through the IRC. An individual's annual penalty is equal to one-twelfth of the annual penalty (described below) multiplied by the number of months in which the individual did not comply with the mandate.

Calculating the Penalty

The penalty for noncompliance is calculated as the *greater* of either

- **a percentage of *applicable income*,** defined as the amount by which an individual's household income[7] exceeds the applicable tax filing threshold for the tax year;[8] or
- **a yearly flat dollar amount** assessed on each taxpayer and any dependents.[9] The total dollar amount assessed on a taxpayer (for themselves and any dependents) is capped at 300% of the annual flat dollar amount. For example, in 2016, the annual dollar amount penalty for a taxpayer and three dependents (all of whom

[5] See 26 U.S.C. §5000A(f)(3).

[6] The IRS provides that a taxpayer is liable for an individual mandate penalty for his or her dependents regardless of whether the taxpayer claims a personal exemption for the dependents for the taxable year. *Dependent* is defined in the Internal Revenue Code (IRC) §152 and includes qualifying children and qualifying relatives (see U.S Department of the Treasury, IRS, "Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage," 78 *Federal Register* 53646, August 30, 2013).

[7] *Household income* is defined as the modified adjusted gross income (MAGI) of the taxpayer, plus the aggregate MAGI of all other individuals for whom the taxpayer is allowed a deduction for personal exemptions for the taxable year—the taxpayer's spouse and dependents (as defined in IRC §152). For more information, see CRS Report R43861, *The Use of Modified Adjusted Gross Income (MAGI) in Federal Health Programs*.

[8] The filing threshold comprises the personal exemption amount (doubled for those married filing jointly) plus the standard deduction amount.

[9] The flat dollar amount is reduced by one-half for dependents under the age of 18.

were without coverage for the entire year) is limited to three times $695, or $2,085.

As shown in **Table 1**, both the percentage and the flat dollar amount increased between 2014 and 2016, and the dollar amount is adjusted for inflation by the Consumer Price Index for All Urban Consumers (CPI-U) for 2017 and 2018. The percentage and the flat dollar amount become zero in 2019.

Table 1. Annual Individual Mandate Penalty

Year	Percentage of Applicable Income	Flat Dollar Amount
2014	1.0%	$95
2015	2.0%	$325
2016	2.5%	$695
2017	2.5%	$695 adjusted for inflation[a]
2018	2.5%	$695 adjusted for inflation[a]
2019 and Beyond	0.0%	$0

Source: Internal Revenue Code (IRC) §5000A.

Notes: The table shows the annual penalty, but the penalty is assessed on a monthly basis. The monthly penalty is 1/12 of the annual penalty.

a. In 2017 and 2018, the flat dollar amount is $695 (i.e., it was not changed by the inflation adjustment).

An individual's annual penalty payment is equal to one-twelfth of either the percentage of income or the flat dollar amount, multiplied by the number of months not in compliance. Each total monthly penalty is also capped. The monthly penalty for a taxpayer and his or her dependents cannot be more than the cost of the national average premium for bronze-level health plans offered through health insurance exchanges (for the relevant family size).[10] For 2017, the average premium was $272 per individual per month.[11] If a taxpayer was liable to pay a penalty for more than one individual, the monthly individual amount ($272) was multiplied by the number of individuals subject to a penalty, up to a maximum of five individuals. So, for 2017, the maximum cap was $272 per month for a single taxpayer, $816 per month for a taxpayer who was liable for penalties for three individuals, and $1,360 per month for a taxpayer who was liable for penalties for five or more individuals.

Paying the Penalty

Any penalty that taxpayers are required to pay for themselves or their dependents must be included in their federal income tax return for the taxable year. Those individuals who file joint returns are jointly liable for the penalty.

Taxpayers who are required to pay a penalty but fail to do so will receive a notice from the Internal Revenue Service (IRS) stating that they owe the penalty. If the taxpayers still do not pay the penalty, the IRS can attempt to collect the funds by reducing the amount of their tax refund for that year or future years. However, individuals who fail to pay the penalty will not be subject

[10] Health insurance plans offered in the nongroup and small-group markets must have an actuarial value that corresponds to one of four tiers, as designated by a metal. Plans offered in the bronze tier have the lowest actuarial value—60%.

[11] IRS Rev. Proc. 2017-58.

to any criminal prosecution or penalty for such failure. The Secretary of the Treasury cannot file notice of lien or file a levy on any property for a taxpayer who does not pay the penalty.

Exemptions

Some individuals are exempt from the individual mandate or its associated penalty.[12] An individual who obtains an exemption from the mandate is not required to make a penalty payment for any month in which he or she qualifies for the exemption. The exemptions are outlined in statute and in regulations (and are summarized in **Table 2**).

In most cases, individuals must either apply for an exemption through a health insurance exchange or claim an exemption on their federal tax return, although individuals who can claim the living abroad exemption do not have to take any action for their exemption.[13] Individuals whose exemption is granted by an exchange must report the exemption information to the IRS when they file their taxes. Most exemptions are applicable retrospectively and must be recertified annually, but some exemptions, including the religious conscience and Indian tribe exemptions, are eligible for prospective or retrospective applicability and continuous certification.

Individuals who claim hardship or affordability exemptions are eligible to enroll in catastrophic health plans offered in the nongroup (or individual) market. Catastrophic plans must cover a comprehensive set of benefits but do not have to comply with the same cost-sharing requirements with which other nongroup plans must comply. As a result, these plans typically have lower premiums because they have higher cost sharing. Aside from individuals who claim hardship or affordability exemptions, only individuals who are under the age of 30 are eligible to enroll in catastrophic plans.

Table 2. Exemptions from the ACA's Individual Mandate and Its Associated Penalty

Exemption	Description
Religious Conscience	To qualify for this exemption, an individual must be a member of a recognized religious sect or division (as described in §1402(g)(1) of the Internal Revenue Code [IRC]) by reason of which he or she is conscientiously opposed to acceptance of the benefits of any private or public insurance that makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (e.g., Medicare). Such sect or division must have been in existence at all times since December 31, 1950.[a]
Hardship	Individuals who have experienced a hardship with respect to obtaining health insurance coverage are exempt. The Secretary of Health and Human Services has the authority to determine the circumstances under which an individual may receive a hardship exemption.[b]
Health Care Sharing Ministry Membership	To qualify for this exemption, an individual must be a member of a health care sharing ministry[c] that (1) has been in existence (and sharing medical expenses) at all times since December 31, 1999, and (2) conducts an annual audit by an independent certified public accountant, available to the public upon request.

[12] Certain exemptions apply to the individual mandate, whereas other exemptions apply to the penalty but not the mandate. The practical effects are the same whether an individual is exempt from the mandate or the penalty—the individual will not be subject to a penalty for not maintaining minimum essential coverage.

[13] For more information about how to obtain an exemption, see the IRS website, "Individual Shared Responsibility Provision—Exemptions: Claiming and Reporting," at https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Exemptions.

Exemption	Description
Indian Tribe Membership	For purposes of this exemption, the term *Indian tribe* means any Indian tribe, band, nation, pueblo, or other organized group or community (including any Alaska Native village) or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
Incarceration	Incarcerated individuals are exempt, except those pending the disposition of charges.
Affordability	Individuals whose required contribution for self-only coverage exceeds a certain percentage of household income are exempt.[d] The percentage is 8.16% for 2017.
Unlawful Resident	Individuals who are not lawfully present in the United States are exempt.
Coverage Gap	No penalty will be imposed on those without coverage for less than three months, but this exemption applies only to the first short coverage gap in a calendar year.
Filing Threshold	Individuals whose household income is less than the filing threshold for federal income taxes for the applicable tax year are exempt.
Living Abroad	Qualifying individuals who otherwise would be subject to the mandate but who live abroad for at least 330 days within a 12-month period as well as bona fide residents of any possession of the United States will be considered to have minimum essential coverage and therefore will not be subject to the penalty.

Source: IRC §5000A and implementing regulations.

Note: For more information about the exemptions and how to obtain them, see Internal Revenue Service, "Individual Shared Responsibility Provision—Exemptions: Claiming or Reporting," at https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Exemptions, and Centers for Medicare & Medicaid Services, "Exemptions from the Requirement to Have Health Insurance," at https://www.healthcare.gov/health-coverage-exemptions/exemptions-from-the-fee/.

a. There is no list of specific religious groups that qualify for the exemption.

b. For example, individuals who are homeless and those who have filed for bankruptcy may be eligible for a hardship exemption. For more information about the circumstances that qualify an individual for a hardship exemption, see Healthcare.gov, "Hardship Exemptions, Forms & How to Apply," at https://www.healthcare.gov/health-coverage-exemptions/hardship-exemptions/.

c. A *health care sharing ministry* is defined as an organization described in IRC §501(c) that is exempt from taxation under IRC §501(a). Members of the ministry share a common set of ethical or religious beliefs and share medical expenses, and they retain membership even after they develop a medical condition. 26 U.S.C. §5000A(d)(2)(B)(ii).

d. *Required contribution* is defined as (1) in the case of an individual eligible to purchase minimum essential coverage through an employer (other than through an exchange), the portion of the annual premium that is paid by the individual for self-only coverage or (2) for individuals not included above, the annual premium for the lowest-cost bronze plan available in the individual market through the exchange in the state in which an individual resides, reduced by the amount of any premium credit received for the taxable year.

Reporting Requirements

Individuals

Taxpayers must provide information to the IRS about their compliance with the mandate.[14] When filing their tax returns, they must indicate whether they and their dependents had minimum

[14] For more information an individual's reporting requirements with respect to the individual mandate, see the IRS website, "Individual Shared Responsibility Provision," at https://www.irs.gov/Affordable-Care-Act/Individuals-and-

essential coverage for each month of the year.[15] Taxpayers must report any exemptions they or their dependents were granted by an exchange. Taxpayers also may claim an exemption for themselves or their dependents when filing their taxes. The IRS will assess a penalty on any taxpayer who does not indicate coverage or an exemption for the taxpayer or any dependents.

Entities Providing Minimum Essential Coverage

To verify the coverage information provided by taxpayers, every entity (including employers, insurers, and government programs) that provides minimum essential coverage to any individual must report that information to the IRS and provide a statement to the covered individual.[16] The information the reporting entity is to give to the IRS includes the name, address, and taxpayer identification number of the responsible individual[17] and each other individual covered under the policy or program,[18] as well as the months during which, for at least one day, each individual was covered under the policy or program.

The reporting entity also must provide a statement to each responsible individual covered under the policy or program. The statement must include the contact information for the person designated as the reporting entity's contact person; the policy number of the coverage, if any; and the information included in the return to the IRS for the responsible individual and any individuals listed on the return.

Penalty and Exemption Data

The most recently available data on the individual mandate penalty and exemptions are for TY2014 and TY2015. According to IRS data, in TY2014 approximately 8.1 million tax returns reported a total of about $1.7 billion in individual mandate penalty payments, for an average of about $210 per return that reported a penalty.[19] In TY2015, approximately 6.7 million tax returns reported penalty payments totaling about $3.1 billion.[20] The average payment was about $462.[21]

Families/Individual-Shared-Responsibility-Provision.

[15] Beginning with tax year (TY) 2017, the IRS will reject returns that do not report full-year coverage, claim an exemption, or report an individual mandate penalty payment. In previous tax years, the IRS did not systematically reject tax returns during processing in instances where the taxpayer did not provide such information. The IRS processed the "silent returns" and followed up with taxpayers as needed according to the agency's post-filing compliance procedures. For more information about the change for TY2017, see https://www.irs.gov/affordable-care-act/individuals-and-families/individual-shared-responsibility-provision and https://www.irs.gov/tax-professionals/aca-information-center-for-tax-professionals.

[16] 26 U.S.C. §6055.

[17] In regulations, the term *responsible individual* includes "a primary insured, employee, former employee, uniformed services sponsor, parent, or other related person named on an application who enrolls one or more individuals, including him or herself, in minimum essential coverage." 26 C.F.R. §1.6055-1(b)(11).

[18] Regulations provide that a reporting entity is required to make a reasonable effort to obtain the taxpayer identification number (TIN) of each individual covered under the plan, but if a TIN is not available, the reporting entity must provide a date of birth for the individual instead.

[19] IRS, *Statistics of Income - Individual Income Tax Returns 2014*, Publication 1304 (Rev. 08-2016), at https://www.irs.gov/uac/soi-tax-stats-individual-income-tax-returns-publication-1304-complete-report.

[20] IRS, Statistics of Income, *Table 2. Individual Income and Tax Data, by State and Size of Adjusted Gross Income, Tax Year 2015*.

[21] CRS calculation based on data from IRS, Statistics of Income, *Table 2. Individual Income and Tax Data, by State and Size of Adjusted Gross Income, Tax Year 2015*.

Table 3 shows state-level penalty data for TY2014 and TY2015.[22]

In TY2014, more than 13.3 million taxpayers filed the IRS form required to claim an exemption from the mandate.[23] Preliminary data for TY2015 indicate that approximately 12.7 million taxpayers claimed an exemption from the mandate in TY2015.[24] The IRS has not issued a state-level breakdown of claimed exemptions for either tax year.

It should be noted that because the penalty and exemption data (for both tax years) are based on information provided by a taxpayer, it is not possible to discern from the publicly available data how many individuals (as opposed to how many tax returns or filed forms) were subject to a penalty or claimed an exemption in either TY2014 or TY2015. Because the actual number of individuals subject to a penalty or claiming an exemption would be no fewer than the number of returns or filed forms, the figures reported here represent a minimum number of individuals who were subject to a penalty or claimed an exemption in each of TY2014 and TY2015.

Table 3. Percentage of Tax Returns with Reported Individual Mandate Penalties and Total Amount of Reported Penalties for TY2014 and TY2015, by State

	TY2014[a]		TY2015	
	Percentage of Returns with Reported Penalties	Total Amount of Reported Penalties (in millions)	Percentage of Returns with Reported Penalties	Total Amount of Reported Penalties (in millions)
United States	5.4	$1,689.6	4.5	$3,079.3
Alabama	5.0	$18.7	3.4	$30.0
Alaska	6.5	$7.5	5.5	$12.8
Arizona	6.5	$36.7	5.3	$69.8
Arkansas	6.4	$15.1	5.3	$28.0
California	5.7	$221.7	4.4	$377.2
Colorado	5.7	$32.7	4.8	$60.6
Connecticut	3.3	$13.6	3.1	$24.7
Delaware	3.9	$3.5	3.4	$6.6
District of Columbia	2.3	$1.8	2.1	$3.5
Florida	6.7	$132.6	5.6	$250.6
Georgia	6.0	$52.6	4.7	$97.1
Hawaii	2.0	$3.0	2.0	$5.7
Idaho	7.3	$10.9	6.1	$20.8
Illinois	4.5	$56.5	3.9	$103.4

[22] Individual mandate penalty data are also available by county and zip code from the IRS, at https://www.irs.gov/statistics/soi-tax-stats-affordable-care-act-aca-statistics-individual-income-tax-items.

[23] IRS, *Statistics of Income - Individual Income Tax Returns 2014*, Publication 1304 (Rev. 08-2016), at https://www.irs.gov/uac/soi-tax-stats-individual-income-tax-returns-publication-1304-complete-report.

[24] Letter from John Koskinen, IRS Commissioner, to Members of Congress, January 9, 2017, https://www.irs.gov/pub/newsroom/commissionerletteracafilingseason.pdf. As of the date of this report, the IRS has only released preliminary data on the TY2015 exemptions.

	TY2014[a]		TY2015	
	Percentage of Returns with Reported Penalties	Total Amount of Reported Penalties (in millions)	Percentage of Returns with Reported Penalties	Total Amount of Reported Penalties (in millions)
Indiana	5.7	$34.1	4.5	$59.5
Iowa	4.2	$11.1	3.6	$20.5
Kansas	4.9	$13.0	4.1	$23.3
Kentucky	5.0	$16.5	4.1	$31.3
Louisiana	6.7	$28.5	5.0	$47.6
Maine	6.1	$8.0	5.3	$15.5
Maryland	3.6	$23.6	3.2	$44.5
Massachusetts	2.1	$16.0	2.7	$39.6
Michigan	4.5	$39.2	4.0	$74.6
Minnesota	3.5	$19.6	3.0	$35.4
Mississippi	6.3	$15.2	4.4	$25.6
Missouri	5.2	$27.9	4.2	$50.0
Montana	7.0	$7.8	5.9	$14.3
Nebraska	5.3	$9.3	4.7	$17.8
Nevada	6.6	$18.3	5.4	$33.5
New Hampshire	5.4	$8.2	4.8	$15.2
New Jersey	5.1	$51.2	4.3	$93.3
New Mexico	5.6	$10.7	4.1	$17.5
New York	4.5	$96.1	4.2	$186.1
North Carolina	5.7	$48.6	4.5	$88.5
North Dakota	5.5	$4.7	4.6	$7.8
Ohio	4.2	$43.7	3.3	$76.0
Oklahoma	5.8	$20.9	4.9	$38.4
Oregon	5.1	$19.5	4.3	$35.3
Pennsylvania	4.0	$46.8	3.6	$90.3
Rhode Island	4.5	$4.3	4.0	$8.6
South Carolina	5.8	$24.2	4.4	$43.0
South Dakota	4.6	$3.9	3.9	$7.1
Tennessee	5.4	$30.7	4.1	$54.2
Texas	8.9	$247.5	7.1	$447.6
Utah	6.4	$17.3	5.4	$32.2
Vermont	4.8	$3.4	3.9	$6.1
Virginia	4.8	$39.1	4.0	$72.6
Washington	4.6	$36.3	4.0	$67.2

	TY2014[a]		TY2015	
	Percentage of Returns with Reported Penalties	Total Amount of Reported Penalties (in millions)	Percentage of Returns with Reported Penalties	Total Amount of Reported Penalties (in millions)
West Virginia	5.8	$8.4	4.4	$14.7
Wisconsin	4.1	$22.0	3.7	$42.1
Wyoming	7.0	$5.4	5.8	$9.0

Sources: Data for TY2014 are from Internal Revenue Service (IRS), Statistics of Income, *Table 2. Individual Income and Tax Data, by State and Size of Adjusted Gross Income, Tax Year 2014*; data for TY2015 are from IRS, Statistics of Income, *Table 2. Individual Income and Tax Data, by State and Size of Adjusted Gross Income, Tax Year 2015*.

Note: Amounts may not add to U.S. totals because of rounding.

a. The source document for the TY2014 data includes a note explaining that the United States totals in this table may not be comparable to United States totals published in IRS Publication 1304 (which is referenced in the body of this report). The discrepancies have to do with the extent to which the data are edited for the different publications. See the source document for more details.

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