Individual Mandate & Tax Implications

To whom does the Individual Mandate provision apply?

The tax will be levied against any "applicable individual" who fails to maintain health insurance coverage for themselves and their dependents. This Individual Mandate is an integral part of PPACA to ensure that there is full participation by all U.S. citizens unless they are exempted. In theory, this will help spread the risk and make sure everyone is participating in the insurance system. Massachusetts used a similar approach when implementing a tax-enforced insurance mandate imposed on its residents several years ago. However, PPACA's mandate applies to anyone who is in the U.S. legally and who is not otherwise exempted from securing health insurance.

Who is exempted from the Individual Mandate?

The tax penalty will not be levied against individuals:[i]

- Who already have qualified coverage through an employer-sponsored plan or through an exchange
- Who are enrolled in a Medicaid or Medicare program
- Who are covered by a military plan
- Who are dependents of active military enrolled in a TriCare plan
- Who express religious objection
- Who are permanently incarcerated
- Who are members of Indian tribes

An individual (or a family) will not be subject to the Individual Mandate requirements if they are without coverage for less than three months, or if the Secretary of HHS determines that obtaining coverage would constitute an extreme hardship for the individual. If an individual would be contributing more than eight percent of their household income as a "required contribution," that person is likewise excused from the Individual Mandate requirement.

What is "Minimum Essential Coverage"?

The definition of minimum essential coverage is left to the Secretary of the U.S. Health and Human Services (HHS), but can take one several forms via coverage obtained from:[ii]

- An approved government program (e.g., Medicaid, Medicare)
- An eligible employer-sponsored plan
- A state's health insurance exchange
- A grandfathered plan

In addition, other coverage may meet the minimum essential coverage as deemed appropriate by the Secretary of HHS after consulting with the Secretary of the Treasury.

How much is someone taxed/penalized if they opt out of an approved health plan?

The annual tax (formerly known as a penalty) for not obtaining minimum essential coverage will be the *greater of* a flat dollar tax amount per individual *or* a percentage of the individual's taxable income.

How much is the flat tax for individuals?

The applicable flat dollar amount for 2014 for a tax filer with no dependents will be $95 and the amount for 2015 will increase to $325.[iii] This amount will increase over the years, rising to $695 in 2016, and will be further revised in 2017 according to the changes in cost-of-living.

What about dependents?

Each tax filer is also responsible for the tax due on any dependents, including children younger than 18 who will be assessed one-half the adult amount.[iv] There is a household cap, as the total tax penalty cannot exceed three times the amount of the applicable flat dollar amount for an individual.

How about families?

Each adult will pay the rate of an individual, and then you need to add the dependent at the 50% rate. For example, in 2016 a couple with one child under 18 would be assessed a flat dollar penalty of $1,737.50 (two adults x $695 plus one child at $347.50 -- one half of adult penalty).

A family of four (one couple with two children over 18) would only be required to pay the 300% cap in 2016. Three hundred percent of the $695 flat amount for 2016 is equal to $2,085. This amount is less than the flat amount that could be charged if the cap were not in place (two adults + two children over 18 = $695 x 4 = $2,780).

How will income impact the tax rate?

There are many nuances on how to calculate the amount of tax owed if an individual has a high income and declines to purchase insurance. [v] PPACA establishes a minimum amount of income that triggers the requirement of a tax payer to file a federal income tax return. As with the flat dollar calculations, there is also a maximum applied to the overall penalty. Under a sliding scale, the taxable income is an amount equal to a percentage of a household's income (as defined by PPACA) that is in excess of the tax filing threshold (phased in at 1% in 2014; 2% in 2015; 2.5% in 2016).

The tax penalty cannot exceed "the national average premium for qualified health plans which have a bronze level of coverage" for the taxpayer's family size. While this national average premium has not yet been established, the Congressional Budget Office has estimated that the yearly individual premiums for a Bronze plan may average between $4,500 and $5,000. The estimated yearly family premium for 2015 may be $12,000 and $12,500.

Can you clarify further how the individual mandate tax will work?

The National Federation of Independent Business (NFIB) has stated the following, which is helpful:

> Penalties begin in 2014 and rise in years following. In each new year, the penalty consists of the higher of a dollar amount or a percentage of household income. For a given household, the penalty applies to each individual, up to a maximum of three. Following is the schedule of penalties:
>
> - 2014: The higher of $95 or 1.0% of taxable income.
>   Maximum $285 (=3 x $95) per household.
> - 2015: The higher of $325 or 2.0% of taxable income.
>   Maximum $975 (=3 x $325) per household.
> - 2016: The higher of $695 or 2.5% of taxable income.
>   Maximum $2,085 (=3 x $695) per household.

Here are some additional NFIB examples for families:

- 2014; family of two; taxable income=$26,000;
  penalty=$260 ($260=$26,000x1% > $190=$95x2.)
- 2014; family of three; taxable income=$26,000;
  penalty=$285 ($260=$26,000x1% < $285=$95x3.)
- **2016**; family of three; taxable income=$26,000;
  penalty=$2,085 ($650=$26,000x2.5% < $2,085=$695x3.)

- 2016; family of three; taxable income=**$85,000**;
  penalty=$2,125 ($2,125=$85,000x2.5% > $2,085=$695x3.)
- 2016; family of eight; taxable income=$85,000;
  penalty=$2,125 ($2,1t25=$85,000x2.5% > $2,085=$695x3.)

What types of premium subsidies will be available for individuals?

Beginning in 2014, PPACA will provide subsidies for individuals with incomes between 133% and 399% of the federal poverty level (FPL). Individuals eligible for government programs are not eligible for health insurance premium subsidies. Likewise, individuals who are offered employer health benefits coverage are not eligible for premium tax credits unless the employer plan does not comply with at least a 60% actuarial value, or unless the individual's share of the premium for employer-sponsored health insurance exceeds 9.5% of their income. The subsidy offered is tied to the second lowest cost Silver level benefit plan offered by the exchange. This plan is estimated to cover 70% of the average person's health care expenditures for one year.

Individuals who have coverage that fails to meet the thresholds are eligible for the followings subsidies:

Premiums and Cost Sharing Subsidies Under the Affordable Care Act

Reported Income (% poverty level)	Premium Subsidies (% of income cap)	Actuarial Value	Out-of-Pocket Maximum
<133	0%	100%	—
133–149	3%–4%	94%	$1,983
150–199	4%–6.3%	87%	$1,983
200–249	6.3%–8.05%	73%	$2,975
250–299	8.05%–9.5%	70%	$2,975
300–399	9.5%	70%	$3,967
≥400	—	60%	$5,950

Although the premium subsidies will greatly assist individuals with lower incomes, these subsidies will likely prove extraordinarily complex for these individuals to understand, and to use to their advantage. Likewise, the process of enforcing the subsidies and tax credits will consume a great deal of time and resources for the IRS.

How do individuals know that they are paying the right tax amount?

Over the coming year, the federal government will publish more details on how and when individuals might have to pay a tax. In addition, tax experts, brokers and others will be able to provide additional details as the specific details are sorted out before 2014.

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[i] For a list of exempt individuals, please see IRC § 5000A(d).
[ii] For more information about minimum essential coverage, please see IRC § 5000A(f).
[iii] The amount of this tax penalty is specified in IRC § 5000A(c)(2), which provides that the monthly tax penalty is equal to one-twelfth of the greater of either a fixed "flat dollar amount" or an amount based on a percentage of the taxpayer's household income.
[iv] For more information about the tax amount assessed against children under 18, please see IRC § 5000A(c)(3)(C).
[v] If the tax penalty is assessed as a portion of household income, we then turn to Section 5000A(c)(2)(B).