

FREQUENTLY ASKED QUESTIONS

Immigrants & Exemptions from the ACA Individual Mandate

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The Patient Protection and Affordable Care Act (ACA) generally requires people living in the United States to obtain health insurance or pay a tax penalty called a “shared responsibility payment.”¹ The penalty increases each year and is assessed for every uninsured member of a person’s tax household who is not exempt from the so-called “individual mandate.”² Here are some answers to questions about the exemptions that are most commonly available to low-income immigrants and their families.

- I am not eligible to buy insurance through the ACA marketplace because of my immigration status. Am I exempt from the individual mandate?

Yes. People who are ineligible to buy insurance through the ACA marketplace because they are not classified as lawfully present for ACA purposes are “exempt noncitizens” and are not subject to the individual mandate.³ This exemption includes people who received deferred action (temporary protection from being deported and authorization to work in the U.S.) through the Deferred Action for Childhood Arrivals (DACA) program.⁴

- Do I have to disclose my immigration status to claim that I am an exempt noncitizen?

No. The exemption is claimed by filing IRS Form 8965 with your taxes. The instructions for Form 8965 provide letter codes that indicate the basis for the exemption. The instructions provide a single code, “C,” for U.S. citizens living abroad, residents of other countries, and people who are not lawfully present in the U.S. People claiming the exemption are indicating only that they fit one of those three categories.

- I am a DACA recipient. How do I claim an exemption?

The ACA regulations treat DACA recipients as not lawfully present.⁵ Therefore, people who have DACA also file a Form 8965 and indicate code C as the basis for their exemption.

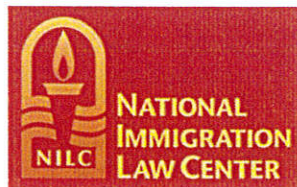
- I am lawfully present, but I can’t afford to buy insurance. Will I have to pay the penalty?

Generally, no. There are several exemptions that relate to household income or the affordability of health plans.

First, for any year that a person’s household income is so low that the he or she is not required to file a tax return, all members of the household will be exempt from the requirement to have coverage. Consumers are not required to file anything to claim this exemption, but they can claim it on their tax returns if they choose to file taxes.⁶

An annual exemption also applies if the lowest-cost health plan available to a consumer costs more than 8 percent of the consumer’s household income.⁷ Since the price of coverage depends on an individual’s age and other factors, eligibility for this exemption needs to be determined separately for each member of the household. The exemption is claimed by filing Form 8965 with the household’s tax return.

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- **Hardship:** People who have suffered a hardship that makes them unable to obtain coverage may qualify for an exemption. There are many categories of hardship, including:
 - Homelessness
 - Eviction in the last 6 months or facing eviction or foreclosure
 - Receipt of a utility shut-off notice
 - Domestic violence
 - Recent death of a close family member
 - Disaster that resulted in significant property damage
 - Bankruptcy in the last 6 months
 - Debt from medical expenses in the last 24 months
 - High expenses caring for an ill, disabled or aging relative
 - Failure of another party to comply with a medical support order for a dependent child who is determined ineligible for Medicaid or CHIP
 - Through an appeals process determined eligible for a Marketplace QHP, PTC, or CSR but was not enrolled
 - Determined ineligible for Medicaid because the state did not expand
 - Individual health insurance plan was cancelled and the individual believes that the available plan options are more expensive than the plan that was cancelled
 - Other hardship in obtaining coverage (including for people in AmeriCorps, Vista and NCCC who are enrolled in limited duration or self-funded coverage)

A person who wishes to claim an exemption through the Marketplace can visit www.healthcare.gov/exemptions to find the correct exemption application. (The Federally Facilitated Marketplace processes exemptions for all states except Connecticut. Connecticut residents should visit Access Health CT website at www.ct.gov/hix for information on how they can apply for exemptions.)

Applying for an exemption doesn't need to delay tax filing. A person who has applied for an exemption (or is applying simultaneous when filing their tax return) can write "pending" in the ECN column on Form 8965, Part I. If the exemption is approved, the Marketplace will notify the IRS and the taxpayer doesn't need to amend the return. If the exemption is not approved, the Marketplace will notify the taxpayer of the denial. The taxpayer can then apply for an alternative exemption or amend his tax return to reflect the amount of the penalty they may owe because the exemption was denied.



TIP

Should tax preparers refer clients to a health care assister to complete a hardship exemption application?

A referral to a health care assister is one option, but it causes additional delay. Consider helping the client complete the hardship application at the tax site. No special health care knowledge is required to complete the process. In most cases, the information needed to complete a hardship exemption application includes:

- Client's name and contact information
- Dependents' name and information
- Documentation of hardship
- Taxpayer's signature