



Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

Securing Exemption from Tax Penalty for Not Having Health Insurance Coverage: Indian-specific exemptions

November 16, 2016

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What Today's Presentation Covers

1. Exemption from ACA's Tax Penalty
 - How to claim Indian-specific exemptions from tax penalty?



Two Indian-specific Exemptions from ACA's Tax Penalty

A. Member of Indian tribe

- Defined as members of federally-recognized tribes, including Alaska Native Claims Settlement Act (ANCSA) Corporation shareholders (regional or village)
- Referred to as “Indian-exemption”
- Contained in the ACA, therefore a “statutory” exemption

B. Eligible for services from an Indian health care provider (IHCP)

- Referred to as “IHCP-eligible exemption” (or “IHS-eligible exemption”)
- Established by Secretary of HHS as a “hardship” exemption

<https://www.healthcare.gov/exemptions-tool/#/results/2016/details/>



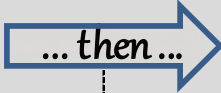
Previously, Two Ways to Secure Exemption

- In securing one of the Indian-specific exemptions, each avenue leads to the federal income tax filing process
 1. **Pre-2016:**
 - “Apply” for exemption through Marketplace and
 - Then, report ECN (Exemption Certificate Number) through federal income tax filing process
 - Two steps
 2. **All Years:**
 - “Claim” exemption on federal income taxes
 - One step



Steps and Processing Times

| Comparison of Steps and Processing Times for Two Avenues to Secure Exemption | | | | |
|--|---|--|---|--|
| ACTIVITY | AVENUE | | | |
| | Marketplace | | Federal Tax Filing Process | |
| <i>All Years</i> 1. Claiming Exemption | | | Claim Exemption ("E") | |
| | | | Fill out Form 8965 | File Form 8965 with Federal Income Taxes |
| <i>Pre-2016</i> 2. Applying for Exemption | Apply for Exemption through Marketplace | | Report Exemption Certificate Number (ECN) | |
| | Print and fill out paper application; mail to Marketplace | Marketplace processes application; mails ECN | Fill out Form 8965 | File Form 8965 with Federal Income Taxes |
| TIMEFRAME | 4 weeks to 6 months | | Instantaneous | |



IRS Form 8965

Form **8965**

Department of the Treasury
Internal Revenue Service

Health Coverage Exemptions

▶ Attach to Form 1040, Form 1040A, or Form 1040EZ.
▶ Information about Form 8965 and its separate instructions is at www.irs.gov/form8965.

OMB No. 1545-0074

2014

Attachment
Sequence No. 75

Name as shown on return

Your social security number

Complete this form if you have a Marketplace-granted coverage exemption or you are claiming a coverage exemption on your return.

Part I Marketplace-Granted Coverage Exemptions for Individuals: If you and/or a member of your tax household have an exemption granted by the Marketplace, complete Part I.

| | ^a Name of Individual | ^b SSN | ^c Exemption Certificate Number |
|---|------------------------------------|---------------------|--|
| 1 | Jennifer Dew | XXX-XX-XXXX | XXX-XXXXXX |
| 2 | Michael Crow | XXX-XX-XXXX | XXX-XXXXXX |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |

Part II Coverage Exemptions for Your Household Claimed on Your Return:

7a Are you claiming an exemption because your household income is below the filing threshold? Yes No

b Are you claiming a hardship exemption because your gross income is below the filing threshold? Yes No

Part III Coverage Exemptions for Individuals Claimed on Your Return: If you and/or a member of your tax household are claiming an exemption on your return, complete Part III.

| | ^a Name of Individual | ^b SSN | ^c Exemption Type | ^d Full Year | ^e | ^f | ^g | ^h | ⁱ | ^j | ^k | ^l | ^m | ⁿ | ^o | ^p |
|---|------------------------------------|---------------------|--------------------------------|---------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| | | | | | Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec |
| 8 | Jacob Dew | XXX-XX-XXXX | E | ✓ | | | | | | | | | | | | |
| 9 | Jerry Crow | XXX-XX-XXXX | E | ✓ | | | | | | | | | | | | |



List of Exemptions (first half)

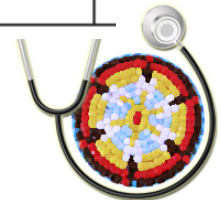
| Coverage Exemption | Granted by Marketplace | Claimed on tax return | Code for Exemption |
|--|------------------------|-----------------------|------------------------|
| Coverage is considered unaffordable — You cannot afford coverage because the minimum amount you must pay for premiums is more than 8% of your household income . | | ✓ | A |
| Short coverage gap — You went without coverage for less than 3 consecutive months during the year. | | ✓ | B |
| Citizens living abroad and certain noncitizens — You are: <ul style="list-style-type: none"> • 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 is a bona fide resident of a foreign country or U.S. territory, or • neither a U.S. citizen or U.S. national nor an alien lawfully present in the U.S. | | ✓ | C |
| Household income below the filing threshold — Your household income is below the minimum threshold for filing a tax return. | | ✓ | No Code See Part II |
| Members of a health care sharing ministry — You are a member of a health care sharing ministry. | ✓ | ✓ | D |
| Members of Federally-recognized Indian tribes — You are a member of a Federally-recognized Indian tribe. | ✓ | ✓ | E |
| Incarceration — You are in a jail, prison, or similar penal institution or correctional facility after the disposition of charges. | ✓ | ✓ | F |
| Members of certain religious sects — You are a member of a recognized religious sect. | ✓ | | No Code See Part I |
| Limited benefit Medicaid and TRICARE programs — You are enrolled in certain types of Medicaid and TRICARE programs that are not minimum essential coverage. (Available only in 2014.) | | ✓ | H |
| Fiscal year employer-sponsored plan — You were eligible, but did not purchase, coverage under an employer plan with a plan year that started in 2013 and ended in 2014. (Available only in 2014.) | | ✓ | H |



List of Exemptions (second half)

Hardships:

- | |
|---|
| <ul style="list-style-type: none">• Two or more family members' aggregate cost of self-only employer-sponsored coverage is more than 8% of household income, as is the cost of any available employer-sponsored coverage for the entire family. |
| <ul style="list-style-type: none">• You purchased insurance through the Marketplace during the initial enrollment period but have a coverage gap at the beginning of 2014. |
| <ul style="list-style-type: none">• You applied for CHIP coverage during the initial open enrollment period and were found eligible for CHIP based on that application but have a coverage gap at the beginning of 2014. |
| <ul style="list-style-type: none">• You are an American Indian, Alaska native, or a spouse or descendent of either who is eligible for services through an Indian health care provider. |
| <ul style="list-style-type: none">• Your gross income is below the filing threshold. |
| <ul style="list-style-type: none">• You are experiencing circumstances that prevent you from obtaining coverage under a qualified health plan. |
| <ul style="list-style-type: none">• You do not have access to affordable coverage based on your projected household income. |
| <ul style="list-style-type: none">• You are ineligible for Medicaid solely because the state in which you live does not participate in the Medicaid expansion under the Affordable Care Act. |
| <ul style="list-style-type: none">• You have been notified that your health insurance policy will not be renewed and you consider the other plans available unaffordable. |



What Documentation Is Needed?

➤ “Claiming” exemption through federal income tax filing process

- Documentation is not submitted with tax filing

*All
Years*

- Retain documentation in case of IRS audit

- “Individuals intending to claim [IHCP-eligible] exemption through the tax filing process should retain the same documentation that they would otherwise submit to the Marketplace as part of their exemption application.”

– CMS/CCIIO, Shared Responsibility Guidance, September 18, 2014

➤ “Applying” for exemption through Marketplace

*Pre-
2016*

- Submit with application copies of documents indicating member of Indian tribe or eligibility for services from IHCP

- Step 5 (page 4 of 4) in Marketplace paper application provides a list of documentation types



Guidance to Beneficiaries on Filing for Exemptions

- Keep things simple
- Primary task is to just get protected from penalty...
 - Easiest way to get protected from penalty is to claim exemption on federal income tax forms
 - If someone already has a Exemption Certificate Number (ECN), this number can be entered on the federal income tax form
- If not required to file a tax return, tax household is exempt from the shared responsibility payment and no need to file a return to claim the coverage exemption



Characteristics of Indian-specific Exemptions

- Indian-specific exemptions are permanent (unless there is a change in eligibility) and apply prospectively and retrospectively without time limit
- Receiving an exemption from the tax penalty does not prevent someone from applying for coverage on a Marketplace
- To get Indian-specific exemption from penalty:
 - **Fill out IRS Form 8965 and include with federal income tax return**
 - If you are not required to file an income tax return, you are not liable for ACA tax penalty for not having insurance



Accessing IRS Form 8965 and Instructions for Exemption from Tax Penalty

- Forms on IRS Website
 - IRS Form 8965 and the instructions are posted on the IRS Web site at:
 - <http://apps.irs.gov/app/picklist/list/draftTaxForms.html;jsessionid=v2W4bKGzVy4zIDH7NlkdVw?value=8965&criteria=formNumber&submitSearch=Find>



Questions on:

**EXEMPTIONS FROM ACA'S PENALTY
FOR NOT HAVING COVERAGE?**