

¶140 Individual Health Insurance Mandate under Affordable Care Act

NEW LAW EXPLAINED

The amount of the penalty imposed on individuals without health insurance is zero.— For months beginning after December 31, 2018, the amount a taxpayer would otherwise owe for each month they fail to have "minimum essential coverage" for themselves and their dependents is zero (Code Sec. 5000A(c), as amended by the Tax Cuts and Jobs Act (P.L. 115-97)). No other Affordable Care Act tax or provision is affected.

COMPLIANCE TIP

Individuals with coverage during the year should receive a reporting form. Marketplace Exchanges are to provide Form 1095-A, Health Insurance Marketplace Statement, if the Marketplace provided coverage. An individual with employer or other health coverage ought to receive Form 1095-B, Health Coverage (indicating coverage provided), or Form 1095-C, Employer-Provided Health Insurance Offer and Coverage (indicating coverage offered or not offered, and coverage provided). These forms can be useful in applying the shared responsibility rules primarily by showing which months (if any) the individual maintained coverage during the year. Presumably, Exchanges will continue to issue Form 1095-A after 2018 since these are necessary for premium tax credit purposes.

COMMENT

Though the tax imposed under Code Sec. 5000A is zeroed out, Code Sec. 5000A(f) and its regulations 1.5000A-2 will still be relevant because they outline the key concept of minimum essential coverage (MEC). Employers that do not offer their employees MEC under an eligible employer sponsored plan may still be liable for large employer shared responsibility payments (Code Sec. 4980H). Individuals who are eligible for MEC for any month do not qualify for the premium tax credit for that month (Code Sec. 36B(c)(2)). Reimbursements under a qualified small employer health reimbursement arrangements are included in an employee's income unless the employee had MEC (Code Sec. 9831(d)(4)(B)(iii)).

Effective date. The amendments made by this provision shall apply to months beginning after December 31, 2018 (Act Sec. 11081(b) of the Tax Cuts and Jobs Act).