



# ACA COMPLIANCE BULLETIN

## IRS CHANGE MAY AFFECT THE INDIVIDUAL MANDATE

### HIGHLIGHTS

- The IRS indicated that it will not automatically reject tax returns that do not certify compliance with the individual mandate.
- The individual mandate remains effective, and penalties may still be assessed, if applicable.
- Changes to ACA requirements must be made by Congress through the legislative process.

### IMPORTANT DATES

#### February 6, 2017

The IRS' change in policy took effect.

#### April 15, 2017

Individual tax returns for 2016 are due.

### OVERVIEW

The Internal Revenue Service (IRS) has signaled a change in how it monitors compliance with the Affordable Care Act's (ACA) individual mandate. Under this change, tax returns will no longer be automatically rejected if they do not certify whether the individual had health insurance for the year.

The new IRS policy on accepting "silent returns" is based on President Donald Trump's [executive order](#) directing federal agencies to provide relief from the burdens of the ACA.

This change is not reflected in official IRS guidance, but it suggests that the IRS may be pulling back on enforcement of the individual mandate. This may make it easier for individuals to avoid penalties for not having health insurance.

### ACTION STEPS

**The IRS' policy change does not eliminate the ACA's individual mandate penalty.** Individuals must continue to comply with the ACA's requirements, including paying any penalties that may be owed. Taxpayers who fail to provide health coverage information may still receive follow-up questions and correspondence from the IRS.

Provided By:

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## The Individual Mandate

The ACA's individual mandate, which took effect in 2014, requires most individuals to obtain acceptable health insurance coverage for themselves and their family members or pay a penalty. The penalty amount—assessed as the greater of either the **flat dollar amount** or the **percentage of income amount**—increases each year, as follows:

- ✓ \$95 per person or 1 percent of income for 2014;
- ✓ \$325 or 2 percent of income for 2015; and
- ✓ \$695 or up to 2.5 percent of income for 2016.

After 2016, the individual mandate penalty amount is adjusted for inflation each year.

The individual mandate is enforced each year on individual federal tax returns. Starting in 2015, individuals filing a tax return for the previous tax year will indicate, by checking a box on their individual tax return, which members of their family (including themselves) had health insurance coverage for the year (or qualified for an exemption from the individual mandate). Based on this information, the IRS will then assess a penalty for each nonexempt family member who doesn't have coverage.

## New Policy on "Silent Returns"

The IRS had put systems in place for 2016 where individual tax returns that did not provide this health insurance coverage information would be labeled as "silent returns" and automatically rejected. The IRS stated that it did not reject silent returns in previous years; however, some tax preparation software companies would not allow users to file them.

In a private meeting with tax preparation software companies on Feb. 3, 2017, the IRS indicated that, **effective Feb. 6, 2017, it would not automatically reject silent returns for 2016**. Instead, silent returns would still be accepted and processed by the IRS.

According to the IRS, this change in enforcement policy will reduce the burden on taxpayers, including those who are expecting a tax refund. However, although a silent return may be accepted and processed, the IRS noted that taxpayers may still receive follow-up questions and correspondence from the IRS at a future date.

**This change in enforcement policy does not eliminate the individual mandate penalty.** In an email, the IRS cautioned that the ACA's requirements are still effective, and individuals must continue to comply with the law, as applicable (including paying any penalties that may be owed). Any changes to the law and its requirements must be made by Congress through the legislative process. This means that individuals may still be required to pay the individual mandate penalty, if applicable.

*Effective Feb. 6, 2017, the IRS indicated that it would not automatically reject "silent returns" for 2016. Instead, they will still be accepted and processed by the IRS, although taxpayers may receive follow-up questions.*

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Despite the continued applicability of the law, many have argued that this policy change will make it easier for individuals to avoid having health insurance coverage, without having to pay an individual mandate penalty. Opponents of the policy change claim that it will erode health insurance enrollment, which could undermine the ACA as a whole.

## **Practical Impact**

Following the announcement of this enforcement policy change, individuals and tax preparers must determine what approach they will use going forward. Some tax preparation software may allow users to file returns without including their health coverage information, but others may still require it.

Taxpayers who fail to provide this information may receive follow-up communications from the IRS, which could result in delayed tax refunds or additional correspondence regarding tax collection. In addition, failing to provide health coverage information on an individual tax return does not necessarily mean that an individual will not be subject to an individual mandate penalty, if he or she is determined not to have had coverage for the year. Other tax forms filed with the IRS (such as the Forms 1095-A, 1095-B and 1095-C) may indicate whether an individual had health coverage for the year.