



Taxes, Exemptions, Reconciling Advance Payments of the Premium Tax Credit, and Failure to File and Reconcile



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The information provided in this document is intended only to be a general informal summary of technical legal standards. It is not intended to take the place of the statutes, regulations, or formal policy guidance that it is based upon. This document summarizes current policy and operations as of the date it was presented. We encourage readers to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information. This communication was produced and disseminated at U.S. taxpayer expense.

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This document generally is not intended for use in the State-based Marketplaces (SBMs) that do not use HealthCare.gov for eligibility and enrollment. Please review the guidance on our Agent and Broker Resources webpage (<http://go.cms.gov/CCIIOAB>) and Marketplace.CMS.gov to learn more.

Unless indicated otherwise, the general references to “Marketplace” in the presentation only include Federally-facilitated Marketplaces (FFMs) and State-based Marketplaces on the Federal Platform (SBM-FPs).

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Purpose

- This webinar describes new policy and operational changes agents, brokers, and assisters need to know.
- This webinar also provides background information and a scenario with a knowledge check on reconciling advance payments of the premium tax credit (APTC).
- For more information, assisters should refer to [SOP 12 — Understanding Form 1095-A and Reconciling Advance Payments of the Premium Tax Credit](#).



What's New: Agents', Brokers', and Assistants' Duties

- Agents, brokers, and assistants in the Federally-facilitated Exchanges (FEEs) should help consumers with Marketplace-related components of the APTC reconciliation process and with understanding the availability of Internal Revenue Service (IRS) resources on this process,ⁱ including:
 - Obtaining IRS Form 1095-A, *Health Insurance Marketplace Statement*, and Form 8962, *Premium Tax Credit (PTC)*, and providing general information on these forms;
 - Understanding how to report errors on Form 1095-A;
 - How to find Silver plan premiums, including the second-lowest-cost Silver plan (also known as the “benchmark” plan) premiums, using the [Health Coverage Tax Tool](#) at HealthCare.gov; and
 - Potential consequences for consumers for whom APTC was paid during the prior year and who failed to file and reconcile.
- Additionally, agents, brokers, and assistants are required to refer consumers to licensed tax advisers, tax preparers, or other resources for assistance with tax preparation and tax advice related to consumer questions on APTC reconciliation.



What's New: Failure To File and Reconcile (FTR) Operational Flexibilities

- Due to the continuing impact of the COVID-19 pandemic on the IRS processing of 2021 Federal income tax returns, the FTR process will continue to be different for Plan Year (PY) 2023.ⁱⁱ
- The Marketplace has suspended FTR Recheck and will not take any FTR actions based on 2021 tax returns for PY 2023 for enrollees in the Exchanges using the federal platform. Thus, the Marketplace will **not**:
 - Warn enrollees via the Marketplace Open Enrollment Notice (MOEN) or FTR Direct Warning Notice when they have an FTR status.
 - Take action during Open Enrollment (OE) 2023 (November 1, 2022 – January 15, 2023) to end APTC eligibility for consumers with an FTR status, including during batch auto-reenrollment.
 - Assess an applicant's FTR status in determining their APTC eligibility when an applicant submits an application through HealthCare.gov during OE 2023 and at any point during PY 2023 for PY 2023.
 - Run FTR Recheck during PY 2023.



Reminders



- Agents, brokers, and assisters may not provide assistance with filing taxes as part of their role on the Marketplace.ⁱⁱⁱ
- Agents, brokers, and assisters who are licensed tax advisers or preparers may continue to provide such services outside their role on the Marketplace.

Exemptions

- The individual shared responsibility payment is \$0; therefore, consumers no longer need to report to the IRS whether they had full-year health care coverage or qualify for an exemption.^{iv}
- However, consumers who are age 30 or older and wish to purchase Catastrophic coverage must apply for a hardship or affordability exemption through the Marketplace and obtain an exemption certificate number (ECN) to view and enroll in Catastrophic coverage (consumers under age 30 do not need an exemption to purchase Catastrophic coverage).^v



Understanding Form 1095-A (1 of 3)

- Form 1095-A is a prepopulated tax form (like a Form W-2) that the Marketplace sends to consumers each year that shows certain information about each covered consumer's Marketplace coverage.^{vi}
 - Marketplace consumers who were enrolled in Catastrophic plans or dental-only coverage will not receive a Form 1095-A for that coverage.
- Form 1095-A provides consumers with information about their Marketplace health coverage so they can do the following through filing a tax return:
 - Reconcile APTC, if applicable (refer to slide 11), with the allowed premium tax credit (PTC).
 - Claim the PTC if they are enrolled in Marketplace coverage without APTC and are eligible for a PTC.
- Consumers will use information from Form 1095-A to file IRS Form 8962 with their annual federal income tax return.



Understanding Form 1095-A (2 of 3)

- Consumers must complete Form 8962 and file it with their federal tax return if they want to claim the PTC or if APTC was paid for the consumer or another member of the consumer's tax household (the consumer's spouse, if filing a joint federal tax return, and the consumer's tax dependents). These consumers for whom APTC is paid are required to file a tax return and include Form 8962 with the return.
- Electronically filed tax returns will be automatically rejected if the taxpayer is required to reconcile because APTC was paid for the taxpayer or another member of the taxpayer's tax household but does not include Form 8962, or a sufficient written explanation for not including it, with the return. This is a new operational process that the IRS introduced in 2022.
 - The IRS will continue to contact taxpayers who file paper returns without the required Form 8962 or a written explanation to request the missing form.



Understanding Form 1095-A (3 of 3)

- Consumers will receive Form 1095-A from the Marketplace and line-by-line instructions developed by the IRS in the mail by mid-February.
- Consumers can also access Form 1095-A online from the “Tax Forms” section in their Marketplace account by January 31, and often as soon as mid-January (instructions for accessing the form online are available at [HealthCare.gov/tax-form-1095](https://www.healthcare.gov/tax-form-1095/)).
- A unique Form 1095-A will be generated for each qualified health plan in which a member of the tax household enrolled.
 - Each member of a tax household who is on the same policy will be listed together on one Form 1095-A.
 - Tax households of more than five members enrolled in the same policy will receive an additional Form 1095-A that is a continuation of the first Form 1095-A and lists additional family members.



Corrections to Form 1095-A

If a consumer believes enrollment-related information listed on the Form 1095-A may be incorrect, they should contact the Marketplace Call Center. Once a consumer has filed a Form 1095-A complaint with the CMS Call Center, CMS will research the issue to determine if a correction is necessary and:

- Update the Marketplace data to generate a Corrected or Void Form 1095-A, if necessary.
- Generate and mail Corrected or Void Forms 1095 and upload them to the consumer's Marketplace account. The Corrected or Void Form 1095-A will have the "corrected" or "void" check box marked, and CMS will also report the corrected information to the IRS.

Note: Changes to Social Security Number (SSN), name, and/or date of birth provided on a consumer's current Marketplace application can be made online or with the assistance of the Marketplace Call Center. These data elements do not need to be updated on a consumer's Form 1095-A in order for a consumer to complete their tax return.

APTC Reconciliation – IRS Form 8962



- As discussed earlier, if Form 1095-A shows that APTC was paid on behalf of a consumer or a member of their tax household, the household's tax filer is required to file a tax return for the year of coverage and include with the return a completed IRS Form 8962 to reconcile the APTC.^{vii}
- The reconciling process compares two figures:
 - The amount of APTC paid on behalf of the consumer or a member of their tax household during the year based on their estimated household income and household size for the year.
 - The amount of PTC the consumer qualifies for based on their actual household income and household size for the year.

Any difference between the two figures will affect a tax filer's federal income tax refund or tax owed.

Consequences of Not Reconciling APTC (Not Applicable for PY 2023)

- If APTC is paid on behalf of a tax filer or someone in their tax household, and the tax filer does not file a federal income tax return and reconcile APTC with IRS Form 8962 for the tax year for which APTC was paid, they and their tax household **will typically not be eligible** for APTC or income-based cost-sharing reductions (CSRs) to help pay for their Marketplace coverage in the next following coverage year.^{viii}
- This means that they will be responsible for the full cost of their monthly premiums and health care costs through the Marketplace unless they file their federal income tax return and reconcile past APTC for the year for which APTC was paid.

These consumers should file a federal income tax return for the year in which APTC was paid on their behalf.



Failure to File and Reconcile (FTR)

- **Note:** CMS has suspended FTR operations for PY 2023 and will not end APTC eligibility for consumers whose tax filer has not filed or reconciled APTC for tax year 2021. The descriptions of the FTR process in the following slides is provided for informational purposes.
- FTR occurs when consumers who have Marketplace coverage with APTC don't file their annual federal income tax return and reconcile their APTC.
- Typically, prior to OE, the Marketplace checks IRS data to determine if tax filers filed their federal income taxes and reconciled their APTC for the most recent tax year for which data is available.
 - When the Marketplace requests income verification data from the IRS about a tax filer who has not (or whose tax household member has not) filed a federal income tax return or reconciled APTC for that tax year, IRS will return a response to the Marketplace indicating that the tax filer has not filed and/or reconciled their APTC (referred to as an “FTR response”).

Failure to File and Reconcile (FTR) (Cont.)



- Consumers with this FTR response typically receive Marketplace notices warning them to file and reconcile immediately and to attest on their application during OE to having filed and reconciled, if they have, in fact, done so.
- Then, in the new year following OE, the Marketplace performs a recheck of IRS data to verify that those who attested to filing and reconciling on their application during OE actually filed their federal income taxes and reconciled their APTC. This process is called “FTR Recheck.”
- FTR enrollees who don’t update their applications to attest to filing and reconciling and get automatically re-enrolled in coverage for the new plan year will have their APTC removed effective January 1 of the new plan year.

Regaining APTC After Losing APTC Due to FTR

- For plan years other than 2021-2023, if consumers lose APTC due to failing to file federal income taxes and reconcile APTC for a year for which income verification data from the IRS was requested, they must file a federal income tax return and reconcile their APTC immediately for the applicable tax year to regain APTC eligibility for that year.
 - Consumers who remain enrolled in full-cost coverage after losing APTC eligibility can return to their Marketplace application and attest to filing and reconciling for the applicable tax year after they have done so.
 - The consumer will then become eligible for APTC again (if otherwise eligible) and will be eligible for a Special Enrollment Period (SEP) to make changes to their enrollment and can apply their APTC to their plan prospectively. This SEP is only available to current enrollees.

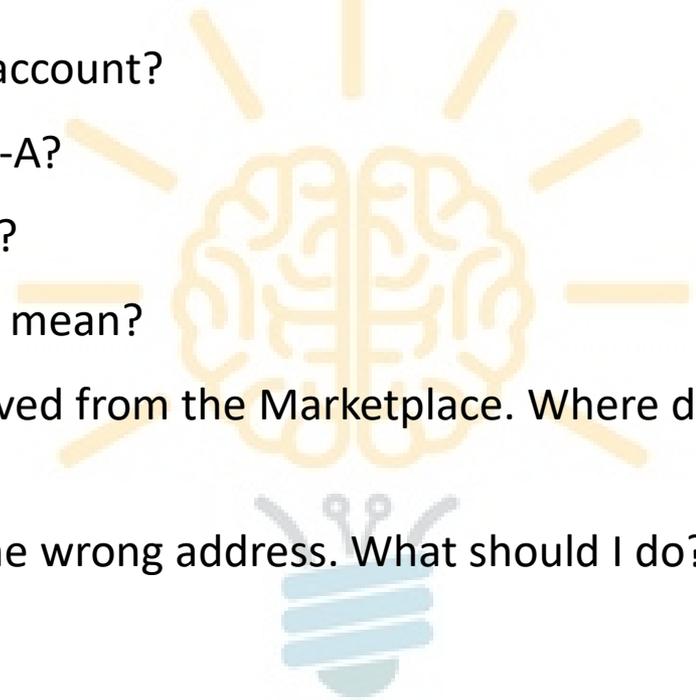
Regaining APTC After Losing APTC Due to FTR (Cont.)

- Consumers who drop coverage because they lost APTC and then file a federal income tax return and reconcile APTC as required for the applicable tax year must qualify for a different type of SEP to re-enroll in coverage with APTC or wait until the next OE. Consumers can find more information on SEP qualifying events at [HealthCare.gov/coverage-outside-open-enrollment/special-enrollment-period](https://www.healthcare.gov/coverage-outside-open-enrollment/special-enrollment-period).



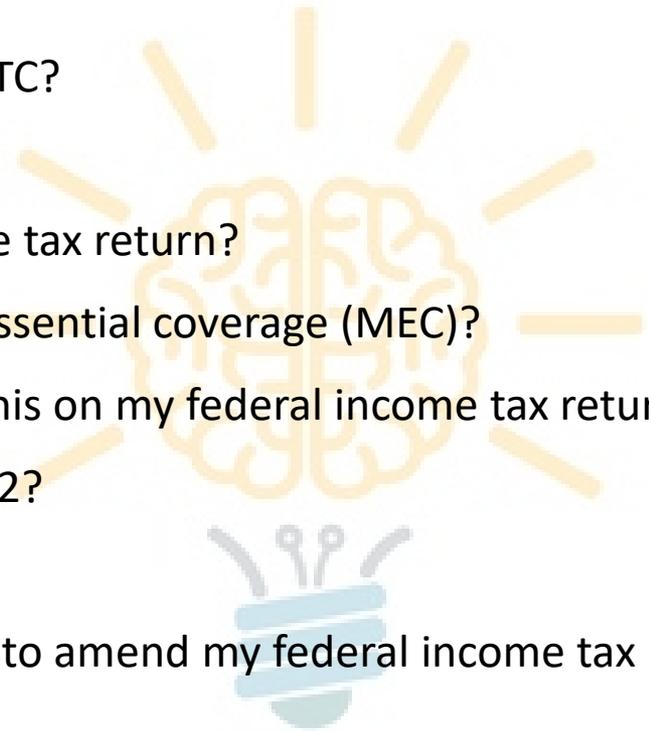
Consumer Questions that Should be Directed to the Marketplace

- Why did I receive this Form 1095-A?
- I never received Form 1095-A. How can I get the form or the information I need?
- Where can I find Form 1095-A in my online account?
- How do I get another copy of my Form 1095-A?
- What do I need to do with this Form 1095-A?
- What does this information on Form 1095-A mean?
- I heard there was a form I should have received from the Marketplace. Where do I get mine?
- I think my Form 1095-A may have gone to the wrong address. What should I do?
- Why did I get more than one Form 1095-A?
- This information does not look correct. How can I change it?
- I added a dependent, but they are not on my Form 1095-A. What should I do?



Consumer Questions that Should be Directed to the IRS

- Do I qualify for the PTC?
- Who is a family member for purposes of the PTC?
- What is household income?
- How do I report health coverage on my income tax return?
- Will IRS verify that consumers had minimum essential coverage (MEC)?
- I received Form 1095-A. How should I report this on my federal income tax return?
- How do I use Form 1095-A to fill out Form 8962?
- How do I get a copy of Form 8962?
- I received a corrected Form 1095-A. Do I need to amend my federal income tax return?



Scenario: APTC Reconciliation

- Lucy enrolled in Marketplace coverage with APTC in PY 2022 for the first time.
- She received her Form 1095-A from the Marketplace around February 2023 and filled out Form 8962. She found that she has excess APTC (her APTC for the year of coverage exceeds her PTC for the year).
- Lucy should submit her Form 8962 with her 2022 tax return (by April 15, 2023, or the applicable tax-filing deadline) and list her excess APTC repayment amount on Schedule 2 of IRS Form 1040. (If Lucy failed, in 2023, to file her 2022 tax return and reconcile her 2022 APTC , she would be ineligible for APTC and CSRs for PY 2024).



Knowledge Check

Does Lucy need to repay her 2022 excess APTC?



Knowledge Check Answer

Yes, Lucy must repay all or a portion of her 2022 excess APTC, as directed by the IRS.



Resources

- HealthCare.gov:
 - [HealthCare.gov/taxes](https://www.healthcare.gov/taxes)
 - [HealthCare.gov/taxes-reconciling](https://www.healthcare.gov/taxes-reconciling)
 - [HealthCare.gov/tax-tool/#/](https://www.healthcare.gov/tax-tool/#/)
- IRS.gov:
 - [IRS.gov](https://www.irs.gov)
 - [IRS.gov/credits-deductions/individuals/child-tax-credit](https://www.irs.gov/credits-deductions/individuals/child-tax-credit)
 - [Form 1095-A](https://www.irs.gov/form1095-a) and [Form 1095-A instructions](https://www.irs.gov/form1095-a-instructions)
 - [Form 8962](https://www.irs.gov/form8962) and [Form 8962 instructions](https://www.irs.gov/form8962-instructions)

Resources (Cont.)

- [Marketplace.cms.gov](https://www.marketplace.cms.gov/tax-information) tax information section
- [VITA tax aid](#)
- [AARP tax aids](#)
- [Guidance on Annual Eligibility Redetermination and Re-enrollments for Marketplace Coverage for 2019](#)
- [United Way MyFreeTaxes](#)

NOTE: This document contains links to non-United States Government websites. We are providing these links because they contain additional information relevant to the topic(s) discussed in this document or that otherwise may be useful to the reader. We cannot attest to the accuracy of information provided on the cited third-party websites or any other linked third-party site. We are providing these links for reference only; linking to a non-United States Government website does not constitute an endorsement by CMS, HHS, or any of their employees of the sponsors or the information and/or any products presented on the website. Also, please be aware that the privacy protections generally provided by United States Government websites do not apply to third-party sites.

Citations

- i. [45 CFR § 155.210\(e\)\(9\)](#)
- ii. [CMS.gov/CCIIO/Resources/Regulations-and-Guidance/FTR-flexibilities-2023.pdf](#)
- iii. [45 CFR § 155.210\(e\)\(6\)\(i\)](#)
- iv. [26 U.S.C. §§ 5000A\(c\)\(2\)\(B\)\(iii\) and \(c\)\(3\)\(A\)](#)
- v. [45 CFR § 155.305\(h\)](#)
- vi. [26 CFR § 1.36B-5\(f\)](#)
- vii. [26 CFR § 1.6011-8](#) and [26 CFR § 1.36B-4\(a\)\(1\)\(i\)](#)
- viii. [45 CFR § 155.305\(f\)\(4\)](#)

Agent and Broker Resources

- Agent and Broker General Resources: https://regtap.cms.gov/reg_librarye.php?i=4182
- Agent and Broker Help Desk Information: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Agent-Broker-Help-Desks.pdf>
- Agent and Broker FAQs: <https://www.agentbrokerfaq.cms.gov/s/>

Closing Remarks



- Agents and brokers are valued partners to all of us at CMS for the vital role you play in enrolling consumers in qualified health coverage.
- We thank you for the trusted advice, support, and assistance you provide throughout the year and wish you continued success!