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Internal Revenue Code Section 5000A(d)(2)(B)(ii)

Requirement to maintain minimum essential coverage

(a) Requirement to maintain minimum essential coverage.

An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is covered under minimum essential coverage for such month.

(b) Shared responsibility payment.

(1) In general.

If a taxpayer who is an applicable individual, or an applicable individual for whom the taxpayer is liable under paragraph (3) , fails to meet the requirement of subsection (a) for 1 or more months, then, except as provided in subsection (e) , there is hereby imposed on the taxpayer a penalty with respect to such failures in the amount determined under subsection (c) .

(2) Inclusion with return.

Any penalty imposed by this section with respect to any month shall be included with a taxpayer's return under chapter 1 for the taxable year which includes such month.

(3) Payment of penalty.

If an individual with respect to whom a penalty is imposed by this section for any month-

(A) is a dependent (as defined in section 152) of another taxpayer for the other taxpayer's taxable year including such month, such other taxpayer shall be liable for such penalty, or

(B) files a joint return for the taxable year including such month, such individual and the spouse of such individual shall be jointly liable for such penalty.

(c) Amount of penalty.

(1) In general.

The amount of the penalty imposed by this section on any taxpayer for any taxable year with respect to failures described in subsection (b)(1) shall be equal to the lesser of-

(A) the sum of the monthly penalty amounts determined under paragraph (2) for months in the taxable year during which 1 or more such failures occurred, or

(B) an amount equal to the national average premium for qualified health plans which have a bronze level of coverage, provide coverage for the applicable family size involved, and are offered through Exchanges for plan years beginning in the calendar year with or within which the taxable year ends.

(2) Monthly penalty amounts.

For purposes of paragraph (1)(A) , the monthly penalty amount with respect to any taxpayer for any month during which any failure described in subsection (b)(1) occurred is an amount equal to 1/12 of the greater of the following amounts:

(A) Flat dollar amount. An amount equal to the lesser of-

- (i) the sum of the applicable dollar amounts for all individuals with respect to whom such failure occurred during such month, or
- (ii) 300 percent of the applicable dollar amount (determined without regard to paragraph (3)(C)) for the calendar year with or within which the taxable year ends.

(B) Percentage of income. An amount equal to the following percentage of the excess of the taxpayer's household income for the taxable year over the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer for the taxable year:

- (i) 1.0 percent for taxable years beginning in 2014.
- (ii) 2.0 percent for taxable years beginning in 2015.
- (iii) Zero percent for taxable years beginning after 2015.

(3) Applicable dollar amount.

For purposes of paragraph (1) -

(A) In general. Except as provided in subparagraphs (B) and (C) , the applicable dollar amount is \$0.

(B) Phase in. The applicable dollar amount is \$95 for 2014 and \$325 for 2015.

(C) Special rule for individuals under age 18. If an applicable individual has not attained the age of 18 as of the beginning of a month, the applicable dollar amount with respect to such individual for the month shall be equal to one-half of the applicable dollar amount for the calendar year in which the month occurs.

(D) Repealed.

(4) Terms relating to income and families.

For purposes of this section -

(A) Family size. The family size involved with respect to any taxpayer shall be equal to the number of individuals for whom the taxpayer is allowed a deduction under section 151 (relating to allowance of deduction for personal exemptions) for the taxable year.

(B) Household income. The term "household income" means, with respect to any taxpayer for any taxable year, an amount equal to the sum of-

- (i) the modified adjusted gross income of the taxpayer, plus

(ii) the aggregate modified adjusted gross incomes of all other individuals who-

(I) were taken into account in determining the taxpayer's family size under paragraph (1) , and

(II) were required to file a return of tax imposed by section 1 for the taxable year.

(C) Modified adjusted gross income. The term "modified adjusted gross income" means adjusted gross income increased by-

(i) any amount excluded from gross income under section 911 , and

(ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(D) Repealed.

(d) Applicable individual.

For purposes of this section -

(1) In general.

The term "applicable individual" means, with respect to any month, an individual other than an individual described in paragraph (2) , (3) , or (4) .

(2) Religious exemptions.

(A) Religious conscience exemptions.

(i) In general. Such term shall not include any individual for any month if such individual has in effect an exemption under section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act [42 USC §18031(d)(4)(H)] which certifies that-

(I) such individual is a member of a recognized religious sect or division thereof which is described in section 1402(g)(1) [42 USC §18071(g)(1)], and is adherent of established tenets or teachings of such sect or division as described in such section; or

(II) such individual is a member of a religious sect or division thereof which is not described in section 1402(g)(1) [42 USC §18071(g)(1)], who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual.

(ii) Special rules.

(I) Medical health services defined. For purposes of this subparagraph, the term "medical health services" does not include routine dental, vision and hearing services, midwifery services, vaccinations, necessary medical services provided to children, services required by law or by a third party, and such other services as the Secretary of Health and Human Services may provide in implementing section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act [42 USC §18031].

(II) Attestation required. Clause (i)(II) shall apply to an individual for months in a taxable year only if the information provided by the individual under section 1411(b)(5)(A) of such Act [42 USC §18081(b)(5)(A)] includes an attestation that the individual has not received medical health services during the preceding taxable year.

(B) Health care sharing ministry.

(i) In general. Such term shall not include any individual for any month if such individual is a member of a health care sharing ministry for the month.

(ii) Health care sharing ministry. The term "health care sharing ministry" means an organization-

(I) which is described in section 501(c)(3) and is exempt from taxation under section 501(a) ,

(II) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed,

(III) members of which retain membership even after they develop a medical condition,

(IV) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999, and

(V) which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

(3) Individuals not lawfully present.

Such term shall not include an individual for any month if for the month the individual is not a citizen or national of the United States or an alien lawfully present in the United States.

(4) Incarcerated individuals.

Such term shall not include an individual for any month if for the month the individual is incarcerated, other than incarceration pending the disposition of charges.

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