

Immigrants, Taxes and the ACA

The Patient Protection and Affordable Care Act (ACA) or “Obamacare” generally requires people living in the United States to obtain health insurance, get an exemption, or pay the “shared responsibility payment” (commonly known as the “penalty”).

Generally, you are exempt from the penalty for not having coverage if you are below the tax filing threshold (some examples: if you are single and are under 65 years old and your income is below \$10,150 OR your filing status is as head of household and under 65 years old and your income is below \$13,050) or if in a year you did not have insurance for less than 3 consecutive months.¹ You are also exempt from the penalty if you are not lawfully present² (undocumented, including youths who received DACA, and other people not considered lawfully present under the ACA).

The purpose of this fact sheet is to provide some guidance regarding the ACA tax penalty to immigrants that are not lawfully present.

I am undocumented:

- You cannot buy insurance through Obamacare **BUT** can buy it through a private insurance company OR through your employer (if it’s offered)
- If you are undocumented you do not need to pay the penalty.
- If you file taxes, tell your tax preparer to file a Form 8965 on your taxes and indicate “Exemption Code C” as the basis for their exemption and avoid paying the penalty.
- When filing taxes use an ITIN. **Do NOT** use a false social security number
- If you are the parent of a U.S. citizen or legal permanent resident (green card) child who does not have insurance, you may have to pay the penalty for the child. Your U.S. citizen or legal permanent resident (has a green card) child qualifies to buy insurance through Obamacare or you may enroll him/her in All Kids.

I am Deferred Action for Childhood Arrivals (DACA) individual (the old or expanded DACA) OR a recipient of Deferred Action for parents U.S. citizen or legal permanent resident children (DAPA) (commonly known as “administrative relief”):

- The ACA regulations treat DACA and DAPA individuals as not lawfully present³ so you cannot buy insurance through Obamacare AND you do not need to pay the penalty, even though you have a social security number and work permit.
- You may enroll or buy insurance through your school, employer or a private insurance company
- If you file taxes, tell your tax preparer to file a Form 8965 on your taxes and indicate “Exemption Code C⁴” as the basis for their exemption and avoid paying the penalty.
- If you have a U.S. citizen or legal permanent resident (green card) child who does not have insurance, you may have to pay the penalty for the child. Your U.S. citizen or legal permanent resident (has a green card) child qualifies to buy insurance through Obamacare or you may enroll him/her in All Kids.

¹ <https://prod-origin.gci-stage.com/how-to-get-covered/faq-resources/>

² <https://www.healthcare.gov/fees-exemptions/exemptions-from-the-fee/>

³ 445 CFR §§ 152.2, 155.20, 155.305(a)(1).

⁴ From <http://www.irs.gov/pub/irs-pdf/i8965.pdf>

Citizens living abroad and certain noncitizens — You were:

- 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 was a bona fide resident of a foreign country or U.S. territory;
- A resident alien who was a citizen of a foreign country with which the U.S. has an income tax treaty with a nondiscrimination clause, and you were a bona fide resident of a foreign country for the tax year; or
- Not a U.S. citizen, not a U.S. national, and not an individual lawfully present in the U.S.

Other Exemptions from the tax penalty⁵

If you don't have health insurance, you may qualify for an exemption from the penalty if any of the following apply to you. For a full list of exemptions visit www.healthcare.gov

- You are uninsured for less than 3 months of the year.
- The lowest-priced coverage available to you would cost more than 8% of your household income.
- You don't have to file a tax return because your income is too low.
- You are a member of a recognized religious sect with religious objections to insurance, including Social Security and Medicare.
- You are incarcerated (either detained or jailed), after a court issued a final decision on charges against you.
- You are not lawfully present in the U.S.
- You qualify for a hardship exemption:⁶
 - You were homeless.
 - You recently experienced domestic violence.
 - You were evicted in the past 6 months or were facing eviction or foreclosure.
 - You received a shut-off notice from a utility company.
 - You recently experienced the death of a close family member.
 - You experienced a fire, flood, or other natural or human-caused disaster that caused substantial damage to your property.
 - You filed for bankruptcy in the last 6 months.
 - You had medical expenses you couldn't pay in the last 24 months.
 - You experienced unexpected increases in necessary expenses due to caring for an ill, disabled, or aging family member.
 - You expect to claim a child as a tax dependent who's been denied coverage in Medicaid and the Children's Health Insurance Program (CHIP), and another person is required by court order to give medical support to the child.
 - You received a notice saying that your current health insurance plan purchased on the individual market (non-group coverage) will be cancelled, and you consider the other plans available unaffordable.
 - You experienced a hardship that kept you from getting health insurance that is NOT described in the categories listed above.

⁵ This list was obtained from <https://www.healthcare.gov/fees-exemptions/>

⁶ These are only some of the exemptions according to the *Application for Exemption from the Shared Responsibility* OMB No. 0938-1190. This list was obtained from <https://www.healthcare.gov/fees-exemptions/>.

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