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THE TAX LAWYER

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Beware Obamacare When Filing Taxes This Year

The [Affordable Care Act](#) seems less and less affordable and hardly easy to administer. When you add taxes, it can be like lemon juice in a paper cut. Yet some people can avoid some of the tax hits or minimize their impact.

One of the biggest tax hits for individuals is the net investment income tax. It's a new 3.8% tax to help pay for Obamacare, there's a new 3.8% tax. Actually, it applied in 2013 too, but you may not have noticed. It's an add-on to *other* taxes you pay. A 20% long-term capital gain becomes 23.8%. The 3.8% rate applies to the *lesser* of your net investment income or the amount by which your modified adjusted gross income exceeds a threshold based on your filing status. For single or head of household, it's \$200,000. For married filing jointly it's \$250,000.

If you owe it, you must file [Form 8960](#). If you had too little [tax withheld](#) or did not pay sufficient [estimated taxes](#), you may have to pay an [estimated tax penalty](#). The IRS website has details [here](#). You can also check out the IRS's [questions and answers on the Net Investment Income Tax](#). If you want even more, see [IRS Tax Topic 559](#).

Can you avoid it? It's hard to do if you have investment income and meet the income tests. There is still some ambiguity in the application, and still some kinds of income that escape—or arguably escape—the 3.8% tax. Besides, it will be a while before the IRS is geared up to fully interpret this new law.

Another tax hit is the health insurance penalty. There's a 'mandate' requiring most Americans to carry insurance: If you don't you may face a penalty. For 2014, the penalty is the higher of \$95 per adult and \$47.50 per child, or 1 percent of taxable household income. In 2015, the penalty goes up to the higher of \$325 per adult and \$162.50 per child, or 2 percent of household income.

It gets even worse if you fail to get coverage in 2016, when penalties will jump to \$695 for adults, \$347.50 for children, or 2 ½ percent of household incomes. For the 2014 filing season, many people expect the IRS to be lax about enforcing the penalty. So if you don't answer the question, or even if you admit you have no coverage, you still might not get a bill. Even so, TurboTax maker [Intuit](#) says the average Obamacare tax penalty for 2014 will be \$301. Even then, not everyone has to pay according to Intuit.

The company estimates that 20 million people who lack insurance in 2014 may be exempt. Potential exemptions include being a Native American, hardships like bankruptcy, homelessness or domestic violence. Medical expenses can be enough too. Unfortunately, many people in these situations may not seek formal exemptions. If you must pay a penalty, you pay it as part of your tax bill. Still, the flak from people who got subsidies but are getting smaller refunds than they thought—or even owing money—may be greater.

Premium Tax Credit. This credit is complex and applies to taxpayers who may be used to simple returns. Not this year. If you acquired health insurance coverage on an Exchange, the government may *subsidize* your premiums. [Form 8962](#) can help determine the credit, but you need a Form 1095-A from the Exchange. Your Form 1095-A is supposed to arrive by January 31, 2015

In some cases, the government paid an anticipated credit in advance *to the Exchange* on behalf of the taxpayer. It was an estimate, but you may owe a lot when you file your taxes. H&R Block estimates that up half of the taxpayers who got subsidies in 2014 may have to send money *back*. Finally, the U.S. Supreme Court could give a thumbs down on whether the Premium Tax Credit even exists in 36 states that did not set up their own Exchange.

Some people will owe money back to the government, while others will be owed money if their incomes changed from when they first were approved for those subsidies. The Obama administration released [several tools](#) found [here](#) to help people prepare tax returns complicated by Obamacare. And private tax preparers are working overtime. H&R Block, [Jackson Hewitt Tax Service](#) and others are ramping up. But are taxpayers ready? We'll soon see.

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