



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.21.2

AUGUST 26, 2020

EFFECTIVE DATE

(08-26-2020)

PURPOSE

- (1) This transmits revised IRM 25.21.2, Affordable Care Act, Insurance Provider Fee.

BACKGROUND

- (1) This IRM section describes the Insurance Provider Fee (IPF) process.

MATERIAL CHANGES

- (1) IRM 25.21.2.2: Updated Insurance Provider Fee Guidance to add citations of guidance released after the last publication of this IRM.
- (2) Updated IRM throughout to indicate that the insurance provider fee was repealed for calendar years beginning after December 31, 2020.
- (3) Editorial corrections made throughout.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 25.21.2 dated July 24, 2018.

AUDIENCE

Frontline employees from all operating divisions and functions that receive IPF inquiries.

John V. Cardone
Assistant Deputy Commissioner Compliance Integration
Large Business and International Division

25.21.2

Insurance Provider Fee

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- 25.21.2-1 Insurance Provider Fee (IPF) Process Flowchart

25.21.2.1
(08-26-2020)
Program Scope and Objectives

- (1) **Purpose:** This IRM provides information about the Insurance Provider Fee (IPF) imposed by section 9010 of the Affordable Care Act. The insurance provider fee was repealed for calendar years beginning after December 31, 2020. This section of the ACA did not amend the Internal Revenue Code.
- (2) **Audience:** IRS employees that receive IPF inquiries.
- (3) **Policy Owner:** LB&I Enterprise Activities Practice Area, Financial Institutions and Products
- (4) **Program Owner:** ACA Team within Enterprise Activities Practice Area, Financial Institutions and Products
- (5) **Primary Stakeholders:** ACA Insurance Provider Fee program analysts (LB&I Enterprise Activities Practice Area, Financial Institutions and Products - ACA team).
- (6) **Program Goals:** Administer ACA Provision 9010, Health Insurance Provider Fee.

25.21.2.1.1
(08-26-2020)
Background

- (1) The Patient Protection and Affordable Care Act of 2010 established Provision 9010, which imposes an annual fee on each covered entity engaged in the business of providing health insurance for United States health risks. The insurance provider fee was repealed for calendar years beginning after December 31, 2020.

25.21.2.1.2
(08-26-2020)
Authority

- (1) Section 9010 of the Affordable Care Act of 2010 imposes an annual fee on each covered entity engaged in the business of providing health insurance for calendar years beginning after December 31, 2013. Collection of the fee is suspended for fee years 2017 and 2019 and was repealed for calendar years beginning after December 31, 2020.
- (2) Section 9010 (b) and (e) provide rules for determining the amount of the annual fee for each covered entity. Section 9010 (b)(1) requires the applicable fee amount for each year to be allocated, using a specified formula, among covered entities with aggregate net premiums written of over \$25 million. The applicable fee amounts for calendar years are:

Year	Applicable Fee Amount
2014	\$8 billion
2015 & 2016	\$11.3 billion
2017	\$13.9 billion
2018	\$14.3 billion

Year	Applicable Fee Amount
2019 and thereafter	The applicable amount for the preceding calendar year increased by the rate of premium growth for the preceding calendar year

The applicable amount for fee year 2020 is \$15,522,820,037 (see Notice 2019-50).

25.21.2.1.3
(07-24-2018)

Responsibilities

- (1) A section 9010 team is designated to administer the IPF fee. IPF inquiries or questions may be directed to the team at its dedicated phone number, 1-616-365-4617 (not a toll-free number), or to the dedicated mailbox *LBI IPF or LBI.IPF@irs.gov.

25.21.2.1.4
(07-24-2018)

**Terms/Definitions/
Acronyms**

- (1) The following are commonly used terms and acronyms:

Defined Terms

Term	Definition
Controlled Group	A controlled group means a group of two or more persons, including at least one person that is a covered entity, treated as a single employer under IRC 52(a), 52(b), 414(m), or 414(o).
Covered Entity	A covered entity is generally any entity with net premiums written for health insurance for United States health risks in the fee year.
Data Year	The data year means the calendar year immediately before the fee year. For example, 2013 is the data year for the 2014 fee year.
Fee Year	The fee year means the calendar year in which the fee must be paid to the government.

Health Insurance	Health Insurance generally has the same meaning as the term health insurance coverage in IRC 9832(b)(1)(A), defined to mean benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a covered entity. The term health insurance includes limited scope (also called stand-alone) dental and vision benefits under IRC 9832(c)(2)(A) and retiree-only health insurance.
Supplemental Health Care Exhibit (SHCE)	A form published by the National Association of Insurance Commissioners (NAIC) that most covered entities are required to file annually under state law.
United States	United States means any of the 50 states, the District of Columbia, or any of the possessions of the United States including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.
United States Health Risk	A United States Health Risk is the health risk of any individual who is (1) a United States citizen, (2) a resident of the United States (within the meaning of IRC 7701(b)(1)(A)), or (3) located in the United States, with respect to the period such individual is so located. Note: For calendar years after 2015, a qualified expatriate (and any spouse, dependent, or any other individual enrolled in the plan) enrolled in an expatriate health plan shall not be considered a United States health risk.

Acronyms

Acronym	Definition
ACA	Affordable Care Act
IPF	Insurance Provider Fee
MLR	Medical Loss Ratio
NAIC	National Association of Insurance Commissioners
SHCE	Supplemental Health Care Exhibit

25.21.2.1.5
(07-24-2018)

Related Resources

- (1) See <https://www.irs.gov/ACA9010> for more information.
- (2) Exhibit 25.21.2-1 provides a high-level overview of the IPF fee process.

25.21.2.2
(08-26-2020)

Insurance Provider Fee Guidance

- (1) The IRS has issued guidance on the IPF fee as follows:
 - Proposed Regulations issued March 3, 2013, (REG-118315-12, 78 FR 14034)
 - Final Regulations issued November 26, 2013 (TD 9643, 2013-51 IRB 750)
 - Notice 2013-76 (2013-51 IRB 769) issued November 26, 2013, (time/manner of submitting Form 8963, preliminary fee calculation, and error correction)
 - Rev. Rul. 2013-27 issued November 26, 2013 (gross income defined)
 - Notice 2014-24 (2014-16 IRB 942) issued March 29, 2014 (expatriate plan temporary safe harbor, obsolete by Notice 2015-29)
 - Notice 2014-47 (2014-25 IRB 522) issued August 12, 2014 (definition of covered entity, clarified in TD 9711)
 - Notice 2015-29 (2015-15 IRB 873) issued March 30, 2015 (expatriate plan special rule for 2014 and 2015, obsoletes Notice 2014-24)
 - Notice 2016-14 (2016-07 IRB 315) issued January 20, 2016 (extends application of Notice 2015-49 special rule to 2016)
 - Final Regulations issued February 22, 2018 (TD 9830, 2018-11 IRB 423) (definition of a covered entity, consistency requirement, special rule for covered entities that use the fee year as test year)
 - Notice 2019-50 (2019-37 IRB 700) set the applicable amount for fee year 2020 at \$15,522,820,037.
 - TD 9881 (2019-49 IRB 1288) mandated all entities reporting more than \$25 million in net premiums written must file Form 8963 electronically.
- (2) Continue to check the IPF website on IRS.gov for updates or additional guidance that may be issued affecting the 9010 fee. See <https://www.irs.gov/ACA9010>.

25.21.2.3
(08-26-2020)

Information Requested from Covered Entities

- (1) Covered entities must provide information relevant to the determination of the IPF fee by submitting Form 8963, Report of Health Insurance Provider Information, and providing the information specified by the form and instructions.
- (2) Information requested on Form 8963 includes:
 - National Association of Insurance Commissioners (NAIC) Code, if applicable
 - NAIC Group Code, if applicable
 - Direct premiums written
 - Medical loss ratio (MLR) rebates
 - Stand-alone dental and vision direct premiums written
 - Net premiums written
 - IRC 501(c) (3),(4), (26) or (29) qualifying premiums written
 - Members of controlled groups, if applicable
 - Designated entity information
- (3) Covered entities must submit Form 8963 by April 15th of each fee year. If April 15th falls on a Saturday, Sunday, or legal holiday, the due date of the form is the next business day. The term “legal holiday” means any legal holiday in the District of Columbia. For a list of legal holidays, go to IRS.gov and enter the

words “legal holidays” in the search box. For fee year 2020, covered entities reporting more than \$25 million in net premiums written must submit Form 8963 electronically. Other covered entities may submit Form 8963 electronically or by mail. The mailing address is:

Dept. of Treasury
Internal Revenue Service
1973 Rulon White Boulevard
Mail Stop 4916 IPF
Ogden, UT 84201-0051

25.21.2.4
(08-26-2020)
**Data Transcription and
Due Diligence**

- (1) For fee year 2020, covered entities reporting more than \$25 million in net premiums written must submit Form 8963 electronically. Other covered entities may submit Form 8963 electronically or by mail.
 - All electronically filed forms are received by the IPF application system.
 - All paper filed forms received are transcribed into the IPF application system.
- (2) Data perfection is performed as necessary to perfect data in the IPF application system. All forms are entered into the IPF application exactly as they were completed. If a form is incomplete, a complete corrected form is secured from the filer.
- (3) Data validation due diligence is performed to determine proper direct premiums written, qualification for the partial exclusion for IRC 501 (c) (3), (4), (26) and (29) entities, and controlled group or stand-alone entity status.

25.21.2.5
(04-11-2014)
Fee Calculation

- (1) The annual applicable fee amount is apportioned to each covered entity based on the ratio of the covered entity’s net premiums written for health insurance for any United States health risk that are taken into account during the preceding calendar year, to the aggregate net premiums written for such health insurance of all covered entities that are taken into account during the preceding calendar year.
- (2) Under section 9010(b)(2)(A), the amount of net premiums written that is taken into account for each covered entity per calendar year is 0 percent of net premiums written up to and including \$25 million, 50 percent of net premiums written that are more than \$25 million but not more than \$50 million, and 100 percent of net premiums written that are over \$50 million.
- (3) Additionally, after the application of the dollar thresholds of section 9010(b)(2)(A), section 9010(b)(2)(B) excludes from the amount taken into account 50 percent of the remaining net premiums written for health insurance that are attributable to the activities (other than activities of an unrelated trade or business as defined in section IRC 513) of any covered entity qualifying under section IRC 501(c) (3), (4), (26), or (29) and exempt from tax under IRC 501(a).

25.21.2.6
(04-11-2014)
**Notice of Preliminary
Calculation (Letter
5066C)**

- (1) The IRS will send each covered entity a notice of preliminary fee calculation each fee year, Notice of Preliminary Calculation (Letter 5066C). The notification will include the following:

- The covered entity's allocated fee
- The covered entity's net premiums written for health insurance of United States health risks
- The covered entity's net premiums written for health insurance of United States health risks taken into account after application of §57.4(a)(4)
- The aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities
- Premiums eligible for the partial exclusion for certain exempt activities, if applicable
- Instructions for how to submit a corrected Form 8963 to correct any errors through the error correction process

25.21.2.7
(08-26-2020)
**Error Correction
Process**

- (1) Upon receipt of the preliminary fee calculation, each covered entity is required to review its preliminary fee calculation and submit a corrected Form 8963 if there are any errors. The covered entity will make an error correction report by completing in full a new Form 8963 and checking the "Corrected Report" box on the form. The corrected Form 8963 will replace the original Form 8963. Therefore, the corrected report must contain all of the information required by the form's instructions.
- (2) In the case of a controlled group, if the notice of preliminary fee calculation contains one or more errors, the corrected Form 8963 must include all of the information required by the form's instructions for the entire controlled group, including members that do not have corrections. Additionally, a covered entity may include attachments with the corrected Form 8963 if any corrected item requires further explanation. Corrected Form 8963s must be submitted electronically, if reporting more than \$25 million in net premiums written, or by mail no later than July 15th of each fee year.
- (3) Covered entities may mail corrected reports to:

Internal Revenue Service
1973 Rulon White Boulevard
Mail Stop 4916 IPF
Ogden, UT 84201-0051

25.21.2.8
(04-11-2014)
**Notice of Final Fee
Calculation (Letter
5067C)**

- (1) The final fee calculation for a fee year will be sent to each covered entity no later than August 31st of each fee year.
- (2) A covered entity's final fee may differ from the covered entity's preliminary fee calculation because of changes made pursuant to the error correction process.

25.21.2.9
(04-11-2014)
Payment of the Fee

- (1) Each covered entity must pay its final fee by September 30th of the fee year. If the due date for payment falls on a Saturday, Sunday, or legal holiday, the payment of the fee may be paid on the next business day. The term "legal holiday" means any legal holiday in the District of Columbia. For a list of legal holidays, go to IRS.gov and enter the words "legal holidays" in the search box.
- (2) The fee must be paid by electronic funds transfer.
- (3) For a controlled group the payment must be made using the designated entity's EIN as reported on Form 8963. All covered entities within a controlled group are jointly and severally liable for the fee.

25.21.2.10
(08-26-2020)
Penalties

- (1) Section 9010(g)(2)(A) imposes a penalty for failing to timely submit a report containing the required information unless the covered entity can show that the failure is due to reasonable cause. Any Form 8963 required to be filed electronically will not be considered filed unless it is filed electronically. The penalty is \$10,000 plus the lesser of (i) an amount equal to \$1,000 multiplied by the number of days during which the failure continues, or (ii) the amount of the fee for which the report was required.
- (2) Section 9010(g)(3)(A) imposes an accuracy-related penalty for any understatement of a covered entity's net premiums written. The penalty is equal to the excess of (i) the amount of the covered entity's fee for the fee year that should have been paid in the absence of the understatement, over (ii) the amount of the fee determined based on the understatement.
- (3) The penalties are in addition to the fee.
- (4) A covered entity may be liable for both penalties.
- (5) Both penalties are "off code" and computed by the IPF application.

25.21.2.11
(07-24-2018)
Fee is Not Deductible

- (1) The annual fee is treated as a non-deductible excise tax. See Section 9010(f)(1) and (2) and Rev. Rul. 2013-27.

25.21.2.12
(04-11-2014)
Fee is Included in Income

- (1) Amounts a covered entity collects from policyholders to offset the cost of the annual fee imposed on health insurance providers under ACA section 9010 are included in the covered entity's gross income under IRC 61(a) pursuant to Rev. Rul. 2013-27.

25.21.2.13
(07-24-2018)
Section 6103 Disclosure Rules Do Not Apply

- (1) Section 9010(g)(4) provides that IRC 6103, relating to the disclosure of returns and return information, does not apply to any information reported under section 9010(g).
- (2) Information from filed Forms 8963 is posted on <https://www.irs.gov/ACA9010> under the heading "Disclosure" at the time that the preliminary and final fee letters are sent.

25.21.2.14
(07-24-2018)
Refund Claims

- (1) Section 9010(f)(1) treats the fee as an excise tax for purposes of subtitle F to which only civil actions for refund apply.
- (2) A claim for refund of the fee must be made by the entity that paid the fee.
- (3) Any claim for refund must be made using Form 843, Claim for Refund and Request for Abatement. To ensure proper processing, **Annual Fee on Health Insurance Providers Final Fee** must be written across the top of Form 843.
- (4) A claim for refund of the fee must be mailed to the following designated address for special handling:

Dept. of Treasury
Internal Revenue Service
1973 Rulon White Boulevard
Mail Stop 4921 IPF
Ogden, UT 84201-1000

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Exhibit 25.21.2-1 (07-24-2018)

Insurance Provider Fee (IPF) Process Flowchart



