



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF THE CHIEF COUNSEL

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CONEX-115672-15

The Honorable Derek Kilmer
Member, U.S. House of Representatives
345 6th Street, Suite 500
Bremerton, WA 98337

Attention:

Dear Congressman Kilmer:

I am responding to your letter dated March 30, 2015, on behalf of your constituent, . wrote that, following many problems enrolling in health insurance through the Exchange, she and her husband must now repay all the advance payments of the premium tax credit made on their behalf for coverage in 20 . She also asked about the calculation of advance credit payments for 20 .

The premium tax credit is a refundable tax credit for certain individuals who enroll, or who have a family member who enrolls, in a health insurance plan offered through a Health Insurance Marketplace (Marketplace) and is intended to subsidize the cost of the insurance. Taxpayers claim the premium tax credit by filing Form 8962, Premium Tax Credit (PTC), with their federal income tax return.

The amount of a taxpayer's premium tax credit for a year depends on the amount of the taxpayer's household income and his or her family size for the year. For example, a qualifying family of 4 with household income at 150 percent of the federal poverty line for the taxpayer's family size will get a larger premium tax credit than a similarly-situated family with household income at 350 percent of the federal poverty line. Taxpayers with household income over 400 percent of the federal poverty line for their family size are not allowed a premium tax credit.

Household income is the modified adjusted gross income (modified AGI) of the taxpayer and the taxpayer's spouse if filing a joint return, plus the modified AGI of the taxpayer's dependents who are required to file a tax return. Modified AGI is the taxpayer's adjusted gross income, plus his or her foreign earned income, tax-exempt interest, and untaxed social security payments.

The law allows qualifying taxpayers who enroll in Marketplace health insurance to receive the benefit of advance payments of the premium tax credit. Advance credit payments are made directly to the taxpayer's health insurance company and reduce the taxpayer's share of the monthly premiums. The Marketplace estimates the taxpayer's household income and family size for the coverage year, along with other factors, to compute the taxpayer's maximum amount of advance credit payments for the year. The taxpayer then chooses to have all, some, or none of this maximum amount paid on his or her behalf during the coverage year.

Taxpayers who get the benefit of advance credit payments must, when they file their tax return for the year, reconcile or compare the actual premium tax credit they are allowed to their advance credit payments. If the actual premium tax credit is more than the advance credit payments made for the taxpayer, the taxpayer reduces his or her tax liability by the difference or gets a refund. If a taxpayer's advance credit payments are more than the premium tax credit the taxpayer is allowed, the taxpayer must repay all or part of the excess when filing a tax return for the year.

The amount of the repayment may be limited for taxpayers with household income of less than 400 percent of the federal poverty line for their family size. For example, the repayment amount for married taxpayers filing a joint return is limited to \$2,500 if their household income is at least 300 percent and less than 400 percent of the federal poverty line for their family size. Taxpayers with household income above 400 percent of the federal poverty line for their family size must repay all of their advance credit payments.

wrote that she and her husband must repay all of the advance credit payments made on their family's behalf in 20 , or about \$5,000. We do not have independent knowledge of the facts pertaining to the ' case. However, if is correct, it would seem that the were ineligible to claim a premium tax credit for 20 , perhaps because their 20 household income was more than 400 percent of the federal poverty line for their family size. The law requires taxpayers to use the 20 household income reported on their 20 tax return to determine whether a premium tax credit is allowed and, if so, the amount of the credit. The estimated household income used to compute advance credit payments is not used to determine a taxpayer's premium tax credit.

If the ' household income for 20 is more than 400 percent of the federal poverty line for their family size, they are not allowed a premium tax credit for 20 , nor are they allowed a repayment limitation for the advance credit payments made on their behalf.

Although they must repay the advance credit payments, the IRS has provided relief from penalties for taxpayers who owe taxes because of the repayments, but could pay the tax by the due date of their return or pay the correct estimated taxes. Publication 974, *Premium Tax Credit (PTC)*, provides more information on this penalty relief for 20 . This publication is available on our website on www.irs.gov.

also asked about her advance credit payments for 20 . The can do several things to reduce the likelihood they will have a large repayment liability when filing their 20 tax return in 20 .

- They should be sure the projected household income used to compute the 20 advance credit payments is accurate.
- If they qualify for advance credit payments for 20 , they could take less than the maximum amount the Marketplace computed for them for 20 .
- If it is likely their 20 household income will be over 400 percent of the poverty line for their family size, they should discontinue their advance credit payments.

I hope this information is helpful. If you need further assistance, please contact me at , or or at .

Sincerely,

Andrew J. Keyso
Associate Chief Counsel
(Income Tax and Accounting)