

# PUBLICATION

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## Executive Order Results in IRS' Reconsideration of Plan to Reject Certain Returns Missing Health Insurance Information

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The IRS recently announced that it will not automatically reject individual income tax returns on which a taxpayer has failed to indicate whether they maintained qualifying health insurance coverage during the year for the 2017 filing season (2016 tax year). The requirement for taxpayers to maintain qualifying health insurance, often referred to as the "individual mandate," became law as part of the Patient Protection and Affordable Care Act (the ACA) enacted in 2010. Under the individual mandate, without an exemption, taxpayers are required to maintain a minimum level of qualifying health insurance coverage throughout the year or pay a penalty for non-compliance. This penalty is referred to as the "Individual Shared Responsibility Payment." Lines 61 and 11 of Forms 1040 and 1040-EZ, respectively, each requires taxpayers who are not exempt from the individual mandate to either certify that they maintained qualifying health insurance throughout the year or calculate the Individual Shared Responsibility Payment they owe for non-compliance (as applicable, the "Individual Mandate Reporting Line").

The IRS previously announced that it would automatically reject any tax return on which a taxpayer failed to complete the Individual Mandate Reporting Line beginning with the 2017 tax filing season (2016 tax year). Under the new announcement, however, the IRS will not automatically reject individual tax returns for failure to complete the Individual Mandate Reporting Line. This announcement comes in response to an executive order issued by President Trump directing federal agencies to "minimize the unwarranted economic and regulatory burdens" of the ACA and to defer enforcing provisions of the ACA which impose penalties on individuals and families.

Taxpayers should note that the recent announcement does not change the law. Likewise, contrary to what some news outlets have reported, the announcement does not make compliance with the individual mandate "optional." The individual mandate is still the law and taxpayers who are not exempt from the individual mandate are required to make the Individual Shared Responsibility Payment to the extent they fail to comply. Failure to complete the Individual Mandate Reporting Line may lead to additional questions from the IRS or delays in obtaining tax refunds. Furthermore, the IRS has authority to withhold any unpaid Individual Shared Responsibility Payment from any federal income tax refund which a taxpayer may otherwise be entitled to.

Please remember that advice and counsel regarding your particular tax-related issues, including the potential impact of the developments outlined above, are dependent on your specific facts and circumstances. For more information about how these issues may affect you, or related matters, contact the co-authors of this alert: [Allen Blow](#), [Tyler Ball](#) and [Tom Mahoney](#), or any member of the [Firm's Tax Group](#).