

## Unclaimed Dependent for ACA – NTTC Guidance

The instructions in Pubs 4491 and 4012 and for the Affordable Care Act forms are incomplete regarding the requirement to include every dependent, whether claimed or not, when determining if a Shared Responsibility Payment (SRP) is due. After extensive discussions with IRS SPEC and guidance from IRS Counsel and the IRS ACA Program Office, the National Tax Training Committee guidance has not changed: **a taxpayer does not owe an SRP for an unclaimed dependent, even if the unclaimed dependent lacks health coverage.** The unclaimed dependent can be left off the return for ACA purposes.

While a taxpayer is technically responsible for their dependent's health insurance coverage, whether claimed or not, a taxpayer does not have to claim a dependent if he or she chooses not to. The ACA provisions are then applied to the taxpayer/spouse and claimed dependents only (exclusive of the unclaimed dependent). **The ACA exemption provisions are applied to the unclaimed dependent separately.**

Importantly, household income for a taxpayer includes only the taxpayer's income, the income of the taxpayer's spouse if filing jointly, and the income of **claimed** dependents. An unclaimed dependent has a **separate** household income from the taxpayer who could claim that dependent.

IRS SPEC has confirmed that the affordability test is applied separately to an unclaimed dependent. Accordingly, if a taxpayer wants to claim an affordability exemption for an unclaimed dependent, he must determine that dependent's eligibility for the exemption using that unclaimed dependent's own income **only**. If the unclaimed dependent had an employer offer for self-only coverage, he or she would test the affordability of that employer offer against his or her separate affordability threshold. If there is no employer self-only offer, the unclaimed dependent would compare his or her separate lowest cost bronze plan premium to his or her separate affordability threshold (with no premium tax credit (PTC) – he or she is not an applicable taxpayer and is not eligible for PTC.). Thus, it is safe to assume that, at a minimum, the affordability exemption applies to the unclaimed dependent given that his or her income is low since he or she could be claimed as a dependent.

The instructions do not address exemptions for the unclaimed dependent situation. In theory, the taxpayer who could claim the dependent should claim the exemption on his return. The IRS has stated that in practice, it is unlikely that a taxpayer who failed to claim a dependent would simultaneously claim an ACA exemption for that dependent

ACA is not perfect and the IRS recognizes this particular nuance in the law. There may be corrective legislation in the future.