Who is required to file a tax return?

WHO IS REQUIRED TO FILE A TAX RETURN?

IRS rules establish who is required, based on the amount of their income and other factors, to file a tax return. Those rules can be found in IRS Publication 501, Exemptions, Standard Deduction, and Filing Information.

The rules for determining who has to file a tax return can be confusing. They are particularly challenging for individuals who are unfamiliar with the tax system and for certain groups, such as survivors.

In general, the rules are based on the taxpayer's filing status, age (under 65 or age 65 and older), and amount of income. For example, for tax year 2016, a single taxpayer under age 65 who does not qualify for any filing status other than single would be required to file a tax return if the taxpayer's gross income was at least $10,350.

There are also special filing requirement rules for people who can be claimed as dependents by someone else. People with net annual income of at least $400.00 from self-employment are required to file a tax return.

Practice Tip
The IRS website has an "interactive interview" program that a survivor or a survivor and advocate t requirement. Click here to go to the IRS's site. An individual using the interactive interview progran

Tax Penalties

Taxpayers who have a filing obligation but who fail to file or who file after the due date of the return may be subject to penalties. A taxpayer who files late but is due a refund is not penalized for filing after the due date. However, a taxpayer can only obtain the refund if the taxpayer files the return within three years of its due date.

In limited circumstances, a taxpayer may be granted additional time to claim a tax refund if the taxpayer provides a statement from a physician documenting that the taxpayer was unable to manage their financial affairs due to a mental or physical disability.

A “failure to file” penalty, which applies when a taxpayer files a return after its due date, is normally 5% of the unpaid taxes due for each month or part of a month that a return is late. The maximum failure to file penalty is 25% of the unpaid tax.

There is also a "failure to pay" penalty applicable when payment is not made by the return’s due date. The failure to file penalty is greater than the failure to pay penalty, so survivors who cannot afford to pay the amount due should still file their returns by the due date.

The Affordable Care Act ("Obamacare")

Some taxpayers who would not otherwise have a filing obligation are, nevertheless, required to file tax returns. Starting with tax year 2014, taxpayers who have signed up for marketplace health insurance (“Obamacare”) and for whom the Advance Premium Tax Credit (APTC) was paid directly to their health insurer are required to file tax returns, even if they do not otherwise have a tax filing obligation. Those taxpayers must reconcile the amount of APTC that was paid on their behalf with the APTC that they were actually entitled to have paid.

IRS Form 8962 is used to reconcile the amount of APTC that was received; it is filled out and attached to the tax return that is filed for that year. A survivor who received the benefit of the APTC and who fails to file a tax return reconciling the APTC that was received, will not qualify for the APTC or other cost-sharing reductions to help pay for Marketplace health insurance in future years.

Taxpayers who are not exempt from the health insurance requirement and do not have health insurance for themselves and/or their dependents are required to pay a penalty called the Individual Shared Responsibility Payment (ISRP.) The ISRP is reported on the taxpayer’s tax return. The amount of the ISRP is based on the taxpayer’s income and the number of uninsured individuals.

Leah's story...
In Leah’s case, if she continues to claim her two children as dependents, starting with tax year 2014, she is required to report whether they (and she) had or were exempt from having “minimum essential coverage.” An ISRP is charged for each non-exempt individual without coverage.

Other reasons to file a tax return

Survivors who have not gotten the APTC and/or do not have enough income to be required to file a tax return may still have a number of good reasons for filing a tax return. These include:

- Obtaining a refund of tax withheld from income.
- Obtaining a refundable tax credit such as the Earned Income Tax Credit.
- Applying for financial aid to attend school.
- Reducing the odds of being the victim of tax-related identity theft since people who fail to file tax returns are more likely than others to be the victim of this type of ID theft. When survivors file their own tax returns, it reduces the odds that their name and Social Security number will be used by their abuser to file a false joint return.
- Improving immigration status. For example, lawful permanent residents who wish to become citizens will have to provide proof of filing all required tax returns.
- Filing bankruptcy as the trustee will want to see copies of recent years' tax returns.
- Applying for a loan.

The ILS Low Income Taxpayer Clinic is proud to partner with the Center for Survivor Agency & Justice. Together, we seek to provide education, representation, and advocacy to survivors on a range of consumer-finance issues, including taxes. The content of this page is adapted from a chapter to an upcoming guidebook for survivors published by the CSAJ, the Guidebook on Consumer and Economic Civil Legal Advocacy for Survivors.
