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## Department of Revenue

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### Working Draft TIR 09-XX: Individual Mandate Penalties for Tax Year 2010

Pursuant to G.L. c. 111M, § 2, the Department of Revenue is releasing for public comment the penalty schedule for individuals who fail to comply in 2010 with the requirements under the Massachusetts Health Care Reform Act.

Please email written comments to the Department of Revenue's Rulings & Regulations Bureau at [RulesandRegs@dor.state.ma.us](mailto:RulesandRegs@dor.state.ma.us) by December 18, 2009.

#### WORKING DRAFT FOR PRACTITIONER COMMENT – 12/9/09

##### Personal Income Tax Draft Technical Information Release 09-XX

##### Individual Mandate Penalties for Tax Year 2010

Pursuant to G.L. c. 111M, § 2, the Department of Revenue is issuing this Technical Information Release to announce the penalty schedule for individuals who fail to comply in 2010 with the requirements under the Massachusetts Health Care Reform Act (the Act). *See* St. 2006, c. 58, as amended. The Act requires most adults 18 and over with access to affordable health insurance to obtain it. In 2010, individuals must be enrolled in health insurance policies that meet minimum creditable coverage standards defined in regulations adopted by the Commonwealth Health Insurance Connector Authority (the Connector). Individuals who are deemed able to afford health insurance but fail to comply are subject to penalties for each month of non-compliance in the tax year (provided that there is no penalty in the case of a lapse in coverage of 63 consecutive days or less). The penalties, which will be imposed through the individual's personal income tax return, shall not exceed 50% of the minimum monthly insurance premium for which an individual would have qualified through the Connector.<sup>[1]</sup>

These penalties apply *only* to adults who are deemed able to afford health insurance. On an annual basis, the Connector establishes separate standards that determine whether individuals, married couples and families can afford health insurance, based on their incomes and affordable health insurance premiums. Those who are not deemed able to afford health insurance pursuant to these standards will not be penalized. Individuals also have the opportunity to file appeals with the Connector asserting that hardship prevented them from purchasing health insurance (and thus that they should not be subject to tax penalties).<sup>[2]</sup>

#### **For 2010:**

- Individuals with incomes up to 150% of the Federal Poverty Level are not subject to any penalty for non-compliance, as those at this income level are not required to pay an enrollee premium for Commonwealth Care health insurance.
- Penalties for individuals with incomes from 150.1 to 300% of the Federal Poverty Level will be half of the lowest priced Commonwealth Care enrollee premium that could be charged to an individual at the corresponding income level, based on the Connector's Commonwealth Care enrollee premiums as of January 1, 2010.
- Penalties for individuals with incomes greater than 300% of the Federal Poverty Level will be:
  - *ages 18-26*: half of the lowest priced Commonwealth Choice Young Adult Plan premium; and
  - *ages 27 and above*: half of the lowest priced Commonwealth Choice Bronze premium,

based on the Connector's prices for these plans as of January 1, 2010.

- The Department anticipates issuing an updated penalty schedule for tax year 2011.

- Penalties for married couples who do not comply with the individual mandate rules (with or without children) will equal the sum of individual penalties for each spouse.

#### Penalties for 2010

Individual Income Category*	150.1-200% FPL	200.1-250% FPL	250.1-300% FPL	Above 300% FPL	Above 300% FPL	Age 27+ Age 18-26
	\$19/month \$234/year	\$38/month \$462/year	\$58/month \$696/year	\$66/month \$792/year	\$93/month \$1,116/year	

\* Compare individual's annual family household income to chart immediately below to determine applicable Federal Poverty Level (FPL).

\*\* Yearly penalty amounts listed above based on non-compliance for entire year.

#### Federal Poverty Level – Annual Income Standards

Family Size	0 - 150% FPL	150.1 - 200% FPL	200.1 - 250% FPL	250.1 - 300% FPL
1	\$16,248	\$21,660	\$27,084	\$32,496
2	\$21,864	\$29,148	\$36,432	\$43,716
3	\$27,468	\$36,624	\$45,780	\$54,936
4	\$33,084	\$44,100	\$55,128	\$66,156
5	\$38,688	\$51,588	\$64,476	\$77,376
6	\$44,304	\$59,064	\$73,836	\$88,596
7	\$49,908	\$66,540	\$83,184	\$99,816
8	\$55,524	\$74,028	\$92,532	\$111,036
For each additional person add	+\$5,616	+\$7,488	+\$9,348	+\$11,220

This Schedule reflects the Federal Poverty Level standards for 2009 and will be updated when the 2010 Federal Poverty Level standards are published in February 2010.

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[1] Thus, the monthly penalties apply to each month in which an individual lacks minimum creditable coverage (i.e., lacks health insurance coverage altogether, or lacks health insurance coverage meeting minimum creditable coverage standards). For more information regarding the health care individual mandate and minimum creditable coverage, including exceptions from the mandate and appeal rights of taxpayers in connection with the penalty under G.L. c. 111M, § 2, see Department of Revenue regulation 830 CMR 111M.2.1: Health Insurance Individual Mandate; Personal Income Tax Return Requirements, and Connector regulations 956 CMR 6.00, Determining Affordability for the Individual Mandate and 956 CMR 5.00, Minimum Creditable Coverage.

[2] See Connector regulation, 956 CMR 6.00, Determining Affordability for the Individual Mandate. The Affordability and Premium Schedules contained in the Massachusetts personal income tax forms are adopted by the Board of the Connector pursuant to 956 CMR 6.05.