§ 1.36B–4 Reconciling the premium tax credit with advance credit payments.

(a) *Reconciliation*—(1) *Coordination of premium tax credit with advance credit payments*—(i) *In general.* A taxpayer must reconcile the amount of credit allowed under section 36B with advance credit payments on the taxpayer's income tax return for a taxable year. A taxpayer whose premium tax credit for the taxable year exceeds the taxpayer's advance credit payments may receive the excess as an income tax refund. A taxpayer whose advance credit payments for the taxable year exceed the taxpayer's premium tax credit owes the excess as an additional income tax liability.

(ii) *Allocation rules and responsibility for advance credit payments*—(A) *In general.* A taxpayer must reconcile all advance credit payments for coverage of any member of the taxpayer's family.

(B) *Individuals enrolled by a taxpayer and claimed as a personal exemption deduction by another taxpayer*—(*1*) *In general.* If a taxpayer (the enrolling taxpayer) enrolls an individual in a qualified health plan and another taxpayer (the claiming taxpayer) claims a personal exemption deduction for the individual (the shifting enrollee), then for purposes of computing each taxpayer's premium tax credit and reconciling any advance credit payments, the enrollment premiums and advance credit payments for the plan in which the shifting enrollee was enrolled are allocated under this paragraph (a)(1)(ii)(B) according to the allocation percentage described in paragraph (a)(1)(ii)(B)(*2*) of this section. If advance credit payments are allocated under paragraph (a)(1)(ii)(B)(*4*) of this section, the claiming taxpayer and enrolling taxpayer must use this same allocation percentage to calculate their §1.36B–3(d)(1)(ii) adjusted monthly premiums for the applicable benchmark plan (benchmark plan premiums). This paragraph (a)(1)(ii)(B) does not apply to amounts allocated under §1.36B–3(h) (qualified health plan covering more than one family) or if the shifting enrollee or enrollees are the only individuals enrolled in the qualified health plan. For purposes of this paragraph (a)(1)(ii)(B)(*1*), a taxpayer who is expected at enrollment in a qualified health plan to be the taxpayer filing an income tax return for the year of coverage with respect to an individual enrolling in the plan has enrolled that individual. For taxable years to which section 151(d)(5) applies, the claiming taxpayer is the taxpayer who properly includes the shifting enrollee in his or her family for the taxable year.

(*2*) *Allocation percentage.* The enrolling taxpayer and claiming taxpayer may agree on any allocation percentage between zero and one hundred percent. If the enrolling taxpayer and claiming taxpayer do not agree on an allocation percentage, the percentage is equal to the number of shifting enrollees properly included in the enrolling taxpayer's family divided by the number of individuals enrolled by the enrolling taxpayer in the same qualified health plan as the shifting enrollee.

(*3*) *Allocating premiums.* In computing the premium tax credit, the claiming taxpayer is allocated a portion of the enrollment premiums for the plan in which the shifting enrollee was enrolled equal to the enrollment premiums times the allocation percentage. The enrolling taxpayer is allocated the remainder of the enrollment premiums not allocated to one or more claiming taxpayers.

(*4*) *Allocating advance credit payments.* In reconciling any advance credit payments, the claiming taxpayer is allocated a portion of the advance credit payments for the plan in which the shifting enrollee was enrolled equal to the enrolling taxpayer's advance credit payments for the plan times the allocation percentage. The enrolling taxpayer is allocated the remainder of the advance credit payments not allocated to one or more claiming taxpayers. This paragraph (a)(1)(ii)(B)(*4*) only applies in situations in which advance credit payments are made for coverage of a shifting enrollee.

(*5*) *Premiums for the applicable benchmark plan.* If paragraph (a)(1)(ii)(B)(*4*) of this section applies, the claiming taxpayer's benchmark plan premium is the sum of the benchmark plan premium for the claiming taxpayer's coverage family, excluding the shifting enrollee or enrollees, and the allocable portion. The allocable portion for purposes of this paragraph (a)(1)(ii)(B)(*5*) is the product of the benchmark plan premium for the enrolling taxpayer's coverage family if the shifting enrollee was a member of the enrolling taxpayer's coverage family and the allocation percentage. If the enrolling taxpayer's coverage family is enrolled in more than one qualified health plan, the allocable portion is determined as if the enrolling taxpayer's coverage family includes only the coverage family members who enrolled in the same plan as the shifting enrollee or enrollees. The enrolling taxpayer's benchmark plan premium is the benchmark plan premium for the enrolling taxpayer's coverage family had the shifting enrollee or enrollees remained a part of the enrolling taxpayer's coverage family, minus the allocable portion.

(C) *Responsibility for advance credit payments for an individual not reported on any taxpayer's return.* If advance credit payments are made for coverage of an individual who is not included in any taxpayer's family, as defined in §1.36B–1(d), the taxpayer who attested to the Exchange to the intention to include such individual in the taxpayer's family as part of the advance credit payment eligibility determination for coverage of the individual must reconcile the advance credit payments.

(iii) *Advance credit payment for a month in which an issuer does not provide coverage.* For purposes of reconciliation, a taxpayer does not have an advance credit payment for a month if the issuer of the qualified health plan in which the taxpayer or a family member is enrolled does not provide coverage for that month.

(2) *Credit computation.* The premium assistance credit amount is computed on the taxpayer's return using the taxpayer's household income and family size for the taxable year. Thus, the taxpayer's contribution amount (household income for the taxable year times the applicable percentage) is determined using the taxpayer's household income and family size at the end of the taxable year. The applicable benchmark plan for each coverage month is determined under §1.36B–3(f).

(3) *Limitation on additional tax*—(i) *In general.* The additional tax imposed under paragraph (a)(1) of this section on a taxpayer whose household income is less than 400 percent of the Federal poverty line is limited to the amounts provided in the table in paragraph (a)(3)(ii) of this section (or successor tables). For taxable years beginning after December 31, 2014, the limitation amounts may be adjusted in published guidance, see §601.601(d)(2) of this chapter, to reflect changes in the consumer price index.

(ii) *Additional tax limitation table.*

Household income percentage of Federal poverty line	Limitation amount for taxpayers whose tax is determined under section 1(c)	Limitation amount for all other taxpayers
Less than 200%	$300	$600
At least 200% but less than 300%	750	1,500
At least 300% but less than 400%	1,250	2,500

(iii) *Limitation on additional tax for taxpayers who claim a section 162(l) deduction for a qualified health plan*—(A) *In general.* A taxpayer who receives advance credit payments and deducts premiums for a qualified health plan under section 162(l) must use paragraph (a)(3)(iii)(B), and paragraph (a)(3)(iii)(C) or (D), of this section to determine the limitation on additional tax in this paragraph (a)(3) (limitation amount). Taxpayers must make this determination before calculating their section 162(l) deduction and premium tax credit. For additional rules for taxpayers who may claim a deduction under section 162(l) for a qualified health plan for which advance credit payments are made, see §1.162(l)–1.

(B) *Determining the limitation amount.* A taxpayer described in paragraph (a)(3)(iii)(A) of this section must use the limitation amount for which the taxpayer qualifies under paragraph (a)(3)(iii)(C) or (D) of this section. The limitation amount determined under this paragraph (a)(3)(iii) replaces the limitation amount that would otherwise be determined under the additional tax limitation table in paragraph (a)(3)(ii) of this section. In applying paragraph (a)(3)(iii)(C) of this section, a taxpayer must first determine whether he or she qualifies for the limitation amount applicable to taxpayers with household income of less than 200 percent of the Federal poverty line for the taxpayer's family size. If the taxpayer does not qualify to use the limitation amount applicable to taxpayers with household income of less than 200 percent of the Federal poverty line for the taxpayer's family size, the taxpayer must next determine whether he or she qualifies for the limitation applicable to taxpayers with household income of less than 300 percent of the Federal poverty line for the taxpayer's family size. If the taxpayer does not qualify to use the limitation amount applicable to taxpayers with household income of less than 300 percent of the Federal poverty line for the taxpayer's family size, the taxpayer must next determine whether he or she qualifies for the limitation applicable to taxpayers with household income of less than 400 percent of the Federal poverty line for the taxpayer's family size. If the taxpayer does not qualify to use the limitation amount applicable to taxpayers with household income of less than 200 percent, 300 percent, or 400 percent of the Federal poverty line for the taxpayer's family size, the limitation on additional tax under section 36B(f)(2)(B) does not apply to the taxpayer.

(C) *Requirements.* A taxpayer meets the requirements of this paragraph (a)(3)(iii)(C) for a limitation amount if the taxpayer's household income as a percentage of the Federal poverty line is less than or equal to the maximum household income as a percentage of the Federal poverty line for which that limitation is available. Household income for this purpose is determined by using a section 162(l) deduction equal to the lesser of—

(*1*) The sum of the specified premiums for the plan not paid through advance credit payments, the limitation amount (determined without regard to paragraph (a)(1)(iii)(C)(*2*) of this section), and any deduction allowable under section 162(l) for premiums other than specified premiums, and

(*2*) The earned income from the trade or business with respect to which the health insurance plan is established.

(D) *Specified premiums not paid through advance credit payments.* For purposes of paragraph (a)(3)(iii)(C) of this section, specified premiums not paid through advance credit payments means specified premiums, as defined in § 1.162(l)–1(a)(2), minus advance credit payments made with respect to the specified premiums.

(E) *Examples.* For examples illustrating the rules of this paragraph (a)(3)(iii), see *Examples 13, 14,* and *15* of paragraph (a)(4) of this section.

(4) *Examples.* The following examples illustrate the rules of this paragraph (a). In each example the taxpayer enrolls in a higher cost qualified health plan than the applicable benchmark plan:

Example 1. Household income increases. (i) Taxpayer A is single and has no dependents. The Exchange for A's rating area projects A's 2014 household income to be $27,925 (250 percent of the Federal poverty line for a family of one, applicable percentage 8.05). A enrolls in a qualified health plan. The annual premium for the applicable benchmark plan is $5,200. A's advance credit payments are $2,952, computed as follows: benchmark plan premium of $5,200 less contribution amount of $2,248 (projected household income of $27,925 × .0805) = $2,952.

(ii) A's household income for 2014 is $33,622, which is 301 percent of the Federal poverty line for a family of one (applicable percentage 9.5). Consequently, A's premium tax credit for 2014 is $2,006 (benchmark plan premium of $5,200 less contribution amount of $3,194 (household income of $33,622 × .095)). Because A's advance credit payments for 2014 are $2,952 and A's 2014 credit is $2,006, A has excess advance payments of $946. Under paragraph (a)(1) of this section, A's tax liability for 2014 is increased by $946. Because A's household income is between 300 percent and 400 percent of the Federal poverty line, if A's excess advance payments exceeded $1,250, under the limitation of paragraph (a)(3) of this section, A's additional tax liability would be limited to that amount.

Example 2. Household income increases, repayment limitation applies. The facts are the same as in *Example 1*, except that A's household income for 2014 is $43,560 (390 percent of the Federal poverty line for a family of one, applicable percentage 9.5). Consequently, A's premium tax credit for 2014 is $1,062 ($5,200 benchmark plan premium less contribution amount of $4,138 (household income of $43,560 × .095)). A's advance credit payments for 2014 are $2,952; therefore, A has excess advance payments of $1,890. Because A's household income is between 300 percent and 400 percent of the Federal poverty line, A's additional tax liability for the taxable year is $1,250 under the repayment limitation of paragraph (a)(3) of this section.

Example 3. Household income decreases. The facts are the same as in *Example 1,* except that A's actual household income for 2014 is $22,340 (200 percent of the Federal poverty line for a family of one, applicable percentage 6.3). Consequently, A's premium tax credit for 2014 is $3,793 ($5,200 benchmark plan premium less contribution amount of $1,407 (household income of $22,340 × .063)). Because A's advance credit payments for 2014 are $2,952, A is allowed an additional credit of $841 ($3,793 less $2,952).

Example 4. Family size decreases. (i) Taxpayers B and C are married and have two children, K and L (ages 17 and 20), whom they claim as dependents in 2013. The Exchange for their rating area projects their 2014 household income to be $63,388 (275 percent of the Federal poverty line for a family of four, applicable percentage 8.78). B and C enroll in a qualified health plan for 2014 that covers the four family members. The annual premium for the applicable benchmark plan is $14,100. B's and C's advance credit payments for 2014 are $8,535, computed as follows: Benchmark plan premium of $14,100 less contribution amount of $5,565 (projected household income of $63,388 × .0878) = $8,535.

(ii) In 2014, B and C do not claim L as their dependent (and no taxpayer claims a personal exemption deduction for L). Consequently, B's and C's family size for 2014 is three, their household income of $63,388 is 332 percent of the Federal poverty line for a family of three (applicable percentage 9.5), and the annual premium for their applicable benchmark plan is $12,000. Their premium tax credit for 2014 is $5,978 ($12,000 benchmark plan premium less $6,022 contribution amount (household income of $63,388 × .095)). Because B's and C's advance credit payments for 2014 are $8,535 and their 2014 credit is $5,978, B and C have excess advance payments of $2,557. B's and C's additional tax liability for 2014 under paragraph (a)(1) of this section, however, is limited to $2,500 under paragraph (a)(3) of this section.

Example 5. Repayment limitation does not apply. (i) Taxpayer D is single and has no dependents. The Exchange for D's rating area approves advance credit payments for D based on 2014 household income of $39,095 (350 percent of the Federal poverty line for a family of one, applicable percentage 9.5). D enrolls in a qualified health plan. The annual premium for the applicable benchmark plan is $5,200. D's advance credit payments are $1,486, computed as follows: benchmark plan premium of $5,200 less contribution amount of $3,714 (projected household income of $39,095 × .095) = $1,486.

(ii) D's actual household income for 2014 is $44,903, which is 402 percent of the Federal poverty line for a family of one. D is not an applicable taxpayer and may not claim a premium tax credit. Additionally, the repayment limitation of paragraph (a)(3) of this section does not apply. Consequently, D has excess advance payments of $1,486 (the total amount of the advance credit payments in 2014). Under paragraph (a)(1) of this section, D's tax liability for 2014 is increased by $1,486.

Example 6. Coverage for less than a full taxable year. (i) Taxpayer F is single and has no dependents. In November 2013, the Exchange for F's rating area projects F's 2014 household income to be $27,925 (250 percent of the Federal poverty line for a family of one, applicable percentage 8.05). F enrolls in a qualified health plan. The annual premium for the applicable benchmark plan is $5,200. F's monthly advance credit payment is $246, computed as follows: benchmark plan premium of $5,200 less contribution amount of $2,248 (projected household income of $27,925 × .0805) = $2,952; $2,952/12 = $246.

(ii) F begins a new job in August 2014 and is eligible for employer-sponsored minimum essential coverage for the period September through December 2014. F discontinues her Exchange coverage effective November 1, 2014. F's household income for 2014 is $28,707 (257 percent of the Federal poverty line for a family size of one, applicable percentage 8.25).

(iii) Under § 1.36B–3(a), F's premium assistance credit amount is the sum of the premium assistance amounts for the coverage months. Under § 1.36B–3(c)(1)(iii), a month in which an individual is eligible for minimum essential coverage other than coverage in the individual market is not a coverage month. Because F is eligible for employer-sponsored minimum essential coverage as of September 1, only the months January through August of 2014 are coverage months.

(iv) If F had 12 coverage months in 2014, F's premium tax credit would be $2,832 (benchmark plan premium of $5,200 less contribution amount of $2,368 (household income of $28,707 × .0825)). Because F has only eight coverage months in 2014, F's credit is $1,888 ($2,832/12 × 8). Because F does not discontinue her Exchange coverage until November 1, 2014, F's advance credit payments for 2014 are $2,460 ($246 × 10). Consequently, F has excess advance payments of $572 ($2,460 less $1,888) and F's tax liability for 2014 is increased by $572 under paragraph (a)(1) of this section.

Example 7. Changes in coverage months and applicable benchmark plan. (i) Taxpayer E claims one dependent, F. E is eligible for government-sponsored minimum essential coverage. E enrolls F in a qualified health plan for 2014. The Exchange for E's rating area projects E's 2014 household income to be $30,260 (200 percent of the Federal poverty line for a family of two, applicable percentage 6.3). The annual premium for E's applicable benchmark plan is $5,200. E's monthly advance credit payment is $275, computed as follows: benchmark plan premium of $5,200 less contribution amount of $1,906 (projected household income of $30,260 × .063) = $3,294; $3,294/12 = $275.

(ii) On August 1, 2014, E loses her eligibility for government-sponsored minimum essential coverage. E enrolls in the qualified health plan that covers F for August through December 2014. The annual premium for the applicable benchmark plan is $10,000. The Exchange computes E's monthly advance credit payments for the period September through December to be $675 as follows: benchmark plan premium of $10,000 less contribution amount of $1,906 (projected household income of $30,260 × .063) = $8,094; $8,094/12 = $675. E's household income for 2014 is $28,747 (190 percent of the Federal poverty line, applicable percentage 5.84).

(iii) Under §1.36B–3(c)(1), January through July of 2014 are coverage months for F and August through December are coverage months for E and F. Under paragraph (a)(2) of this section, E must compute her premium tax credit using the premium for the applicable benchmark plan for each coverage month. E's premium assistance credit amount for 2014 is the sum of the premium assistance amounts for all coverage months. E reconciles her premium tax credit with advance credit payments as follows:

Advance credit payments (Jan. to July)	$1,925	($275 × 7)
Advance credit payments (Aug. to Dec.)	3,375	($675 × 5)
Total advance credit payments	5,300	
Benchmark plan premium (Jan. to July)	3,033	(($5,200/12) × 7)
Benchmark plan premium (Aug. to Dec.)	4,167	(($10,000/12) × 5)
Total benchmark plan premium	7,200	
Contribution amount (taxable year household income × applicable percentage).	1,679	($28,747 × .0584)
Credit (total benchmark plan premium less contribution amount).	5,521	

(iv) E's advance credit payments for 2014 are $5,300. E's premium tax credit is $5,521. Thus, E is allowed an additional credit of $221.

Example 8. Part-year coverage and changes in coverage months and applicable benchmark plan. (i) The facts are the same as in *Example 7,* except that F is eligible for government-sponsored minimum essential coverage for January and February 2014, and E enrolls F in a qualified health plan beginning in March 2014. Thus, March through July are coverage months for F and August through December are coverage months for E and F.

(ii) E reconciles her premium tax credit with advance credit payments as follows:

Advance credit payments (March to July)	$1,375	($275 × 5)
Advance credit payments (Aug. to Dec.)	3,375	($675 × 5)
Total advance credit payments	4,750	
Benchmark plan premium (March to July)	2,167	(($5,200/12) × 5)
Benchmark plan premium (Aug. to Dec.)	4,167	(($10,000/12) × 5)
Total benchmark plan premium	6,334	
Contribution amount for 10 coverage months (taxable year household income × applicable percentage × 10/12).	1,399	($28,747 × .0584 × 10/12)
Credit (total benchmark plan premium less contribution amount).	4,935	

(iii) E's advance credit payments for 2014 are $4,750. E's premium tax credit is $4,935. Thus, E is allowed an additional credit of $185.

Example 9. Advance credit payments for months an issuer does not provide coverage. (i) Taxpayer F enrolls in a qualified health plan for 2014 and the Exchange approves advance credit payments. F pays the portion of the premium not covered by advance credit payments for January through April of 2014 but fails to make payments in May, June, and July. As a result, the issuer of the qualified health plan initiates the 3-month grace period under section 1412(c)(2)(B)(iv)(II) of the Affordable Care Act and 45 CFR 156.270(d). During the grace period the issuer continues to receive advance credit payments on behalf of F. On July 1 the issuer rescinds F's coverage retroactive to the end of the first month of the grace period, May 31.

(ii) Under paragraph (a)(1)(iii) of this section, F does not take into account advance credit payments for June or July of 2014 when reconciling the premium tax credit with advance credit payments under paragraph (a)(1) of this section.

Example 10. Allocation percentage, agreement on allocation. (i) Taxpayers G and H are divorced and have two children, J and K. G enrolls herself and J and K in a qualified health plan for 2014. The premium for the plan in which G enrolls is $13,000. The Exchange in G's rating area approves advance credit payments for G based on a family size of three, an annual benchmark plan premium of $12,000, and projected 2014 household income of $58,590 (300 percent of the Federal poverty line for a family of three, applicable percentage 9.5). G's advance credit payments for 2014 are $6,434 ($12,000 benchmark plan premium less $5,566 contribution amount (household income of $58,590 × .095)). G's actual household income for 2014 is $58,900.

(ii) K lives with H for more than half of 2014 and H claims K as a dependent for 2014. G and H agree to an allocation percentage, as described in paragraph (a)(1)(ii)(B)(*2*) of this section, of 20 percent. Under the agreement, H is allocated 20 percent of the items to be allocated, and G is allocated the remainder of those items.

(iii) If H is eligible for a premium tax credit, H takes into account $2,600 of the premiums for the plan in which K was enrolled ($13,000 x .20) and $2,400 of G's benchmark plan premium ($12,000 × .20). In addition, H is responsible for reconciling $1,287 ($6,434 × .20) of the advance credit payments for K's coverage.

(iv) G's family size for 2014 includes only G and J and G's household income of $58,900 is 380 percent of the Federal poverty line for a family of two (applicable percentage 9.5). G's benchmark plan premium for 2014 is $9,600 (the benchmark premium for the plan covering G, J, and K ($12,000), minus the amount allocated to H ($2,400). Consequently, G's premium tax credit is $4,004 (G's benchmark plan premium of $9,600 minus G's contribution amount of $5,596 ($58,900 × .095)). G has an excess advance payment of $1,143 (the excess of the advance credit payments of $5,147 ($6,434 − $1,287 allocated to H) over the premium tax credit of $4,004).

Example 11. Allocation percentage, no agreement on allocation. (i) The facts are the same as in *Example 10* of paragraph (a)(4) of this section, except that G and H do not agree on an allocation percentage. Under paragraph (a)(1)(ii)(B)(*2*) of this section, the allocation percentage is 33 percent, computed as follows: The number of shifting enrollees, 1 (K), divided by the number of individuals enrolled by the enrolling taxpayer on the same qualified health plan as the shifting enrollee, 3 (G, J, and K). Thus, H is allocated 33 percent of the items to be allocated, and G is allocated the remainder of those items.

(ii) If H is eligible for a premium tax credit, H takes into account $4,290 of the premiums for the plan in which K was enrolled ($13,000 × .33). H, in computing H's benchmark plan premium, must include $3,960 of G's benchmark plan premium ($12,000 x .33). In addition, H is responsible for reconciling $2,123 ($6,434 x .33) of the advance credit payments for K's coverage.

(iii) G's benchmark plan premium for 2014 is $8,040 (the benchmark premium for the plan covering G, J, and K ($12,000), minus the amount allocated to H ($3,960). Consequently, G's premium tax credit is $2,444 (G's benchmark plan premium of $8,040 minus G's contribution amount of $5,596 ($58,900 × .095)). G has an excess advance credit payment of $1,867 (the excess of the advance credit payments of $4,311 ($6,434 − $2,123 allocated to H) over the premium tax credit of $2,444).

Example 12. Allocations for an emancipated child. Spouses L and M enroll in a qualified health plan with their child, N. L and M attest that they will claim N as a dependent and advance credit payments are made for the coverage of all three family members. However, N files his own return and claims a personal exemption deduction for himself for the taxable year. Under paragraph (a)(1)(ii)(B)(*1*) of this section, L and M are enrolling taxpayers, N is a claiming taxpayer, and all are subject to the allocation rules in paragraph (a)(1)(ii)(B) of this section.

Example 13. Taxpayer with advance credit payments allowed a section 162(l) deduction but not a limitation on additional tax. (i) In 2014, B, B's spouse, and their two dependents enroll in the applicable second lowest cost silver plan with an annual premium of $14,000. B's advance credit payments attributable to the premiums are $8,000. B is self-employed for all of 2014 and derives $75,000 of earnings from B's trade or business. B's household income without including a deduction under section 162(l) for specified premiums is $103,700. The Federal poverty line for a family the size of B's family is $23,550.

(ii) Because B received the benefit of advance credit payments and deducts premiums for a qualified health plan under section 162(l), B must determine whether B is allowed a limitation on additional tax under paragraph (a)(3)(iii) of this section. B begins by testing eligibility for the $600 limitation amount for taxpayers with household income at less than 200 percent of the Federal poverty line for the taxpayer's family size. B determines household income as a percentage of the Federal poverty line by taking a section 162(l) deduction equal to the lesser of $6,600 (the sum of the amount of premiums not paid through advance credit payments, $6,000 ($14,000 − $8,000), and the limitation amount, $600) and $75,000 (the earned income from the trade or business with respect to which the health insurance plan is established). The result is $97,100 ($103,700 − $6,600) or 412 percent of the Federal poverty line for B's family size. Since 412 percent is not less than 200 percent, B may not use a $600 limitation amount.

(iii) B performs the same calculation for the $1,500 ($103,700 − $7,500 = $96,200 or 408 percent of the Federal poverty line) and $2,500 limitation amounts ($103,700 − $8,500 = $95,200 or 404 percent of the Federal poverty line), the amounts for taxpayers with household income of less than 300 percent or 400 percent, respectively, of the Federal poverty line for the taxpayer's family size, and determines that B may not use either of those limitation amounts. Because B does not meet the requirements of paragraph (a)(3)(iii) of this section for any of the limitation amounts in section 36B(f)(2)(B), B is not eligible for the limitation on additional tax for excess advance credit payments.

(iv) Although B may not claim a limitation on additional tax for excess advance credit payments, B may still be eligible for a premium tax credit. B would determine eligibility for the premium tax credit, the amount of the premium tax credit, and the section 162(l) deduction using the rules under section 36B and section 162(l), applying no limitation on additional tax.

Example 14. Taxpayer with advance credit payments allowed a section 162(l) deduction and a limitation on additional tax. (i) The facts are the same as in *Example 13* of paragraph (a)(4) of this section, except that B's household income without including a deduction under section 162(l) for specified premiums is $78,802.

(ii) Because B received the benefit of advance credit payments and deducts premiums for a qualified health plan under section 162(l), B must determine whether B is allowed a limitation on additional tax under paragraph (a)(3)(iii) of this section. B first determines that B does not meet the requirements of paragraph (a)(3)(iii)(C) of this section for using the $600 or $1,500 limitation amounts, the amounts for taxpayers with household income of less than 200 percent or 300 percent, respectively, of the Federal poverty line for the taxpayer's family size. That is because B's household income as a percentage of the Federal poverty line, determined by using a section 162(l) deduction for premiums for the qualified health plan equal to the lesser of the sum of the premiums for the plan not paid through advance credit payments and the limitation amount, and the earned income from the trade or business with respect to which the health insurance plan is established, is more than the maximum household income as a percentage of the Federal poverty line for which that limitation is available (using the $600 limitation, B's household income would be $72,202 ($78,802 − ($6,000 + $600)), which is 307 percent of the Federal poverty line for B's family size; and using the $1,500 limitation, B's household income would be $71,302 ($78,802 − ($6,000 + $1,500)), which is 303 percent of the Federal poverty line for B's family size).

(iii) However, B meets the requirements of paragraph (a)(3)(iii)(C) of this section using the $2,500 limitation amount for taxpayers with household income of less than 400 percent of the Federal poverty line for the taxpayer's family size. That is because B's household income as a percentage of the Federal poverty line by taking a section 162(l) deduction equal to the lesser of $8,500 (the sum of the amount of premiums not paid through advance credit payments, $6,000, and the limitation amount, $2,500) and $75,000 (the earned income from the trade or business with respect to which the health insurance plan is established), is $70,302 (299 percent of the Federal poverty line), which is below 400 percent of the Federal poverty line for B's family size, and is less than the maximum amount for which that limitation is available. Thus, B uses a limitation amount of $2,500 in computing B's additional tax on excess advance credit payments.

(iv) B may determine the amount of the premium tax credit and the section 162(l) deduction using the rules under section 36B and section 162(l), applying the $2,500 limitation amount determined above.

Example 15. Taxpayer with advance credit payments allowed a section 162(l) deduction and a limitation on additional tax limited to earned income from trade or business. (i) In 2017, C, C's spouse, and their two dependents enroll in the applicable second lowest cost silver plan with an annual premium of $14,000. C's advance credit payments attributable to the premiums are $8,000. C is self-employed for all of 2017 and derives $3,000 of earnings from C's trade or business. C's household income, without including a deduction under section 162(l) for specified premiums, is $39,100. The Federal poverty line for a family the size of C's family is $24,600.

(ii) Because C received the benefit of advance credit payments and deducts premiums for a qualified health plan under section 162(l), C must determine whether C is allowed a limitation on additional tax under paragraph (a)(3)(iii) of this section. C begins by testing eligibility for the $600 limitation amount for taxpayers with household income at less than 200 percent of the Federal poverty line for the taxpayer's family size. C determines household income as a percentage of the Federal poverty line by taking a section 162(l) deduction equal to the lesser of $6,600 (the sum of the amount of premiums not paid through advance credit payments, $6,000 ($14,000 − $8,000), and the limitation amount, $600), and $3,000 (C's earned income from the trade or business with respect to which the health insurance plan is established). The result is $36,100 ($39,100 − $3,000) or 147 percent of the Federal poverty line for C's family size. Because 147 percent is less than 200 percent, the limitation amount under paragraph (a)(3)(iii) of this section that C uses in computing C's additional tax on excess advance credit payments is $600.

(iii) C may determine the amount of the premium tax credit and the section 162(l) deduction using the rules under section 36B and section 162(l), applying the $600 limitation amount determined above.

(b) *Changes in filing status*—(1) *In general.* Except as provided in paragraph (b)(2) or (b)(3) of this section, a taxpayer whose marital status changes during the taxable year computes the premium tax credit by using the applicable benchmark plan or plans for the taxpayer's marital status as of the first day of each coverage month. The taxpayer's contribution amount (household income for the taxable year times the applicable percentage) is determined using the taxpayer's household income and family size at the end of the taxable year.

(2) *Taxpayers who marry during the taxable year*—(i) *In general.* Taxpayers who marry during and file a joint return for the taxable year may compute the additional tax imposed under paragraph (a)(1) of this section under paragraph (b)(2)(ii) of this section. Only taxpayers who are unmarried at the beginning of the taxable year and are married (within the meaning of section 7703) at the end of the taxable year, at least one of whom receives advance credit payments, may use this alternative computation.

(ii) *Alternative computation of additional tax liability*—(A) *In general.* The additional tax liability determined under this paragraph (b)(2)(ii) is equal to the excess of the taxpayers' advance credit payments for the taxable year over the amount of the alternative marriage-year credit. The alternative marriage-year credit is the sum of both taxpayers' alternative premium assistance amounts for the pre-marriage months and the premium assistance amounts for the marriage months. This paragraph (b)(2)(ii) may not be used to increase the additional premium tax credit computed under paragraph (a)(1)(i) of this section.

(B) *Alternative premium assistance amounts for pre-marriage months.* Taxpayers compute the alternative premium assistance amounts for each taxpayer for each full or partial month the taxpayers are unmarried as described in paragraph (a)(2) of this section, except that each taxpayer treats the amount of household income as one-half of the actual household income for the taxable year and treats family size as the number of individuals in the taxpayer's family prior to the marriage. The taxpayers may include a dependent of the taxpayers for the taxable year in either taxpayer's family size for the pre-marriage months.

(C) *Premium assistance amounts for marriage months.* Taxpayers compute the premium assistance amounts for each full month the taxpayers are married as described in paragraph (a)(2) of this section.

(3) *Taxpayers not married to each other at the end of the taxable year.* Taxpayers who are married (within the meaning of section 7703) to each other during a taxable year but legally separate under a decree of divorce or of separate maintenance during the taxable year, and who are enrolled in the same qualified health plan at any time during the taxable year must allocate the benchmark plan premiums, the enrollment premiums, and the advance credit payments for the period the taxpayers are married during the taxable year. Taxpayers must also allocate these items if one of the taxpayers has a dependent enrolled in the same plan as the taxpayer's former spouse or enrolled in the same plan as a dependent of the taxpayer's former spouse. The taxpayers may allocate these items to each former spouse in any proportion but must allocate all items in the same proportion. If the taxpayers do not agree on an allocation that is reported

to the IRS in accordance with the relevant forms and instructions, 50 percent of: The benchmark plan premiums; the enrollment premiums; and the advance credit payments for the married period, is allocated to each taxpayer. If for a period a plan covers only one of the taxpayers and no dependents, only one of the taxpayers and one or more dependents of that same taxpayer, or only one or more dependents of one of the taxpayers, then the benchmark plan premiums, the enrollment premiums, and the advance credit payments for that period are allocated entirely to that taxpayer.

(4) *Taxpayers filing returns as married filing separately or head of household*—(i) *Allocation of advance credit payments.* Except as provided in § 1.36B–2(b)(2)(ii), the premium tax credit is allowed to married (within the meaning of section 7703) taxpayers only if they file joint returns. *See* § 1.36B–2(b)(2)(i). Taxpayers who receive advance credit payments as married taxpayers and who do not file a joint return must allocate the advance credit payments for coverage under a qualified health plan equally to each taxpayer for any period the plan covers and in which advance credit payments are made for both taxpayers, only one of the taxpayers and one or more dependents of the other taxpayer, or one or more dependents of both taxpayers. If, for a period a plan covers, advance credit payments are made for only one of the taxpayers and no dependents, only one of the taxpayers and one or more dependents of that same taxpayer, or only one or more dependents of one of the taxpayers, the advance credit payments for that period are allocated entirely to that taxpayer. If one or both of the taxpayers is an applicable taxpayer eligible for a premium tax credit for the taxable year, the premium tax credit is computed by allocating the enrollment premiums under paragraph (b)(4)(ii) of this section. The repayment limitation described in paragraph (a)(3) of this section applies to each taxpayer based on the household income and family size reported on that taxpayer's return. This paragraph (b)(4) also applies to taxpayers who receive advance credit payments as married taxpayers and file a tax return using the head of household filing status.

(ii) *Allocation of premiums.* If taxpayers who are married within the meaning of section 7703, without regard to section 7703(b), do not file a joint return, 50 percent of the enrollment premiums are allocated to each taxpayer. However, all of the enrollment premiums are allocated to only one of the taxpayers for a period in which a qualified health plan covers only that taxpayer and no dependents, only that taxpayer and one or more dependents of that taxpayer, or only one or more dependents of that taxpayer.

(5) *Examples.* The following examples illustrate the provisions of this paragraph (b). In each example the taxpayer enrolls in a higher cost qualified health plan than the applicable benchmark plan:

Example 1. Taxpayers marry during the taxable year, general rule for computing additional tax. (i) P is a single taxpayer with no dependents. In 2013 the Exchange for the rating area where P resides determines that P's 2014 household income will be $40,000 (358 percent of the Federal poverty line, applicable percentage 9.5). P enrolls in a qualified health plan. The premium for the applicable benchmark plan is $5,200. P's monthly advance credit payment is $117, computed as follows: $5,200 benchmark plan premium minus contribution amount of $3,800 ($40,000 × .095) equals $1,400 (total advance credit payment); $1,400/12 = $117.

(ii) Q is a single taxpayer with two dependents. In 2013 the Exchange for the rating area where Q resides determines that Q's 2014 household income will be $35,000 (183 percent of the Federal poverty line, applicable percentage 5.52). Q enrolls in a qualified health plan. The premium for the applicable benchmark plan is $10,000. Q's monthly advance credit payment is $672, computed as follows: $10,000 benchmark plan premium minus contribution amount of $1,932 ($35,000 × .0552) equals $8,068 (total advance credit); $8,068/12 = $672.

(iii) P and Q marry on July 17, 2014 and enroll in a single policy for a qualified health plan covering four family members, effective August 1, 2014. The premium for the applicable benchmark plan is $14,000. Based on household income of $75,000 and a family size of four (325 percent of the Federal poverty line, applicable percentage 9.5), the Exchange approves advance credit payments of $573 per month, computed as follows: $14,000 benchmark plan premium minus contribution amount of $7,125 ($75,000 × .095) equals $6,875 (total advance credit); $6,875/12 = $573.

(iv) P and Q file a joint return for 2014 and report $75,000 in household income and a family size of four. P and Q compute their credit at reconciliation under paragraph (b)(1) of this section. They use the premiums for the applicable benchmark plans that apply for the months married and the months not married, and their contribution amount is based on their Federal poverty line percentage at the end of the taxable year. P and Q reconcile their premium tax credit with advance credit payments as follows:

Advance payments for P (Jan. to July)	$819
Advance payments for Q (Jan. to July)	4,704
Advance payments for P and Q (Aug. to Dec.)	2,865
Total advance payments	8,388
Benchmark plan premium for P (Jan. to July)	3,033
Benchmark plan premium for Q (Jan. to July)	5,833
Benchmark plan premium for P and Q (Aug. to Dec.)	5,833
Total benchmark plan premium	14,699
Contribution amount (taxable year household income × applicable percentage)	7,125
Credit (total benchmark plan premium less contribution amount)	7,574
Additional tax	814

(v) P's and Q's tax liability for 2014 is increased by $814 under paragraph (a)(1) of this section.

Example 2. Taxpayers marry during the taxable year, alternative computation of additional tax. (i) The facts are the same as in *Example 1*, except that P and Q compute their additional tax liability under paragraph (b)(2)(ii) of this section. P's and Q's additional tax is the excess of their advance credit payments for the taxable year ($8,388) over their alternative marriage-year credit, which is the sum of the alternative premium assistance amounts for the pre-marriage months and the premium assistance amounts for the marriage months.

(ii) P and Q compute the alternative marriage-year credit as follows:

Alternative premium assistance amounts for pre-marriage months:		
Benchmark plan premium for P (Jan. to July).	$3,033	(($5,200/12) × 7)
Contribution amount (½ taxable year household income × applicable percentage) × 7/12).	2,078	($37,500 × .095 × 7/12)
Alternative premium assistance amount for P's pre-marriage months.	955	($3,033 − $2,078)
Benchmark plan premium for Q (Jan. to July).	5,833	(($10,000/12) × 7)
Contribution amount (½ taxable year household income × applicable percentage × 7/12).	1,339	($37,500 × .0612 × 7/12)
Alternative premium assistance amount for Q's pre-marriage months.	4,494	($5,833 − $1,339)
Premium assistance amount for marriage months:		
Benchmark plan premium for P and Q (Aug. to Dec.).	5,833	(($14,000/12 × 5)
Contribution amount (taxable year household income × applicable percentage × 5/12).	2,969	($75,000 × .095 × 5/12)
Premium assistance amount for marriage months.	2,864	($5,833 − $2,969)

Alternative marriage-year credit (sum of premium assistance amounts for pre-marriage months and marriage months): $955 + $4,494 + $2,864 = $8,313.

(iii) P and Q reconcile their premium tax credit with advance credit payments by determining the excess of their advance credit payments ($8,388) over their alternative marriage-year credit ($8,313). P and Q must increase their tax liability by $75 under paragraph (a)(1) of this section.

Example 3. Taxpayers marry during the taxable year, alternative computation of additional tax, alternative marriage-year tax credit exceeds advance credit payments. The facts are the same as in *Example 2,* except that the amount of P's and Q's advance credit payments is $8,301. Thus, their alternative marriage-year credit ($8,313) exceeds the amount of their advance credit payments ($8,301). Under paragraph (b)(2)(ii)(A) of this section, the amount of additional tax liability and additional tax credit that P and Q report on their tax return is $0.

Example 4. Taxpayers marry during the taxable year, alternative computation of additional tax. (i) Taxpayer R is single and has no dependents. In 2013, the Exchange for the rating area where R resides determines that R's 2014 household income will be $40,000 (358 percent of the Federal poverty line, applicable percentage 9.5). R enrolls in a qualified health plan. The premium for the applicable benchmark plan is $5,200. R's monthly advance credit payment is $117, computed as follows: $5,200 benchmark plan premium minus contribution amount of $3,800 ($40,000 × .095) = $1,400 (total advance credit); $1,400/12 = $117.

(ii) Taxpayer S is single with no dependents. In 2013, the Exchange for the rating area where S resides determines that S's 2014 household income will be $20,000 (179 percent of the Federal poverty line, applicable percentage 5.33). S enrolls in a qualified health plan. The premium for the applicable benchmark plan is $5,200. S's monthly advance credit payment is $345, computed as follows: $5,200 benchmark plan premium minus contribution amount of $1,066 ($20,000 × .0533) = $4,134 (total advance credit); $4,134/12 = $345.

(iii) R and S marry in September 2014 and enroll in a single policy for a qualified health plan covering them both, beginning October 1, 2014. The premium for the applicable benchmark plan is $10,000. Based on household income of $60,000 and a family size of two (397 percent of the Federal poverty line, applicable percentage 9.5), R's and S's monthly advance credit payment is $358, computed as follows: $10,000 benchmark plan premium minus contribution amount of $5,700 ($60,000 × .095) = $4,300; $4,300/12 = $358. R's and S's advance credit payments for 2014 are $5,232, computed as follows:

Advance payments for R (Jan. to Sept.)	$1,053	($117 × 9)
Advance payments for S (Jan. to Sept.)	3,105	($345 × 9)
Advance payments for R and S (Oct. to Dec.)	1,074	($358 × 3)
Total advance payments	5,232	

(iv) R and S file a joint return for 2014 and report $62,000 in household income and a family size of two (410 percent of the FPL for a family of 2). Thus, under § 1.36B–2(b)(2), R and S are not applicable taxpayers for 2014 and may not claim a premium tax credit for 2014. However, they compute their additional tax liability under paragraph (b)(2)(ii) of this section. R's and S's additional tax is the excess of their advance credit payments for the taxable year ($5,232) over their alternative marriage-year credit, which is the sum of the alternative premium assistance amounts for the pre-marriage months and the premium assistance amounts for the marriage months. In this case, R and S have no premium assistance amounts for the married months because their household income is over 400 percent of the Federal poverty line for a family of 2.

(v) R and S compute their alternative marriage-year credit as follows:

Premium assistance amount for pre-marriage months:		
Benchmark plan premium for R (Jan. to Sept.).	$3,900	(($5,200/12) × 9)
Contribution amount ((½ taxable year household income × applicable percentage) × 9/12).	2,053	($31,000 × .0883 × 9/12)
Premium assistance amount for R's pre-marriage months.	1,847	($3,900 − $2,053)
Benchmark plan premium for S (Jan. to Sept.).	3,900	(($5,200/12) × 9)
Contribution amount ((½ taxable year household income × applicable percentage) × 9/12).	2,053	($31,000 × .0883 × 9/12)
Premium assistance amount for S's pre-marriage months.	1,847	($3,900 − $2,053)
Premium assistance amount for marriage months	0	

Alternative marriage-year credit (sum of premium assistance amounts for pre-marriage months and marriage months): $1,847 + 1,847 + 0 = $3,694.

(vi) R and S reconcile their premium tax credit with advance credit payments by determining the excess of their advance credit payments ($5,232) over their alternative marriage-year credit ($3,694). R and S must increase their tax liability by $1,538 under paragraph (a)(1) of this section.

Example 5. (i) *Taxpayers marry during the taxable year, no additional tax liability.* The facts are the same as in *Example 4*, except that S has no income and is enrolled in Medicaid for January through September 2014 and R's and S's household income for 2014 is $37,000 (245 percent of the Federal poverty line, applicable percentage 7.88). Their advance credit payments for 2014 are $2,707 ($1,053 for R for January to September and $1,654 for R and S for October to December). Their premium tax credit for 2014 is $3,484 (total benchmark premium of $6,400 less contribution amount of $2,916).

(ii) Because R's and S's premium tax credit of $3,484 exceeds their advance credit payments of $2,707, R and S are allowed an additional credit of $777. Although R and S marry in 2014, paragraph (b)(2) of this section (the alternative computation of additional tax for taxpayers who marry during the taxable year) does not apply because they do not owe additional tax for 2014.

Example 6. *Taxpayers divorce during the taxable year, 50 percent allocation.* (i) Taxpayers V and W are married and have two dependents. In 2013, the Exchange for the rating area where the family resides determines that their 2014 household income will be $76,000 (330 percent of the Federal poverty line for a family of 4, applicable percentage 9.5). V and W enroll in a qualified health plan for 2014. The premium for the applicable benchmark plan is $14,100. The Exchange approves advance credit payments of $573 per month, computed as follows: $14,100 benchmark plan premium minus V and W's contribution amount of $7,220 ($76,000 × .095) equals $6,880 (total advance credit); $6,880/12 = $573.

(ii) V and W divorce on June 17, 2014, and obtain separate qualified health plans beginning July 1, 2014. V enrolls based on household income of $60,000 and a family size of three (314 percent of the Federal poverty line, applicable percentage 9.5). The premium for the applicable benchmark plan is $10,000. The Exchange approves advance credit payments of $358 per month, computed as follows: $10,000 benchmark plan premium minus V's contribution amount of $5,700 ($60,000 × .095) equals $4,300 (total advance credit); $4,300/12 = $358.

(iii) W enrolls based on household income of $16,420 and a family size of one (147 percent of the Federal poverty line, applicable percentage 3.82). The premium for the applicable benchmark plan is $5,200. The Exchange approves advance credit payments of $381 per month, computed as follows: $5,200 benchmark plan premium minus W's contribution amount of $627 ($16,420 × .0382) equals $4,573 (total advance credit); $4,573/12 = $381. V and W do not agree on an allocation of the premium for the applicable benchmark plan, the premiums for the plan in which they enroll, and the advance credit payments for the period they were married in the taxable year.

(iv) V and W each compute their credit at reconciliation under paragraph (b)(1) of this section, using the premiums for the applicable benchmark plans that apply to them for the months married and the months not married, and the contribution amount based on their Federal poverty line percentages at the end of the taxable year. Under paragraph (b)(3) of this section, because V and W do not agree on an allocation, V and W must equally allocate the benchmark plan premium ($7,050) and the advance credit payments ($3,438) for the six-month period January through June 2014 when they are married and enrolled in the same qualified health plan. Thus, V and W each are allocated $3,525 of the benchmark plan premium ($7,050/2) and $1,719 of the advance credit payments ($3,438/2) for January through June.

(v) V reports on his 2014 tax return $60,000 in household income and family size of three. W reports on her 2014 tax return $16,420 in household income and family size of one. V and W reconcile their premium tax credit with advance credit payments as follows:

	V	W
Allocated advance payments (Jan. to June)	$1,719	$1,719
Actual advance payments (July to Dec.)	2,148	2,286
Total advance payments	3,867	4,005
Allocated benchmark plan premium (Jan. to June)	3,525	3,525
Actual benchmark plan premium (July to Dec.)	5,000	2,600
Total benchmark plan premium	8,525	6,125
Contribution amount (taxable year household income × applicable percentage)	5,700	627
Credit (total benchmark plan premium less contribution amount)	2,825	5,498
Additional credit	....	1,493

	V	W
Additional tax	1,042	

(vi) Under paragraph (a)(1) of this section, on their tax returns V's tax liability is increased by $1,042 and W is allowed $1,493 as additional credit.

Example 7. Taxpayers divorce during the taxable year, allocation in proportion to household income. (i) The facts are the same as in *Example 6*, except that V and W decide to allocate the benchmark plan premium ($7,050) and the advance credit payments ($3,438) for January through June 2014 in proportion to their household incomes (79 percent and 21 percent). Thus, V is allocated $5,570 of the benchmark plan premiums ($7,050 × .79) and $2,716 of the advance credit payments ($3,438 × .79), and W is allocated $1,481 of the benchmark plan premiums ($7,050 × .21) and $722 of the advance credit payments ($3,438 × .21). V and W reconcile their premium tax credit with advance credit payments as follows:

	V	W
Allocated advance payments (Jan. to June)	$2,716	$722
Actual advance payments (July to Dec.)	2,148	2,286
Total advance payments	4,864	3,008
Allocated benchmark plan premium (Jan. to June)	5,570	1,481
Actual benchmark plan premium (July to Dec.)	5,000	2,600
Total benchmark plan premium	10,570	4,081
Contribution amount (taxable year household income × applicable percentage)	5,700	627
Credit (total benchmark plan premium less contribution amount)	4,870	3,454
Additional credit	6	446

(ii) Under paragraph (a)(1) of this section, on their tax returns V is allowed an additional credit of $6 and W is allowed an additional credit of $446.

Example 8. Married taxpayers filing separate tax returns. (i) Taxpayers X and Y are married and have two dependents. In 2013, the Exchange for the rating area where the family resides determines that their 2014 household income will be $76,000 (330 percent of the Federal poverty line for a family of 4, applicable percentage 9.5). W and Y enroll in a qualified health plan for 2014. The premium for the applicable benchmark plan is $14,100. X's and Y's monthly advance credit payment is $573, computed as follows: $14,100 benchmark plan premium minus X's and Y's contribution amount of $7,220 ($76,000 × .095) equals $6,880 (total advance credit); $6,880/12 = $573.

(ii) X and Y file income tax returns for 2014 using a married filing separately filing status. X reports household income of $60,000 and a family size of three (314 percent of the Federal poverty line). Y reports household income of $16,420 and a family size of one (147 percent of the Federal poverty line).

(iii) Because X and Y are married but do not file a joint return for 2014, X and Y are not applicable taxpayers and are not allowed a premium tax credit for 2014. See §1.36B–2(b)(2). Under paragraph (b)(4) of this section, half of the advance credit payments ($6,880/2 = $3,440) is allocated to X and half is allocated to Y for purposes of determining their excess advance payments. The repayment limitation described in paragraph (a)(3) of this section applies to X and Y based on the household income and family size reported on each return. Consequently, X's tax liability for 2014 is increased by $2,500 and Y's tax liability for 2014 is increased by $600.

Example 9. (i) The facts are the same as in *Example 8* of paragraph (b)(5) of this section, except that X and Y live apart for over 6 months of the year and X properly files an income tax return as head of household. Under section 7703(b), X is treated as unmarried and therefore is not required to file a joint return. If X otherwise qualifies as an applicable taxpayer, X may claim the premium tax credit based on the household income and family size X reports on the return. Y is not an applicable taxpayer and is not eligible to claim the premium tax credit.

(ii) X must reconcile the amount of credit with advance credit payments under paragraph (a) of this section. The premium for the applicable benchmark plan covering X and his two dependents is $9,800. X's premium tax credit is computed as follows: $9,800 benchmark plan premium minus X's contribution amount of $5,700 ($60,000 × .095) equals $4,100.

(iii) Under paragraph (b)(4) of this section, half of the advance payments ($6,880/2 = $3,440) is allocated to X and half is allocated to Y. Thus, X is entitled to $660 additional premium tax credit ($4,100 − $3,440). Y has $3,440 excess advance payments, which is limited to $600 under paragraph (a)(3) of this section.

Example 10. (i) A is married to B at the close of 2014 and they have no dependents. A and B are enrolled in a qualified health plan for 2014 with an annual premium of $10,000 and advance credit payments of $6,500. A is not eligible for minimum essential coverage (other than coverage described in section 5000A(f)(1)(C)) for any month in 2014. A is a victim of domestic abuse as described in §1.36B–2(b)(2)(iii). At the time A files her tax return for 2014, A is unable to file a joint return with B for 2014 because of the domestic abuse. A certifies on her 2014 return, in accordance with relevant instructions, that she is living apart from B and is unable to file a joint return because of domestic abuse. Thus, under §1.36B–2(b)(2)(ii), A satisfies the joint return filing requirement in section 36B(c)(1)(C) for 2014.

(ii) A's family size for 2014 for purposes of computing the premium tax credit is one, and A is the only member of her coverage family. Thus, A's benchmark plan for all months of 2014 is the second lowest cost silver plan offered by the Exchange for A's rating area that covers A. A's household income includes only A's modified adjusted gross income. Under paragraph (b)(4)(ii) of this section, A takes into account $5,000 ($10,000 x .50) of the premiums for the plan in which she was enrolled in determining her premium tax credit. Further, A must reconcile $3,250 ($6,500 x .50) of the advance credit payments for her coverage under paragraph (b)(4)(i) of this section.

(c) *Applicability dates.* Paragraphs (a)(1)(ii), (a)(3)(iii), (a)(4), *Examples 4, 10, 11, 12, 13, 14,* and *15*, (b)(3), (b)(4), and (b)(5), *Examples 9* and *10* apply to taxable years beginning after December 31, 2013. The last sentence of paragraph (a)(1)(ii)(B)(*1*), paragraph (a)(1)(ii)(B)(*2*), and paragraph (a)(1)(ii)(C) of this section apply to taxable years ending on or after December 31, 2020.

[T.D. 9590, 77 FR 30385, May 23, 2012; 77 FR 41048, July 12, 2012; 77 FR 41270, July 13, 2012, as amended by T.D. 9683, 79 FR 43627, July 28, 2014; T.D. 9822, 82 FR 34607, July 26, 2017; T.D. 9912, 85 FR 76978, Dec. 1, 2020]

§ 1.36B–5 Information reporting by Exchanges.

(a) *In general.* An Exchange must report to the Internal Revenue Service (IRS) information required by section 36B(f)(3) and this section relating to individual market qualified health plans in which individuals enroll through the Exchange. No reporting is required under this section for enrollment in plans through the Small Business Health Options Exchange.

(b) *Individual filing a return.* For purposes of this section, the terms *tax filer* and *responsible adult* describe the individual who is expected to be the taxpayer filing an income tax return for the year of coverage with respect to individuals enrolling in a qualified health plan. A tax filer is an individual on behalf of whom advance payments of the premium tax credit are made. A responsible adult is an individual on behalf of whom advance payments of the premium tax credit are not made. An individual may be a tax filer or responsible adult whether or not enrolled in coverage. If more than one family (within the meaning of §1.36B–1(d)) enrolls in the same qualified health plan, there is a tax filer or responsible adult for each family.

(c) *Information required to be reported*—(1) *Information reported annually.* An Exchange must report to the IRS the following information for each qualified health plan—

(i) The name, address, and taxpayer identification number (TIN), or date of birth if a TIN is not available, of the tax filer or responsible adult;

(ii) The name and TIN, or date of birth if a TIN is not available, of a tax filer's spouse;

(iii) The amount of the advance credit payments paid for coverage under the plan each month;

(iv) For plans for which advance credit payments are made, the premium (excluding the premium allocated to benefits in excess of essential health benefits, see §1.36B–3(j)) for the applicable benchmark plan for purposes of computing advance credit payments;

(v) Except as provided in paragraph (c)(3)(ii) of this section, for plans for which advance credit payments are not made, the premium (excluding the premium allocated to benefits in excess of essential health benefits, see §1.36B–3(j)) for the applicable benchmark plan that would apply to all individuals enrolled in the qualified health plan if advance credit payments were made for the coverage;

(vi) The name and TIN, or date of birth if a TIN is not available, and dates of coverage for each individual covered under the plan;