

13-1117

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to inform all missions of the applicability of the Affordable Care Act (“ACA”) (sometimes referred to as “Obamacare”) to foreign missions and their personnel in the United States. Although this note summarizes certain rules of interest for foreign missions and their personnel, it is not intended to be a substitute for the comprehensive guidance for employers and individuals provided by the Department of Health & Human Services at [www.healthcare.gov](http://www.healthcare.gov) or the Internal Revenue Service at [www.irs.gov/aca](http://www.irs.gov/aca).

#### Expectation of Health Insurance Coverage

In the case of foreign mission personnel, the United States expects the sending State to provide ample resources to enable its personnel to pay for their healthcare needs.

Accordingly, the Department wishes to emphasize that it expects foreign missions to offer to all of their employees the opportunity to enroll in adequate and affordable health insurance coverage. The Department further expects all foreign mission personnel in the United States, whether local hires or members of the foreign service, to maintain basic health insurance coverage.

## Health Insurance Marketplace/Exchange

Individuals who are lawfully present in the United States, including U.S. citizens, permanent residents (green card holders), and “A” and “G” visa holders (principal or dependent), may purchase coverage through the health insurance marketplace/exchange.

## Individuals

Starting in 2014, the ACA generally requires individuals to maintain basic health insurance coverage or pay a penalty that helps offset the costs of caring for uninsured individuals.

Individuals who hold “A” or “G” series visas are exempt from the penalty because they are considered to be nonresident aliens for tax purposes. However, they remain eligible to purchase coverage through the health insurance marketplace/exchange.

U.S. citizens and permanent residents (green card holders) are not exempt from the penalty. If their employer does not provide them with an adequate and affordable health insurance option that would satisfy their responsibility under the law, they should purchase coverage from the health insurance marketplace/exchange.

## Employers

Starting in 2015, the ACA generally requires employers with at least 50 full-time employees to make a payment if they do not offer their employees the opportunity to enroll in adequate and affordable health insurance coverage. Although the relevant regulations have not yet been finalized by the Internal Revenue Service, in accordance with international law and practice, foreign missions will be exempt from this payment, which would otherwise amount to a tax. Foreign missions will also be exempt from the requirement to report certain information about the extent to which their personnel are covered by health insurance.

## Other Charges Imposed under the ACA

The ACA imposes a number of fees on health insurance providers. Such companies may pass these costs through to their customers and may refer to the fees as taxes. Foreign missions are not exempt from these fees.

Foreign missions and their personnel are welcome to direct their questions to [OFMTaxCustoms@state.gov](mailto:OFMTaxCustoms@state.gov).

Department of State,

Washington, November 21, 2013.