

BASIC INCOME TAX PREPARATION

OBJECTIVES

- Determine Preparer Rules & Responsibilities
- Be familiar with Tax Terminology
- Establish Filing Requirements & Status
- Determine who is an Eligible Dependent
- Recognize and report different types of income and adjustments to income

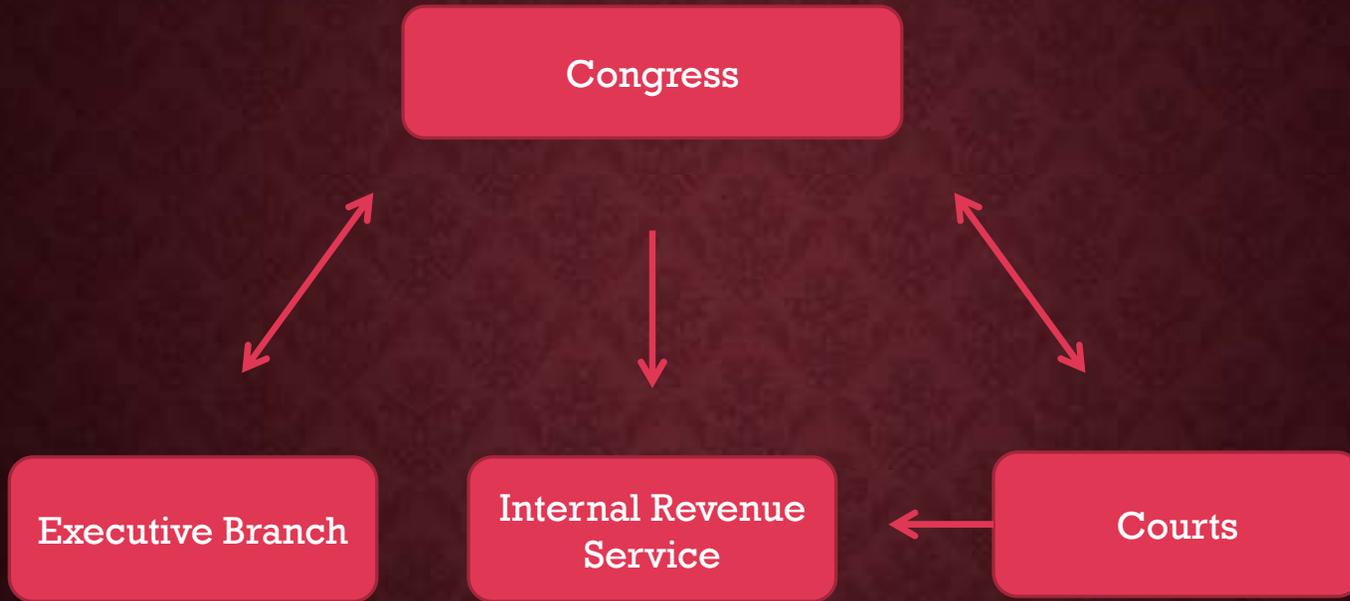
- **Compare Business Income & Hobby Income**
- **Compare Itemized & Standard Deduction**
- **Describe the difference between Non-refundable & Refundable tax credits**
- **Determine documents required for EITC, CTC, AOTC & HOH Due Diligence**
- **Understand Confidentiality, Privacy and Disclosure Policies**

TAX TERMINOLOGY – APPENDIX A



TITLE 26 OF THE U.S. CODE 16TH AMENDMENT

- I.R.C. 1939
- I.R.C. 1954
- The Tax Reform Act of 1986
- Continuing Resolutions --- 2001 - 2019



RESPONSIBLE PARTIES

- **Compensated for Tax Preparation**
- **Employs > 1 preparer for compensation**
- **PTIN**
- **Furnish copy of return**
- **Client & Employee Record Retention**

31 U.S.C. § 330

Subject to § 500 Title 5, the Secretary of the Treasury may

- Regulate the practice of representatives of persons before the Department of Treasury; and
- Before admitting a representative to practice, require that the representative demonstrate
 - good character;
 - good reputation;
 - necessary qualifications to enable the representative to provide to persons' valuable service; and
 - competency to advise and assist persons in presenting their cases.

After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department, or censure, a representative who –

- is incompetent;
- is disreputable;
- violates regulations prescribed under this section; or
- with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

**§ 6694 UNDERSTATEMENT
OF TAXPAYER'S LIABILITY
BY TAX RETURN
PREPARER**

- **(a) Understatement due to unreasonable positions**
- **(1) In general**
 - If a tax return preparer-
 - (A) prepares any return or claim of refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2), and
 - (B) knew (or reasonably should have known) of the position, such tax return preparer shall pay a penalty with respect to each such return or claim in an amount equal to the greater of \$1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

- **(2) Unreasonable position**
 - **(A) In general**
 - Except as otherwise provided in this paragraph, a position is described in this paragraph unless there is or was substantial authority for the position.
 - **(B) Disclosed positions**
 - If the position was disclosed as provided in section 6662(d)(2)(B)(ii)(I) and is not a position to which subparagraph (C) applies, the position is described in this paragraph unless there is a reasonable basis for the position.
 - **(C) Tax shelters and reportable transactions**
 - If the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies, the position is described in this paragraph unless it is reasonable to believe that the position would more likely than not be sustained on its merits.



- **(3) Reasonable cause exception**

- No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.

- **(b) Understatement due to willful or reckless conduct**
- **(1) In general**
 - Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a conduct described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of-
 - (A) \$5,000, or
 - (B) 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.
- **(2) Willful or reckless conduct**
 - Conduct described in this paragraph is conduct by the tax return preparer which is-
 - (A) a willful attempt in any manner to understate the liability for tax on the return or claim, or
 - (B) a reckless or intentional disregard of rules or regulations.
- **(3) Reduction in penalty**
 - The amount of any penalty payable by any person by reason of this subsection for any return or claim for refund shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

**§ 6695 OTHER ASSESSABLE
PENALTIES WITH RESPECT TO
THE PREPARATION OF TAX
RETURNS FOR OTHER PERSONS**

Scenario	Per Return or Claim for Refund	Maximum Penalty
Failure to furnish copy to taxpayer (§ 6695(a))	\$50	\$26,000
Failure to sign return (§ 6695(b))	\$50	\$26,000
Failure to furnish identifying number (§ 6695(c))	\$50	\$26,000
Failure to retain copy or list (§ 6695(d))	\$50	\$26,000
Failure to file correct information returns (§ 6695(e))	\$50 per return and item in return	\$26,000
Negotiation of check (§ 6695(f))	\$520 per check	No limit
Failure to be diligent in determining eligibility for child tax credit, American opportunity tax credit, and earned income credit (§ 6695(g))	\$540 per return	No limit

ANNUAL FILING SEASON PROGRAM

LIMITED REPRESENTATION RIGHTS

- Must prepare Original Return
- Represent before Examination,
Customer Service and/or Taxpayer
Advocate
- Represent only on Original Return you
prepare



EXEMPT INDIVIDUAL

Individual who passed the IRS RTRP examination between Nov 2011 & Jan 2013

Participate in state-based return preparer program with testing requirements

Individuals who passed Part I of SEE within the past 2 years

**VITA Volunteer Reviewers
and/or Instructors with
active PTINs**

**Accreditation Council for
Accountancy and
Taxation's Accredited
Business
Accountant/Advisor (ABA)
and Accredited Tax
Preparer (ATP)**

INELIGIBLE INDIVIDUAL

Disbarred, suspended
or disqualified

Convicted Felon of
Financial, Tax, Fiduciary
or other violation of
public trust within 5-
years perceeding AFSP
application

Misconduct that would
have violated Circular
230

Misconduct of
providing false or
misleading
information to the
IRS

Non-compliance
with personal
federal tax
obligations

Non-compliance
with employment
taxes

Non-compliance of
Rev. Proc, 2014-42

FILING REQUIREMENTS

- **Citizen or resident of the United States**
- **Resident of Puerto Rico**
 - **Individuals in general.**
 - **Dependents.**
 - **Children under age 19 or full time students.**
 - **Self-employed persons.**
 - **Aliens (beyond the scope of this course).**

A U.S. citizen includes:

- **A person born in the United States.**
- **A person born outside the United States or in certain U.S. possessions if at least one parent is a U.S. citizen at the time of birth.**
- **A person born in another country who has become a naturalized citizen in accordance with the *Immigration and Naturalization Act*.**

FILING REQUIREMENT

**Income > Exemption Allowance +
Standard Deduction (+ special allowances)**

TCJA 2018 – 2025 = Exemption Allowance 0

**FILING
REQUIREMENT
GROSS
INCOME TEXT**

- § 61 -- Worldwide Money, Goods, Property & Services that are not exempt from tax
- Social Security is NOT included unless MFS & lived with spouse at any time during the year

FILING REQUIREMENT FILING STATUS TEST:

**Marital Status & Family
Situation ON THE LAST DAY
OF THE YEAR**



FILING REQUIREMENT AGE TEST:

65 is the Magic Number

EXEMPTION ALLOWANCE

\$ 4,300

Filing Status	Standard Deduction	
	Amount	Additional*
Single (S)	\$ 12,400	\$ 1,650
Head of Household (HH)	18,650	1,650
Married Filing Jointly (MFJ)	24,800	1,300
Surviving Spouse with Dependent Child (QW)	24,800	1,300
Married Filing Separately (MFS)	12,400	1,300

*** An additional standard deduction amount is available for the taxpayer and a spouse each time one of them is 65 or over and each time one of them is blind. However, the additional amount for blindness is not taken into consideration when determining gross income filing requirements.**

Filing Status	Age	Gross Income
S	Under 65	\$ 12,400
	65 or older	14,050
HH	Under 65	18,650
	65 or older	20,300
QW with qualifying child	Under 65	24,800
	65 or older	26,100
MFJ	Both under 65	24,800
	One spouse 65 or older	26,100
	Both spouses 65 or older	27,400
MFS	Under 65	5
	65 or older	5

EXAMPLE:

- MFJ
- Both Spouses 65 & Blind

What is their Filing Requirement?

\$ 27,400

EXAMPLE:

- Single
- Age 36
- Wages \$ 20,000

Is the Taxpayer required to file?

YES

DEPENDENT FILING

- **Earned Income:** wages, tips, taxable scholarships, taxable fellowship grants
- **Unearned Income:** Investment (interest, dividends, capital gains), unemployment, taxable social security, pensions, annuities, distributions from a trust
- **Gross Income = Earned Income + Unearned Income**



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FLOW-CHART PAGE 14

CHILDREN UNDER AGE 19

- Full-time student under Age 24
- Unearned income
- Greater than \$ 2,200
- Form 8814 – report on parent's return

FORM 8815

1. The child's unearned income was more than \$2,200.
2. The child meets one of the following age requirements:
 1. a. The child was under age 18 at the end of the tax year,
 2. b. The child was age 18 at the end of the tax year and you didn't have earned income that was more than half of the child's support, or
 3. c. The child was a full-time student at least age 19 and under age 24 at the end of the tax year and the child didn't have earned income that was more than half of your support.
3. At least one of the child's parents was alive at the end of the tax year.
4. The child is required to file a tax return for the tax year.
5. The child does not file a joint return for the tax year.

SELF - EMPLOYED

- **Gross Income is at least as much as filing status and age**
- **Net Earnings are MORE than \$ 400**

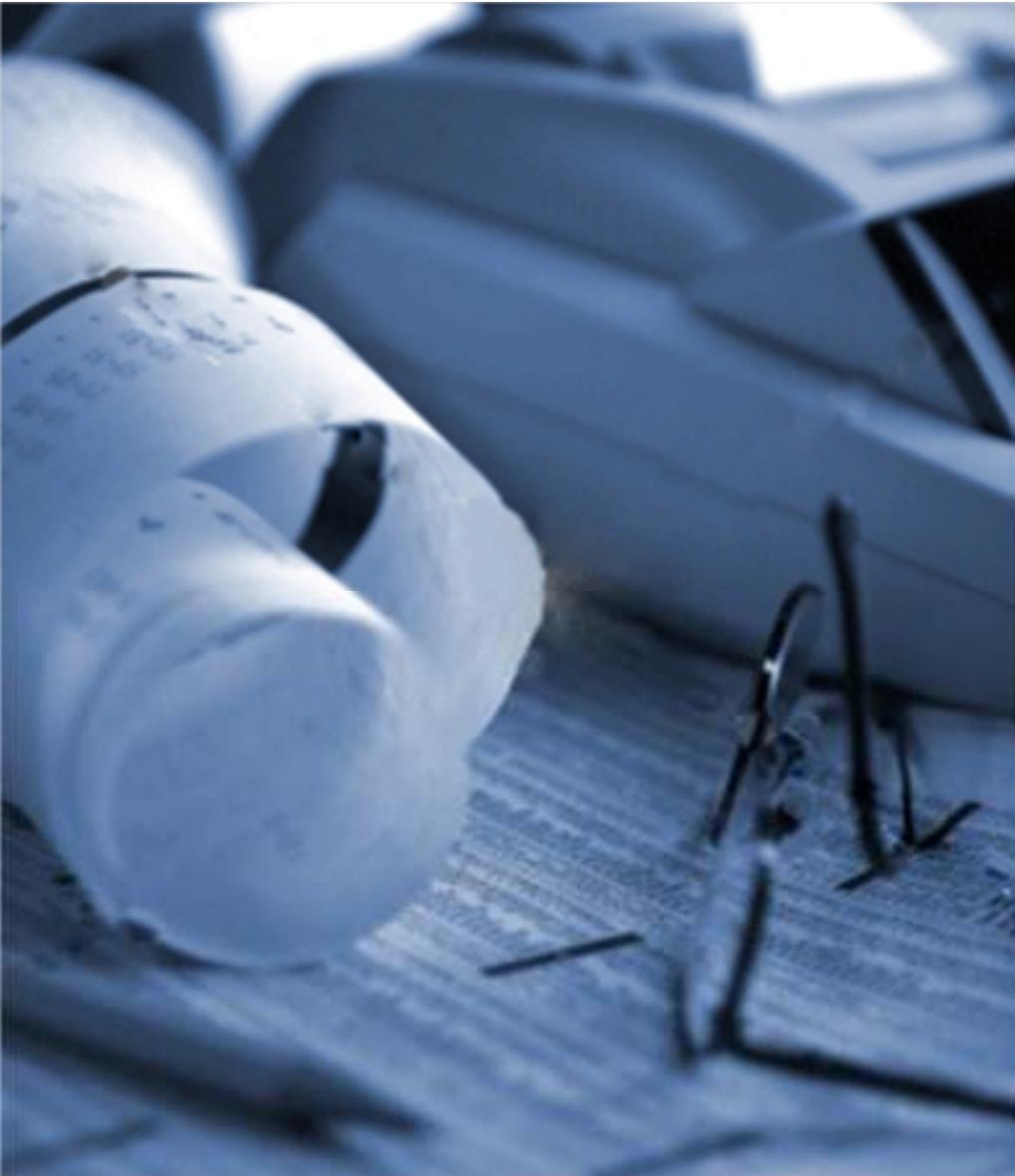
OTHER SITUATIONS

Page 15 - 16



FORM 1040

Pages 17 & 18



FORM 1040

- Reports All Types of Income, Adjustments, Credits, Additional Tax & Payments
- All Filing Status'
- Itemize or Standard Deduction

DUE DATE OF RETURN

**15th Day of the 4th Month following
close of Calendar or Fiscal Year**

April 15 (typically)

DUE DATES & EXTENSION

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- Individual Returns: 15th day of the 4th month following the close of the Calendar Year
- Automatic 6 Month Extension -- Form 4868 – *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return*
- Automatic 2 Month Extension – time to file & pay if:
 1. Taxpayer lived outside the U.S. and Puerto Rico, AND
 2. Taxpayer's main place of business/post of duty is outside the U.S. or Puerto Rico; OR
 3. Taxpayer is in military or naval service on duty outside the U.S. and Puerto Rico.

TAX YEAR

- Calendar Year – Jan 1 – Dec 31
- Fiscal Year – taxpayer chooses 52/53-week period

Example: When Ben was 17 years old, he got his first job working at a restaurant.

At the end of the year, he received a W-2 showing the amount he earned for the year.

- Ben's father helped prepare Form 1040 for Ben so he could get a refund. When filing that first tax return, Ben has chosen to use a calendar year as his tax year. Unless Ben files Form 1128, he uses a calendar year as his tax year for the rest of his life.

TAX RETURN HEADING

- Tax year
- Name
- Address
- Identification number
- Social security number
- campaign fund
- No social security number
- ITIN
- Undocumented workers
- Presidential election

Application for IRS Individual Taxpayer Identification Number

OMB No. 1545-0047

► For use by individuals who are not U.S. citizens or permanent residents. See separate instructions.

An IRS Individual Taxpayer Identification number (ITIN) is for U.S. federal tax purposes only.

Application type (check one box):
 Apply for a new ITIN
 Renew an existing ITIN

Before you begin:

• Don't submit this form if you have, or are eligible to get, a U.S. social security number (SSN).

Reason you're submitting Form W-7. Read the instructions for the box you check. Caution: If you check box b, c, d, e, f, or g, you must file a U.S. federal tax return with Form W-7 unless you meet one of the exceptions (see instructions).

- a Nonresident alien required to get an ITIN to claim tax treaty benefit
- b Nonresident alien filing a U.S. federal tax return
- c U.S. resident alien based on days present in the United States filing a U.S. federal tax return
- d U.S. resident alien based on days present in the United States filing a U.S. federal tax return
- e Dependent of U.S. citizen/resident alien } If d, enter relationship to U.S. citizen/resident alien (see instructions) ► _____
- f Spouse of U.S. citizen/resident alien } If e or f, enter name and SSN/ITIN of U.S. citizen/resident alien (see instructions) ► _____
- f Nonresident alien student, professor, or researcher filing a U.S. federal tax return or claiming an exception
- g Dependent/spouse of a nonresident alien holding a U.S. visa
- h Other (see instructions) ► _____

Additional information for a dual U.S. treaty country ► and treaty article number ►

Name
(See instructions)
Name at birth if different ►

1a First name	Middle name	Last name
1b First name	Middle name	Last name

Applicant's Mailing Address

2 Street address, apartment number, or rural route number. If you have a P.O. box, see separate instructions.
 City or town, state or province, and country. Include ZIP code or postal code where appropriate.

Foreign (non-U.S.) Address
(see instructions)

3 Street address, apartment number, or rural route number. Don't use a P.O. box number.
 City or town, state or province, and country. Include postal code where appropriate.

Birth Information

4 Date of birth (month / day / year) Country of birth City and state or province (optional) Male Female

Other Information

5a Country(ies) of citizenship 5b Foreign tax ID number (if any) 5c Type of U.S. visa (if any), number, and expiration date

6a Identification document(s) submitted (see instructions) Passport Driver's license/state I.D.
 USCBIS documentation Other Date of entry into the United States (MM/DD/YYYY) _____
 Issued by: _____ Exp. date: ____/____/____

6b Have you previously received an ITIN or an EIN/Service Number (EIN/EN)?
 No/Don't know. Skip line 6b.
 Yes. Complete line 6b. If more than one, list on a sheet and attach to this form (see instructions).

6c Enter ITIN and/or EIN/EN ITIN EIN/EN _____ and name under which it was issued ► First name Middle name Last name

6d Name of college/university or company (see instructions) ► City and state ► Length of stay ►

Sign Here
Keep a copy for your records.

Under penalty of perjury, I (applicant/representative agent) declare that I have examined the application, including accompanying documentation and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I authorize the IRS to share information with my acceptance agent in order to perfect this Form W-7 Application for IRS Individual Taxpayer Identification Number.

Signature of applicant or delegate, see instructions	Date (month / day / year)	Phone number
Name of delegate, if applicable (see or print)	Delegate's relationship to recipient <input type="checkbox"/> Parent <input type="checkbox"/> Court-appointed guardian	<input type="checkbox"/> Power of attorney
Signature	Date (month / day / year)	Phone
Name and SSN (date of print)	Name of company	EIN <input type="checkbox"/> TIN <input type="checkbox"/>
		Office code

**FORM W-7
PG 22**

FILING STATUS

- **Single**
- **Married Filing Jointly**
- **Married Filing Separately**
- **Head of Household**
- **Qualifying Widow/Widower (Surviving Spouse)**

HEAD OF HOUSEHOLD

- Qualifying Person
- Paid MORE than $\frac{1}{2}$ the cost of maintaining the home
- If Married all must be met:
 1. File separate return from spouse, AND
 2. Spouse did NOT live in the home the last 6 months of the tax year

Worksheet 2-1. Cost of Keeping Up a Home

Keep for Your Records



	Amount You Paid	Total Cost
Property taxes	\$	\$
Mortgage interest expense		
Rent		
Utility charges		
Repairs/Maintenance		
Property insurance		
Food eaten in the home		
Other household expenses		
Totals	\$	\$
Minus total amount you paid		()
Amount others paid		\$

If the total amount you paid is more than the amount others paid, you meet the requirement of paying more than half of the cost of keeping up the home.

Table 2-1. Who Is a Qualifying Person Qualifying You To File as Head of Household?¹

Caution. See the text of this chapter for the other requirements you must meet to claim head of household filing status.

IF the person is your . . .	AND . . .	THEN that person is . . .
qualifying child (such as a son, daughter, or grandchild who lived with you more than half the year and meets certain other tests) ²	he or she is single	a qualifying person, whether or not you can claim an exemption for the person.
	he or she is married and you can claim an exemption for him or her	a qualifying person.
	he or she is married and you can't claim an exemption for him or her	not a qualifying person. ³
qualifying relative ⁴ who is your father or mother	you can claim an exemption for him or her ⁵	a qualifying person. ⁶
	you can't claim an exemption for him or her	not a qualifying person.
qualifying relative ⁴ other than your father or mother (such as a grandparent, brother, or sister who meets certain tests)	he or she lived with you more than half the year, and he or she is related to you in one of the ways listed under <i>Relatives who don't have to live with you</i> in chapter 3 and you can claim an exemption for him or her ⁵	a qualifying person.
	he or she didn't live with you more than half the year	not a qualifying person.
	he or she isn't related to you in one of the ways listed under <i>Relatives who don't have to live with you</i> in chapter 3 and is your qualifying relative only because he or she lived with you all year as a member of your household	not a qualifying person.
	you can't claim an exemption for him or her	not a qualifying person.

¹A person can't qualify more than one taxpayer to use the head of household filing status for the year.

²The term "qualifying child" is defined in chapter 3. **Note.** If you are a noncustodial parent, the term "qualifying child" for head of household filing status doesn't include a child who is your qualifying child for exemption purposes only because of the rules described under *Children of divorced or separated parents (or parents who live apart)* under Qualifying Child in chapter 3. If you are the custodial parent and those rules apply, the child generally is your qualifying child for head of household filing status even though the child isn't a qualifying child for whom you can claim an exemption.

³This person is a qualifying person if the only reason you can't claim the exemption is that you can be claimed as a dependent on someone else's return.

⁴The term "qualifying relative" is defined in chapter 3.

⁵If you can claim an exemption for a person only because of a multiple support agreement, that person isn't a qualifying person. See *Multiple Support Agreement* in chapter 3.

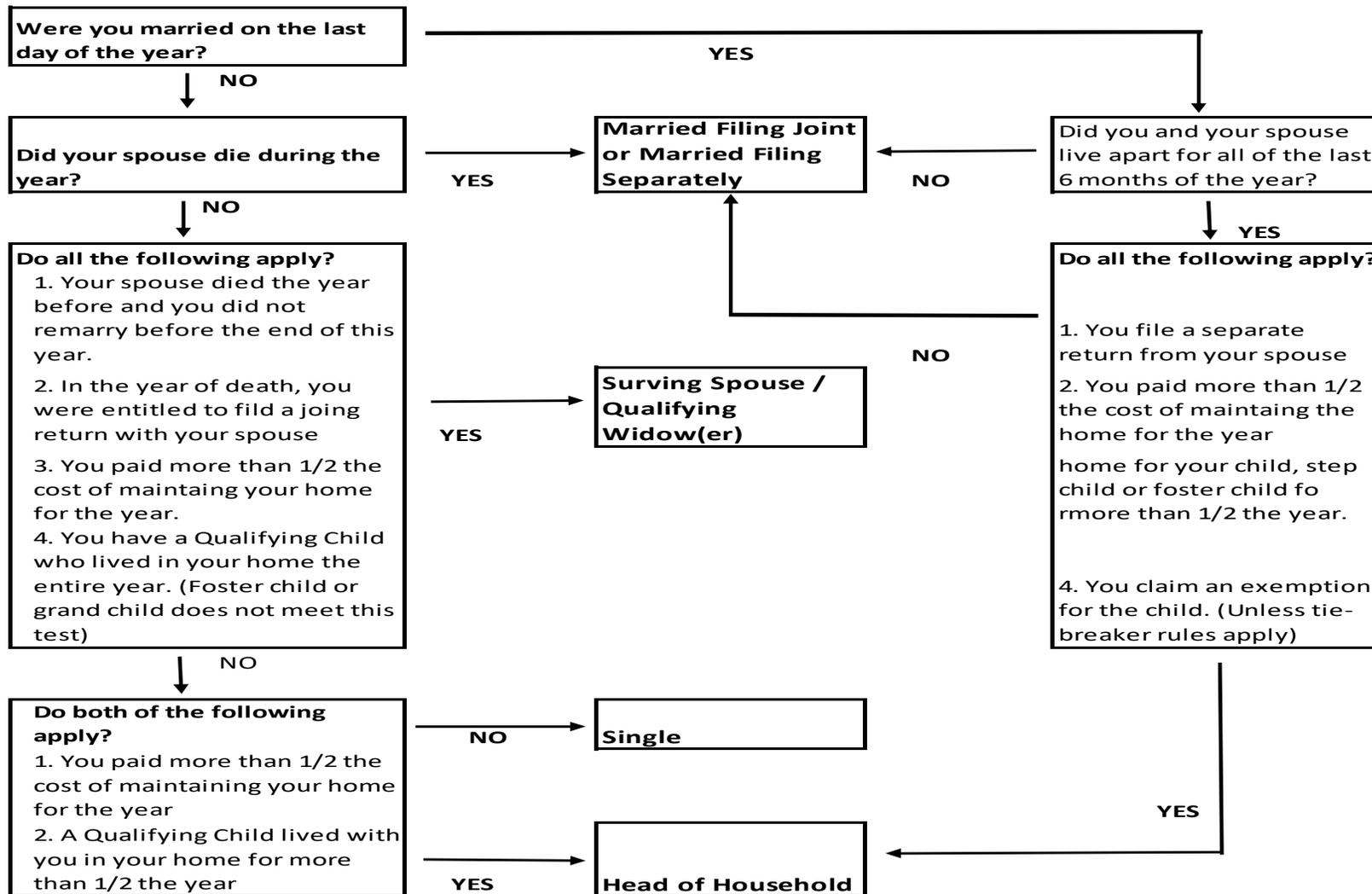
⁶See *Special rule for parent* under Qualifying Person, earlier.

You may qualify for credit or deduction only status if you meet the following three tests.

Marriage Test, Qualifying Person Test, and Cost of Keeping up a Home Test.

Name of Taxpayer		Taxpayer Identification Number		Tax Period Ending
Marriage Test	If You Are:		Then send photocopies of the following documents for tax year 2019	
	Single		Go to the Qualifying Person Test and Cost of Keeping up a Home Test.	
	Divorced or legally separated		Entire divorce decree, separate maintenance decree, or separation agreement.	
	Married, but your spouse did not live with you during the last 6 months of tax year 2019		Documents verifying your spouse did not live with you during the last 6 months of the year, such as a lease agreement, utility bills, a letter from a clergy member, or a letter from social services.	
Qualifying Person Test <i>(If your relationship with the child is not in this listing, please see Publication 501, Exemptions, Standard Deduction, and Filing Information for more information).</i>	If the Person Is:	And	Then send photocopies of the following documents for tax year 2019	
	Your child (including an adopted child, or a pending adoption). Your brother or sister, stepbrother or stepsister, or any of their descendants (for example, grandchild, niece, or nephew). Your eligible foster child (a child placed in your home by an authorized placement agency or by a court order).	You can claim a dependency exemption for the child. The child lived in your home for more than half of 2019 (temporary absences away from home, such as time spent at school, count as time lived at home). Note—A married child must be your dependent.	Birth certificates or other official documents of birth, marriage certificates, letter from an authorized adoption agency, letter from the authorized placement agency, or applicable court document that verify your relationship to the child (send these documents only for a qualifying child who is not your natural or adopted child). To show both you and your child lived together for more than half of 2019, send: • School, medical, daycare, or social service records • A letter on the official letterhead from a school, medical provider, social service agency, or place of worship that shows names, common address and dates. (If you send a letter from a relative who provides your daycare, you MUST send at least one additional letter.) Send as many documents as necessary to show that the child lived with you for more than half of the year.	

Filing Status -- Decision Tree



DEFINITION OF DEPENDENT

1

Qualifying Child

2

Qualifying Relative

DEPENDENCY TEST MUST BE MET

- **Taxpayer ineligible if a dependent:** To claim another person as a dependent, the taxpayer, or spouse of taxpayer if filing jointly, cannot be claimed as a dependent on someone else's return.
- **Married filing jointly:** A person cannot be treated as a dependent if he or she files a joint return with a spouse. This rule does not apply if the joint return was filed only as a claim for refund and no tax liability would exist for either spouse if they had filed separate returns.
- **Citizen or resident:** The person claimed as a dependent must be either a U.S. citizen, U.S. national, or a resident of the U.S., Canada, or Mexico. An adopted child that lived with the taxpayer all year passes this test if the taxpayer is a U.S. citizen or U.S. national.

QUALIFYING CHILD

- **Joint Return:** The child may not be married and file a joint tax return. EXCEPT if the only reason they file the return is to claim the refund.
- **Relationship Test:** The child must be the taxpayer's son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of these such as a taxpayer's grandchild, niece, or nephew. **Also adopted child with valid ATIN if in adoption process.**
- **Member of household test:** The child must have lived with the taxpayer for more than half of the tax year.
- **Citizen or Resident test:** The child must be a U.S. Citizen, Resident Alien, U.S. National or a Resident of Canada or Mexico.

QUALIFYING CHILD

- **Age test:** The child must be:
 - Under age 19 at the end of the tax year
 - Under age 24 at the end of the tax year AND a full-time student for any part of five (5) calendar months during the year, or
- Any age and permanently and totally disabled
- Must be younger than the claimant or totally and permanently disabled.

- **Support Test:** The child cannot have provided over half of his/her own support during the year. (Support does NOT include scholarships.) Support includes:
 - Wages of their own
 - Social Security payments for the child
 - Student loans in the student's name
 - Other loans in the child's name
 - Amounts withdrawn from savings/investments
 - Wages, Social Security and Savings/Investments can be saved and not considered support
 - Support that is provided by third parties (NOT support by the child):
 - Child support
 - Support provided by the state
 - Foster care payments

**QUALIFYING CHILD
– NOT CLAIMED BY
PARENT**

- Anyone else – qualifying child of that person
- Higher AGI than parent

Table 3-1. Overview of the Rules for Claiming a Dependent

Caution. This table is only an overview of the rules. For details, see the rest of this chapter.

- You can't claim any dependents if you (or your spouse, if filing jointly) could be claimed as a dependent by another taxpayer.
- You can't claim a married person who files a joint return as a dependent unless that joint return is filed only to claim a refund of withheld income tax or estimated tax paid.
- You can't claim a person as a dependent unless that person is a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico.¹
- You can't claim a person as a dependent unless that person is your **qualifying child** or **qualifying relative**.

Tests To Be a Qualifying Child	Tests To Be a Qualifying Relative
<ol style="list-style-type: none"> 1. The child must be your son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them. 2. The child must be (a) under age 19 at the end of the year and younger than you (or your spouse, if filing jointly); (b) under age 24 at the end of the year, a student, and younger than you (or your spouse, if filing jointly); or (c) any age if permanently and totally disabled. 3. The child must have lived with you for more than half of the year.² 4. The child must not have provided more than half of his or her own support for the year. 5. The child must not be filing a joint return for the year (unless that return is filed only to get a refund of income tax withheld or estimated tax paid). <p>If the child meets the rules to be a qualifying child of more than one person, only one person can actually treat the child as a qualifying child. See <i>Qualifying Child of More Than One Person</i>, later, to find out which person is the person entitled to claim the child as a qualifying child.</p>	<ol style="list-style-type: none"> 1. The person can't be your qualifying child or the qualifying child of any other taxpayer. 2. The person either (a) must be related to you in one of the ways listed under <i>Relatives who don't have to live with you</i>, or (b) must live with you all year as a member of your household³ (and your relationship must not violate local law). 3. The person's gross income for the year must be less than \$4,300.³ 4. You must provide more than half of the person's total support for the year.⁴

¹ There is an exception for certain adopted children.

² There are exceptions for temporary absences, children who were born or died during the year, children of divorced or separated parents (or parents who live apart), and kidnapped children.

³ There is an exception if the person is disabled and has income from a sheltered workshop.

⁴ There are exceptions for multiple support agreements, children of divorced or separated parents (or parents who live apart), and kidnapped children.

TIE-BREAKER RULES

Pg 30

- If one person is a parent, the parent will claim the child.
- If both are parents, the parent who had the child the most nights of the year is the one who will claim the child.
- If both are parents and had the child the same number of nights the parent with the higher AGI is the one who claims the child.
- If neither person is the parent, the one with the higher AGI is the one who claims the child.
- If no parent claims the child, the child is treated as the qualifying child of the person who had the highest AGI for the year and meets all the other tests.

FORM 8332

- Noncustodial parent can claim with no conditions
- Custodial parent will NOT claim
- The tax year
- The Noncustodial parent's SSN
- The signature of the custodial parent and date of agreement

- Form 8332 is only approved format for IRS – divorce decree does NOT work

Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent

OMB No. 1545-0074

Attachment
Sequence No. **115**

▶ Attach a separate form for each child.
▶ Go to www.irs.gov/Form8332 for the latest information.

Name of noncustodial parent	Noncustodial parent's social security number (SSN) ▶
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Note: This form also applies to some tax benefits, including the child tax credit, additional child tax credit, and credit for other dependents. It doesn't apply to other tax benefits, such as the earned income credit, dependent care credit, or head of household filing status. See the instructions and Pub. 501.

Part I Release of Claim to Exemption for Current Year

I agree not to claim an exemption for _____
Name of child
for the tax year 20 _____.

Signature of custodial parent releasing claim to exemption _____
Custodial parent's SSN _____
Date

Note: If you choose not to claim an exemption for this child for future tax years, also complete Part II.

Part II Release of Claim to Exemption for Future Years (If completed, see Noncustodial Parent on page 2.)

I agree not to claim an exemption for _____
Name of child
for the tax year(s) _____
(Specify. See instructions.)

Signature of custodial parent releasing claim to exemption _____
Custodial parent's SSN _____
Date

Part III Revocation of Release of Claim to Exemption for Future Year(s)

I revoke the release of claim to an exemption for _____
Name of child
for the tax year(s) _____
(Specify. See instructions.)

Signature of custodial parent revoking the release of claim to exemption _____
Custodial parent's SSN _____
Date

QUALIFYING RELATIVE

- **Relationship Test:** A relative of the taxpayer must be:
 - A son, daughter, stepchild, foster child, or a descendant of any of these (such as a grandchild), or
 - A brother, sister or a son or daughter of either of these (such as a niece or nephew), or
 - A father, mother or an ancestor or sibling of either of them (such as a grandmother, grandfather, aunt, or uncle), or
 - A stepbrother, stepsister, stepfather, stepmother, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law, or
 - Any other person (other than the taxpayer's spouse) who lived with the taxpayer all year as a member of the taxpayer's household.

PG. 32

- **Qualifying Child Test:** The relative must not be a qualifying child of any taxpayer for the year. For this purpose, a person is not a taxpayer if he or she is not required to file a tax return and either doesn't file a return or only files a return to get a refund of withheld income taxes.
- **Gross Income Test:** The relative must have gross income of less than the year's exemption allowance (*\$ 4,300 for 2020 even though the exemption amount is \$ 0.00 Notice 2018-70*). This test does not apply for disabled persons with income from Sheltered Workshop.
- **Support Test:** The taxpayer must have provided more than half of the person's support for the tax year. This test does not apply for persons who qualify as dependents under the children of divorced or separated parents rule, the multiple support agreements rule and the rule for kidnapped children.

PG. 32 - 34

- **Member of household test:** The child must have lived with the taxpayer for the entire tax year.
- **Citizen or Resident test:** The child must be a U.S. Citizen, Resident Alien, U.S. National or a Resident of Canada or Mexico.
- **Joint Return:** The child may not be married and file a joint tax return. EXCEPT if the only reason they file the return is to claim the refund.

Worksheet 3-1. Worksheet for Determining Support

Keep for Your Records



Funds Belonging to the Person You Supported

- 1. Enter the total funds belonging to the person you supported, including income received (taxable and nontaxable) and amounts borrowed during the year, plus the amount in savings and other accounts at the beginning of the year. Don't include funds provided by the state; include those amounts on line 20 instead 1. _____
- 2. Enter the amount on line 1 that was used for the person's support 2. _____
- 3. Enter the amount on line 1 that was used for other purposes 3. _____
- 4. Enter the total amount in the person's savings and other accounts at the end of the year 4. _____
- 5. Add lines 2 through 4. (This amount should equal line 1.) 5. _____

Expenses for Entire Household (where the person you supported lived)

- 6. Lodging (complete line 6a or 6b):
 - a. Enter the total rent paid 6a. _____
 - b. Enter the fair rental value of the home. If the person you supported owned the home, also include this amount in line 21 6b. _____
- 7. Enter the total food expenses 7. _____
- 8. Enter the total amount of utilities (heat, light, water, etc., not included in line 6a or 6b) 8. _____
- 9. Enter the total amount of repairs (not included in line 6a or 6b) 9. _____
- 10. Enter the total of other expenses. Don't include expenses of maintaining the home, such as mortgage interest, real estate taxes, and insurance 10. _____
- 11. Add lines 6a through 10. These are the total household expenses 11. _____
- 12. Enter total number of persons who lived in the household 12. _____

Expenses for the Person You Supported

- 13. Divide line 11 by line 12. This is the person's share of the household expenses 13. _____
- 14. Enter the person's total clothing expenses 14. _____
- 15. Enter the person's total education expenses 15. _____
- 16. Enter the person's total medical and dental expenses not paid for or reimbursed by insurance 16. _____
- 17. Enter the person's total travel and recreation expenses 17. _____
- 18. Enter the total of the person's other expenses 18. _____
- 19. Add lines 13 through 18. This is the total cost of the person's support for the year 19. _____

Did the Person Provide More Than Half of His or Her Own Support?

- 20. Multiply line 19 by 50% (0.50) 20. _____
- 21. Enter the amount from line 2, plus the amount from line 6b if the person you supported owned the home. This is the amount the person provided for his or her own support 21. _____
- 22. Is line 21 more than line 20?

No. You meet the support test for this person to be your qualifying child. If this person also meets the other tests to be a qualifying child, stop here; don't complete lines 23-26. Otherwise, go to line 23 and fill out the rest of the worksheet to determine if this person is your qualifying relative.

Yes. You don't meet the support test for this person to be either your qualifying child or your qualifying relative. **Stop here.**

Did You Provide More Than Half?

- 23. Enter the amount others provided for the person's support. Include amounts provided by state, local, and other welfare societies or agencies. Don't include any amounts included on line 1 23. _____
- 24. Add lines 21 and 23 24. _____
- 25. Subtract line 24 from line 19. This is the amount you provided for the person's support 25. _____
- 26. Is line 25 more than line 20?

Yes. You meet the support test for this person to be your qualifying relative.

No. You don't meet the support test for this person to be your qualifying relative. You can't claim this person as a dependent unless you can do so under a multiple support agreement, the support test for children of divorced or separated parents, or the special rule for kidnapped children. See *Multiple Support Agreements* or *Support Test for Children of Divorced or Separated Parents (or Parents Who Live Apart)*, or *Kidnapped Child* under *Qualifying Relative*.



Have
a
Break

EXAMPLES PG 35 - 37



This Photo by Unknown Author is licensed under [CC BY-NC-ND](#)

EXAMPLE

- Samuel, age 9
- Dad earns \$ 15,000
- Gives Form 8832 to Mom
- Who claims the child?

EXAMPLE

- Son age 28
- Lives with 56 year old mother
- Son earns \$3,500
- Mother earns \$65,000
- Mother pays Household Expense
 - Son claims?
 - Son QC/QR or neither?

EXAMPLE

- Mother and son Adam, age 11
- Live with Hank, mother's friend
- Mother earned \$950
- Hank earned \$70,000
 - Who can Claim Adam?

EXAMPLE

- Sharon Smith has neighbor boy Randy, age 7 all year
- No support for Randy
- Sharon earned \$24,000
 - Sharon's filing status
 - Sharon claim Randy as QC?

EXAMPLE

- Joe and Sue, MFJ, with 2 sons
- Son Alex, age 26 earned \$18,000
- Son Andrew, age 15, earned \$1,400
- Joe and Sue, older, earn \$85,000
 - Who can claim Alex?
 - Is Andrew a QC of anyone?

EXAMPLE

- Jackie Frost gives 8332 to Josh's father Tom.
- Jackie earns \$50,000
- Tom earns \$92,000
- Tom pays \$12,000 in child support for Josh
- Tom and Jackie live apart
- Jackie pays \$5,000 in child care
 - Who claims Josh?

EXAMPLE

- Laura is age 21. Lives with mother age 72
- Mother makes \$23,000
- Child Brandi, age 3
- Laura earns \$4,000 as a full-time college student
 - Laura's filing status?
 - Laura's exemptions?
 - Grandma's filing status?
 - Grandma's # of exemptions?

EXAMPLE

- Sara, age 5, lives with mom and grandma
- Grandma pays over $\frac{1}{2}$ cost of home and has the highest AGI
- Grandma pays over $\frac{1}{2}$ Sara's support and mom's support. Dad pays nothing.
- Mom is age 24 and makes \$3,233.
 - Is Grandma HH?
 - Does Grandma get any dependents?

EXAMPLE

- Arnold lives with mother in her home
- He pays all of the expenses
- Mother uses SS to pay off earlier debts
- Arnold makes \$45,000
- Mom collects \$13,000 in SS
 - What is Arnold's status?
 - How many exemptions is Arnold allowed?
 - Are there any other deductions for which Arnold may qualify?

EXAMPLE

- Tim, age 20, live with parents and brother (22) and sisters (15 & 17), none of whom are married or have any income of own
- Parents income is \$350,000
- Tim's income is \$22,000
 - Can Tim claim any of family as QC?
 - If so, whom?

EXAMPLE

- Your 22 year old daughter, who is a student, lives with you and meets all the tests to be your qualifying child. She is not your qualifying relative.

EXAMPLE

➤ Your 2 year old son lives with your parents and meets all the tests to be their qualifying child.

He is not your qualifying relative.

EXAMPLE

Your son lives with you but is not your qualifying child because he is 30 years old and does not meet the age test.

He may be your qualifying relative if the gross income test and the support test are met.

EXAMPLE

➤ Your 13 year old grandson lived with his mother for 3 months, with his uncle for 4 months, and with you for 5 months during the year.

He is not your qualifying child because he does not meet the residency test. He may be your qualifying relative if the gross income test and the support test are met

EXAMPLE

➤ You support an unrelated friend and her 3-year-old child, who lived with you all year in your home. Your friend has no gross income, is not required to file a 2012 tax return, and does not file a 2012 tax return.

Both your friend and her child are your qualifying relatives if the member of household or relationship test, gross income test, and support test are met

EXAMPLE

The facts are the same as in Example 5 except your friend had wages of \$1,500 during the year and had income tax withheld from her wages. She files a return only to get a refund of the income tax withheld and does not claim the earned income credit or any other tax credits or deductions.

Both your friend and her child are your qualifying relatives if the member of household or relationship test, gross income test, and support test are met.

EXAMPLE

The facts are the same as in Example 6 except your friend had wages of \$8,000 during the year and claimed the earned income credit on her return.

Your friend's child is the qualifying child of another taxpayer (your friend), so you cannot claim your friend's child as your qualifying relative.

EXAMPLE

You provide all the support of your children, ages 6, 8, and 12, who live in Mexico with your mother and have no income. You are single and live in the United States.

Your mother is not a U.S. citizen and has no U.S. income, so she is not a “taxpayer.”

Your children are not your qualifying children because they do not meet the residency test.

Also, they are not the qualifying children of any other taxpayer, so they are your qualifying relatives and you can claim them as dependents if all the tests are met.

You may also be able to claim your mother as a dependent if all the tests are met, including the gross income test and the support test

Example

Grace Brown, mother of Mary Miller, lives with Frank and Mary Miller and their two children. Grace gets social security benefits of \$2,400, which she spends for clothing, transportation, and recreation. Grace has no other income. Frank and Mary's total food expense for the household is \$5,200. They pay Grace's medical and drug expenses of \$1,200. The fair rental value of the lodging provided for Grace is \$1,800 a year, based on the cost of similar rooming facilities.

Fair rental value of lodging	\$	1,800
Clothing, transportation, and recreation		2,400
Medical expenses		1,200
Share of food (1/5 of \$5,200)		1,040
Total support.....		<u>1,040</u> \$ 6,440

The support Frank and Mary provide (\$1,800 lodging + \$1,200 medical expenses + \$1,040 food = \$4,040) is more than half of Grace's \$6,440 total support.

Supporting Documents for Dependents

Taxpayer name		Taxpayer Identification Number	Tax Year
---------------	--	--------------------------------	----------

If You Are:	And:	Then please send photocopies of the following documents:
--------------------	-------------	---

Divorced, legally separated, or living apart from the other parent of the child claimed on your return.	Both parents (<i>together</i>) provided more than half of the child's total support for the tax year. and One or both parents have custody.	Entire divorce decree, separation agreement, decree of separate maintenance. If you are living apart from the child's other parent, but you are not divorced or legally separated, send proof that you did not live with the child's other parent for the last six months of the year. Current custody order, completed <i>Form 8332, Release of Claim to Exemption for Child of Divorced or Separated Parents</i> or a similar statement as applicable for 2019. You may need to send more than one document.
---	---	---

If the Person Is:	And:	Then please send photocopies of the following documents:
--------------------------	-------------	---

Your qualifying child	The child is: your son, daughter, adopted child, a child lawfully placed with you for legal adoption, stepson, stepdaughter, brother, sister, stepbrother, stepsister, foster child placed with you by an authorized placement agency or by court order, or a descendant of any such person (<i>for example, a grandchild, a niece, or a nephew</i>). and The child lived with you for more than half of 2019; (<i>temporary absences away from home, such as the child going away to school, count as time lived at home</i>). and The child did not provide half of his or her own support for 2019. and At the end of 2019, the child is under age 19, or a full-time student under the age of 24, or permanently and totally disabled regardless of age.	Birth certificates or other official documents of birth, marriage certificates, letter from an authorized adoption agency, letter from the authorized placement agency, or applicable court document that verify your relationship to the child (<i>send these documents only for a qualifying child who is not your natural or adopted child</i>). To show both you and your child lived together at the same address or addresses for more than half of 2019, send either: <ul style="list-style-type: none">• School, medical, daycare, or social service records.• A letter on the official letterhead from a school, medical provider, social service agency, or place of worship that shows names, common address and dates. (<i>If you send a letter from a relative who provides your daycare, you MUST send at least one additional letter that provides proof.</i>) You may need to send more than one document to show that the child lived with you for more than half of the year.
-----------------------	---	--

If the Person Is:	And:	Then please send photocopies of the following documents:
--------------------------	-------------	---

Your qualifying relative	Your relative is any of the relatives listed in the box above or any of the following: father or mother and their ancestors, step-father or step-mother, aunt or uncle, brother- in-law or sister in-law, and You provided over half of his or her support in 2019. (<i>except for children of divorced or separated parents</i>), and Can not be claimed as a qualifying child by any other person in 2019.	Birth and marriage certificates that verify your relationship to the qualifying relative. If you claim a non-blood related person as a qualifying relative, send proof the person has lived in your home for the entire 12 months of the year. To show both of you lived together at the same address or addresses for all of 2019, send either: <ul style="list-style-type: none">• School, medical, daycare, or social service records.• A letter on the official letterhead from a school, medical provider, social service agency, or place of worship that shows names, common address and dates. (<i>If you send a letter from a relative who provides your daycare, you MUST send at least one additional letter that provides proof.</i>)
--------------------------	--	--

U.S.C. § 61

“Income from all sources derived” ...legal or illegal

1. Compensation for services, including fees, commissions, fringe benefits, and similar items;
2. Gross income derived from business;
3. Gains derived from dealings in property;
4. Interest;
5. Rents;
6. Royalties;
7. Dividends;
8. Annuities;
9. Income from life insurance and endowment contracts;
10. Pensions;
11. Income from discharge of indebtedness;
12. Distributive share of partnership gross income;
13. Income in respect of a decedent; and
14. Income from an interest in an estate or trust.

WAGES, SALARIES, TIPS & OTHER EARNINGS

- Wages & Salaries reported in Box 1 of Form W-2, Pg. 39
- Tip Income not reported to the employer (any amount over \$ 20 per month),
- Dependent Care Benefits, reported in Box 10 of Form W-2, that exceeds the amount of Dependent Care Expense,
- Employer-provided Adoption Benefits that were not excluded from Gross Income,
- Scholarship and Fellowship Grant income not reported on Form W-2 and was not used for qualifying education expense,
- Excess elective deferrals,
- Disability Pension received before taxpayer reaches normal Retirement Age,
- Wages as a Household Employee under the W-2 filing requirement of \$ 1,800,
- Wages from Form 8919, *Uncollected Social Security and Medicare Tax on Wages*.

INTEREST

- Interest received from a bank or brokerage house will be reported on Form 1099-INT or Consolidated 1099
- Municipal Bonds – Federal Tax Exempt
- Michigan Municipal Bonds – Federal & State Tax Exempt

9292 VOID CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		Payer's RTN (optional)	OMB No. 1545-0112		2021 Form 1099-INT	Interest Income
		1 Interest income				
		\$				
		2 Early withdrawal penalty				Copy A
		\$				
		3 Interest on U.S. Savings Bonds and Treas. obligations				
PAYER'S TIN	RECIPIENT'S TIN	\$				For Internal Revenue Service Center
		\$				
		4 Federal income tax withheld				
RECIPIENT'S name		\$	5 Investment expenses			File with Form 1096.
Street address (including apt. no.)		\$	\$			
City or town, state or province, country, and ZIP or foreign postal code		\$	7 Foreign country or U.S. possession			
		\$	8 Tax-exempt interest			For Privacy Act and Paperwork Reduction Act Notice, see the 2021 General Instructions for Certain Information Returns.
		\$	9 Specified private activity bond interest			
		\$	10 Market discount			
		\$	11 Bond premium			
		\$	12 Bond premium on Treasury obligations			
		\$	13 Bond premium on tax-exempt bond			
Account number (see instructions)	FATCA filing requirement <input type="checkbox"/>	14 Tax-exempt and tax credit bond CUSIP no.	15 State	16 State identification no.	17 State tax withheld	
	<input type="checkbox"/>				\$	
					\$	

DIVIDENDS

- Ordinary Dividends and Qualified Dividends are reported on Form 1099-DIV or Consolidated Brokerage Statement
- Some credit unions will report interest paid to their customers as dividends but they are to be reported as interest on Line 8a.
- Qualified Dividends receive special long-term capital gains treatment which allows for a reduced rate of tax to be paid.

9191

VOID

CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.

1a Total ordinary dividends

OMB No. 1545-0110

\$

1b Qualified dividends

2021

Dividends and Distributions

\$

Form 1099-DIV

2a Total capital gain distr.

2b Unrecap. Sec. 1250 gain

\$

\$

**Copy A
For
Internal Revenue
Service Center**

PAYER'S TIN

RECIPIENT'S TIN

2c Section 1202 gain

2d Collectibles (28%) gain

\$

\$

File with Form 1096.

2e Section 897 ordinary dividends

2f Section 897 capital gain

\$

\$

RECIPIENT'S name

3 Nondividend distributions

4 Federal income tax withheld

\$

\$

**For Privacy Act
and Paperwork
Reduction Act
Notice, see the
2021 General
Instructions for
Certain
Information
Returns.**

5 Section 199A dividends

6 Investment expenses

\$

\$

Street address (including apt. no.)

7 Foreign tax paid

8 Foreign country or U.S. possession

\$

City or town, state or province, country, and ZIP or foreign postal code

9 Cash liquidation distributions

10 Noncash liquidation distributions

\$

\$

FATCA filing requirement

11 Exempt-interest dividends

12 Specified private activity bond interest dividends

\$

\$

Account number (see instructions)

2nd TIN not.

13 State

14 State identification no.

15 State tax withheld

\$

\$

Form 1099-DIV

Cat. No. 14415N

www.irs.gov/Form1099DIV

Department of the Treasury - Internal Revenue Service

Do Not Cut or Separate Forms on This Page

— Do Not Cut or Separate Forms on This Page

FOREIGN BANK ACCOUNT COMPLIANCE

- **FinCEN Form 114 – foreign bank account reporting**
- **Form 8938**
 - **Year-End Assets > \$ 50,000**
 - **Total Assets > \$ 75,00 @ anytime during the year**

- Taxable refund, credits, or offsets of state and local taxes are those taxes that a taxpayer was eligible to take on their prior year's Schedule A, Itemized Deductions. Form 1099-G will be received by the taxpayer reporting the amount of refund, credit or offset; this will not account for the amount of refund received that is due to a state credit derived from property taxes.
- For example in the State of Michigan we have a Homestead Property Tax Credit, should a taxpayer receive this refund in a prior year they will then report the refund on the "other income" line, Itemized Deduction Recovery, as it is a refund from the credit and not a refund from the amount of tax.

STATE & LOCAL REFUNDS

Should the judgment indicate a total sum is to be paid and a certain portion is Child Support, the remaining can be considered alimony if ALL of the following are met:

- ❖ Taxpayer and Spouse do not file a joint return,
- ❖ Taxpayer receives cash, including check or money orders, or payment to a third party under certain circumstances,
- ❖ Divorce or separation instrument does not say it isn't alimony,
- ❖ Taxpayer and Spouse are not members of the same household
- ❖ The former spouse has no obligation to make any type of payment after the death of the taxpayer,
- ❖ The payment is not Child Support.

Property settlements and other voluntary payments for anything outside of the judgment are NOT alimony.

ALIMONY -- § 71



§ 71



Civil Judgment – Divorce Decree or Separation Instrument



Ceases upon Death



Direct payments



Indirect payments to Third Party



NOT Child Support

ALIMONY – POST 2018 DIVORCE AGREEMENTS

- Non-deductible for payor
- Non-inclusive to recipient
- Divorce judgements or separation instruments executed after December 31, 2018
 - OR modified after December 31, 2018 and tcja provision effected

ALIMONY – TCJA

**JOD executed or modified after
12/31/2018 – No Inclusion or
Adjustment**

**TCJA
CHANGE --
ALIMONY**

**BUSINESS
INCOME
SCHEDULE C**

- **Sole Proprietors, Statutory
Employees & Single Member LLC**
- **The amount includible here will be
the Net of Gross Income Received
LESS Total Expenses.**

EXAMPLE

Susie sells Mary Kay

- she receives \$ 12,000 from sales and has \$ 5,500 in expenses.
- The amount reported on Line 12 will be \$ 6,500 (12,000-5,500).

DEFINING TRADE OR BUSINESS

- I.R.C. § 61– Worldwide Income from All Sources
- I.R.C. § 162 – ordinary & necessary (legislative grace)
 - “for the purpose of this section, trade or business has the same meaning ...”
- Facts & Circumstances
- Profit Motive
- Degree of Involvement

CANNABIS INDUSTRY

- Industrial Hemp
 - Farm Bill of 2018
- Medical or Recreational Marijuana
 - Subject to § 280E Restrictions
 - Only Cost of Goods Sold
 - No § 162 Ordinary & Necessary Expense

NOT-FOR-PROFIT ACTIVITIES (HOBBY)

- A taxpayer must engage in an activity primarily for profit to deduct expenses under I.R.C. § 162 or § 212
- I.R.C. § 183 – denies deductions for business not engaged in profit
- I.R.C. § 183 distinguished trade or business activities from personal activities

TAX REFORM ACT OF 1986 PRESUMPTIONS CHANGE

1. Profits 3 of a 5-year period – General Business

2. Profits 2 of a 7-year period – Horse Activities

CONSEQUENCES OF NOT-FOR-PROFIT ACTIVITIES

- Other Income of Form 1040 – Gross Income ONLY
- NOT subject to SE Tax
- Losses are NOT deductible
- NO Loss carryover
- Allowable expenses – limited to Gross Income
 - Reported on Schedule A
 - Subject to 2%-of-AGI floor
 - NO expense deduction for AMT

- Treas. Reg. § 1.183-2(a) – Bona Fide Profit
 - A taxpayer must demonstrate an actual and honest objective of making a profit.
- Beck v. Commissioner, 85 T.C. 557 (1985)
- “The **term** profit means an economic profit independent of tax savings”
- I.R.C. § 183(d) – presumption that an activity is conducted with a profit motive for any year the taxpayer realizes a profit in 3 or more of the 5 consecutive years ending with the current tax year

PROFIT MOTIVE FACTORS

Treas. Reg. § 1.183-2(b)

Pg. 44 - 47

1. The manner in which the taxpayer carries on the activity
2. The expertise of the taxpayer or his or her advisers
3. The time and effort the taxpayer spent in carrying on the activity
4. The expectation that assets used in the activity may appreciate in value
5. The success of the taxpayer in carrying on other similar or dissimilar activities

6. The taxpayer's history of income or losses with respect to the activity
7. The amount of occasional profits, if any, that are earned
8. The financial status of the taxpayer (i.e., dependence on income from the activity)
9. Elements of personal pleasure or recreation

COMMISSIONER V. GROETZINGER, 480 U.S. 23 (1987)

- Offering Goods & Services is NOT absolute
- Intended livelihood

- Revenue Act of 1916: “We accept the fact that to be engaged in a trade or business the taxpayer must be involved in the activity with continuity and regularity and that the taxpayer’s primary purpose for engaging in the activity must be for income and profit”

DERIVING GROSS INCOME

- 1099 – MISC
- Review of bank statements – including PayPal
- Client records
- Bartered FMV

“the total receipts from sales minus the cost of the goods sold, plus investment income and income from other sources”

CAR & TRUCK EXPENSES

- Actual vehicle expenses
- Standard mileage
- Rail, bus or taxi
- Parking & Tolls

SUBSTANTIATION

Table 5-1. How To Prove Certain Business Expenses

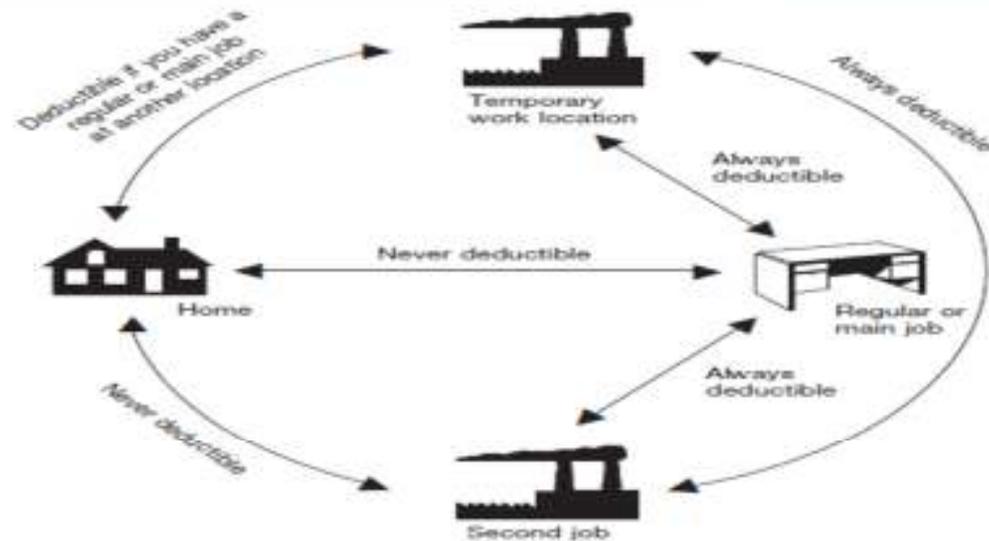
IF you have expenses for . . .	THEN you must keep records that show details of the following elements . . .			
	Amount	Time	Place or Description	Business Purpose Business Relationship
Travel	Cost of each separate expense for travel, lodging, and meals. Incidental expenses may be totaled in reasonable categories such as taxis, fees and tips, etc.	Dates you left and returned for each trip and number of days spent on business.	Destination or area of your travel (name of city, town, or other designation).	<u>Purpose:</u> Business purpose for the expense or the business benefit gained or expected to be gained. <u>Relationship:</u> N/A
Entertainment	Cost of each separate expense. Incidental expenses such as taxis, telephones, etc., may be totaled on a daily basis.	Date of entertainment. (Also see <i>Business Purpose</i> .)	Name and address or location of place of entertainment. Type of entertainment if not otherwise apparent. (Also see <i>Business Purpose</i> .)	<u>Purpose:</u> Business purpose for the expense or the business benefit gained or expected to be gained. For entertainment, the nature of the business discussion or activity. If the entertainment was directly before or after a business discussion: the date, place, nature, and duration of the business discussion, and the identities of the persons who took part in both the business discussion and the entertainment activity. <u>Relationship:</u> Occupations or other information (such as names, titles, or other designations) about the recipients that shows their business relationship to you. For entertainment, you must also prove that you or your employee was present if the entertainment was a business meal.
Gifts	Cost of the gift.	Date of the gift.	Description of the gift.	
Transportation	Cost of each separate expense. For car expenses, the cost of the car and any improvements, the date you started using it for business, the mileage for each business use, and the total miles for the year.	Date of the expense. For car expenses, the date of the use of the car.	Your business destination.	<u>Purpose:</u> Business purpose for the expense. <u>Relationship:</u> N/A

MILEAGE LOG

Table 5-2. Daily Business Mileage and Expense Log Name: _____

Date	Destination (City, Town, or Area)	Business Purpose	Odometer Readings		Miles this trip	Expenses	
			Start	Stop		Type (Gas, oil, tolls, etc.)	Amount
Weekly Total							
Total Year-to-Date							

DAILY COMMUTING



Home: The place where you reside. Transportation expenses between your home and your main or regular place of work are personal commuting expenses.

Regular or main job: Your principal place of business. If you have more than one job, you must determine which one is your regular or main job. Consider the time you spend at each, the activity you have at each, and the income you earn at each.

Temporary work location: A place where your work assignment is realistically expected to last (and does in fact last) one year or less. Unless you have a regular place of business, you can only deduct your transportation expenses to a temporary work location *outside* your metropolitan area.

Second job: If you regularly work at two or more places in one day, whether or not for the same employer, you can deduct your transportation expenses of getting from one workplace to another. If you do not go directly from your first job to your second job, you can only deduct the transportation expenses of going directly from your first job to your second job. You cannot deduct your transportation expenses between your home and a second job on a day off from your main job.

BUSINESS USE OF HOME



Regular & Exclusive AND



Principle Place of Business

IF THE PERSONAL RESIDENCE IS THE TAXPAYER'S TAX HOME, DOES IT HAVE TO MEET EXCLUSIVE USE AND DEDUCTED AS OFFICE IN HOME?

- I.R.C. § 280A – IRS & Tax Court rely on this section to define “principle place of business
- I.R.C. § 280A(c)(1) – taxpayer is not required to meet this “exclusive use” requirement

“...while exclusive use is a requirement for deducting business use of home expenses, it is not a requirement for deducting daily transportation expenses incurred in going between the taxpayer's residence and a place of business.”

METHODS TO USE

- Simplified – deduction is calculated @ \$5 per sq. ft. up to 300 sq. ft.
- Regular – actual expenses based upon percentage of home devoted to business use over total sq. ft. of home

Comparison of methods

Simplified Option	Regular Method
Deduction for home office use of a portion of a residence allowed only if that portion is exclusively used on a regular basis for business purposes	Same
Allowable square footage of home use for business (not to exceed 300 square feet)	Percentage of home used for business
Standard \$5 per square foot used to determine home business deduction	Actual expenses determined and records maintained
Home-related itemized deductions claimed in full on Schedule A	Home-related itemized deductions apportioned between Schedule A and business schedule (Sch. C or Sch. F)
No depreciation deduction	Depreciation deduction for portion of home used for business
No recapture of depreciation upon sale of home	Recapture of depreciation on gain upon sale of home
Deduction cannot exceed gross income from business use of home less business expenses	Same
Amount in excess of gross income limitation may not be carried over	Amount in excess of gross income limitation may be carried over
Loss carryover from use of regular method in prior year may not be claimed	Loss carryover from use of regular method in prior year may be claimed if gross income test is met in current year

FORM 8829

**Direct
Expenses**

**Indirect
Expenses**

TAX CUTS & JOBS ACT OF 2018 CHANGE

Example of SUSPENDED entertainments expenses:

- a. An activity generally considered to be entertainment, amusement or recreation;
- b. Membership dues paid to any club organized for business, pleasure, recreation, or other social purposes; or
- c. A facility or any portion of a facility used in connection with entertainment, amusement, or recreation.

THE COVID-RELATED TAX RELIEF ACT OF 2021 CHANGE

- 100% meal deduction
- Tax Years 2021 & 2022
- Meals provided by a restaurant

RECORD KEEPING

- **Gross Receipts** – invoices, cash register tapes/slips, charge card slips, receipt books, bank deposit books, 1099-MISC, 1099-K (merchant account statements), bank statements, PayPal statements;
- **Inventory** – invoices, receipts, canceled checks, credit card statements;

- **Expenses – canceled checks, receipts, account statements, credit card slips/statements, bank statements;**
- **Payroll – detail of all employee compensation and related payroll taxes, proof of payment to employee and IRS, monthly, quarterly, annual payroll return filings;**

- Assets – invoices indicating when and how they were purchased, cost of improvements and/or component parts, depreciation schedule, disposition record including sale price and expenses of sale;
- Liabilities – loan agreements indicating term, inception, interest and monthly payment; and
- Equity – how much did the owner initially invest, how much has been taken as draw either directly or indirectly.

PERIOD OF LIMITATIONS THAT APPLY TO INCOME TAX RETURNS:

- **Keep records for 3 years if situations (4), (5), and (6) below do not apply to you.**
- **Keep records for 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later, if you file a claim for credit or refund after you file your return.**
- **Keep records for 7 years if you file a claim for a loss from worthless securities or bad debt deduction.**

- Keep records for 6 years if you do not report income that you should report, and it is more than 25% of the gross income shown on your return.
- Keep records indefinitely if you do not file a return.
- Keep records indefinitely if you file a fraudulent return.
- Keep employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.

Pass-through entities only

Schedule c & single member llc

Based on taxable income

“the net amount of qualified items of income, gain, deduction and loss with respect to any qualified trade or business of the taxpayer”

**20%
DEDUCTION
FOR QUALIFIED
BUSINESS
INCOME -- QBI**

- ✓ 20% of Taxable Income less net capital gain.
- ✓ 50% of W-2 wages with respect to the trade or business;
- ✓ or 25% of W-2 wages with respect to the qualified trade or business, plus 2.5% of the unadjusted basis immediately after acquisition of all qualified property.
 - ✓ Taxpayers below the threshold are not subject to this limit (\$315,000 MFJ and \$157,500 for others)

- ✓ Specified service business limit does not apply below the thresholds. The exclusion from being a Qualified Business disappears for SSTB if taxable income exceeds the phase-in thresholds plus \$50,000 (S) or \$100,000 MFJ.
 - ✓ S & HOH \$ 157,500 - \$ 207,500
 - ✓ MFJ \$ 315,000 - \$ 415,000
 - ✓ During the phase-in to phase-out levels, a partial deduction can be calculated.

SPECIFIED SERVICE TRADE OR BUSINESS - SSTB

- Health
- Law
- Accounting, tax professionals
- Actuarial science
- Performing arts
- Consulting athletics
- Financial services & brokerage
- Other trade or business where the principal asset is reputation or skill of one or more of its employees or owners

WHAT IS NOT QBI?

- Long or Short-term capital gain, capital loss;
- Dividend or equivalent, payments in lieu;
- Interest income other than that which is allocable to the trade or business;
- I.R.C § 954(c)(1)(C) and (D) commodity gain or loss or foreign currency gain or loss;
- § 954(c)(1)(F) Notional Principal Contracts;
- Any amount received from an annuity, not connected to the trade or business; OR
- Any item of deduction or loss properly allocable to an amount described in any of the preceding clauses.

BREAK TIME



CAPITAL GAINS & LOSSES

Form 8949

Schedule D – Part I & Part II

Losses limited to \$ 3,000 per year

Carry Over – until exhausted

Category of Gain	Tax Rate
Gain on collectibles	28%
I.R.C. § 1202 gain	28%
Unrecaptured I.R.C. § 1250 gain	25%
Net long-term capital gain*	
Taxable income does not exceed \$77,200 (MFJ), \$38,600 (MFS), \$51,700 (HoH), \$38,600 single, \$2,600 (estate or trust)	0%
Taxable income does not exceed \$479,000 (MFJ), \$239,500 (MFS), \$452,400 (HoH), \$425,800 (single), \$12,700 (estate or trust)	15%
Taxable income exceeds the maximum 15% rate amount	20%

* Qualified dividends are taxed at the net long-term capital gain rate.

UNEMPLOYMENT COMPENSATION

- Ordinary Income
- COVID Pandemic Benefits – ordinary income

401(k),
403 (b)



SS
Benefits



Ira –
traditional
& roth



Pension,
annuities



RETIREMENT INCOME

ROTH IRA DISTRIBUTION

Non-taxable when:

- The distribution is made after the first 5 years of the first contribution,
- The distribution meets at least one of the following:
 - Made on or after 59 ½ .
 - Due to disability.
 - Paid to Beneficiary or Estate.
 - Used to pay Qualified First-Time Homebuyer expenses up to \$ 10,000 for taxpayer's lifetime.

RETIREMENT PLAN ROLLOVER

- Trustee to Trustee
- Direct
- 60-day Rollover

ROLLOVER LIMITATION

**365 day limit on direct
from IRA**

ROLLOVER CHART

1/23/2015

		Roll To							
		Roth IRA	Traditional IRA	SIMPLE IRA	SEP-IRA	Governmental 457(b)	Qualified Plan ¹ (pre-tax)	403(b) (pre-tax)	Designated Roth Account (401(k), 403(b) or 457(b))
Roll From	Roth IRA	YES ²	NO	NO	NO	NO	NO	NO	NO
	Traditional IRA	YES ³	YES ²	NO	YES ²	YES ⁴	YES	YES	NO
	SIMPLE IRA	YES, ³ after two years	YES, ² after two years	YES ²	YES, ² after two years	YES, ⁴ after two years	YES, after two years	YES, after two years	NO
	SEP-IRA	YES ³	YES ²	NO	YES ²	YES ⁴	YES	YES	NO
	Governmental 457(b)	YES ³	YES	NO	YES	YES	YES	YES	YES ^{3,5}
	Qualified Plan¹ (pre-tax)	YES ³	YES	NO	YES	YES ⁴	YES	YES	YES ^{3,5}
	403(b) (pre-tax)	YES ³	YES	NO	YES	YES ⁴	YES	YES	YES ^{3,5}
Designated Roth Account (401(k), 403(b) or 457(b))	YES	NO	NO	NO	NO	NO	NO	YES ⁶	

¹ Qualified plans include, for example, profit-sharing, 401(k), money purchase and defined benefit plans

² [Only one rollover](#) in any 12-month period

³ Must include in income

⁴ Must have separate accounts

⁵ Must be an in-plan rollover

⁶ Any amounts distributed must be rolled over via direct (trustee-to-trustee) transfer to be excludable from income

For more information regarding retirement plans and [rollovers](#), visit [Tax Information for Retirement Plans](#).

**THE CARES ACT
CHANGE**

10% Penalty Relief

Up to \$ 100,000 withdrawn

3 year Income Repayment

3 year Roll Over

SOCIAL SECURITY & RAILROAD RETIREMENT

- Up to 85% taxable
- MAGI thresholds: \$ 25,000 S, \$ 32,000 MFS, \$ -0-MFS
- MAGI includes $\frac{1}{2}$ of ss benefits
- MAGI excludes:
 - Childs ss benefits
 - Qualified us savings bond interest
 - Employer-provided adoption benefits
 - Foreign earned income or foreign housing
 - American Samoa or Puerto Rico earned income

REPAYMENT OF BENEFITS

- Less than \$ 3,000: 2% of AGI on Schedule A
- Greater than \$ 3,000: Figure tax in two ways
 - Figure tax with Schedule A items
 - Use Steps:
 1. Figure tax with Schedule A
 2. Refigure taxable benefits, then refigure tax
 3. Subtract total of refigured tax amounts (b) from the total of actual tax
 4. Subtract (c) from results in (a)

Worksheet A. A Quick Way To Check if Your Benefits May Be Taxable

Note. If you plan to file a joint income tax return, include your spouse's amounts, if any, on lines A, C, and D.

A. Enter the amount from **box 5** of all your Forms SSA-1099 and RRB-1099. Include the full amount of any lump-sum benefit payments received in 2017, for 2017 and earlier years. (If you received more than one form, combine the amounts from box 5 and enter the total.) A. _____

Note. If the amount on line A is zero or less, stop here; none of your benefits are taxable this year.

B. Enter one-half of line A B. _____

C. Enter your total income that is taxable (excluding line A), such as pensions, wages, interest, ordinary dividends, and capital gain distributions. Do not reduce your income by any deductions, [exclusions](#) (listed earlier), or exemptions C. _____

D. Enter any tax-exempt interest income such as interest on municipal bonds D. _____

E. Add lines B, C, and D E. _____

Note. Compare the amount on line E to your **base amount** for your filing status. If the amount on line E equals or is less than the **base amount** for your filing status, none of your benefits are taxable this year. If the amount on line E is more than your **base amount**, some of your benefits may be taxable. You need to complete [Worksheet 1](#). If none of your benefits are taxable, but you otherwise must file a tax return, see [Benefits not taxable](#), later, under *How To Report Your Benefits*.

Examples

Example 1. George White is single and files Form 1040 for 2019. In addition to receiving social security payments, he received a fully taxable pension of \$18,600, wages from a part-time job of \$9,400, and taxable interest income of \$990, for a total of \$28,990. He received a Form SSA-1099 in January 2020 that shows his net social security benefits of \$5,980 in box 5.

To figure his taxable benefits, George completes Worksheet 1, shown below. On line 5a of his Form 1040, George enters his net benefits of \$5,980. On line 5b, he enters his taxable benefits of \$2,990.

Filled-in Worksheet 1. Figuring Your Taxable Benefits

Keep for Your Records 

Before you begin:

- If you are married filing separately and you lived apart from your spouse for all of 2019, enter "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a.
- Don't use this worksheet if you repaid benefits in 2019 and your total repayments (box 4 of Forms SSA-1099 and RRB-1099) were more than your gross benefits for 2019 (box 3 of Forms SSA-1099 and RRB-1099). None of your benefits are taxable for 2019. For more information, see *Repayments Made Than Gross Benefits*.
- If you are filing Form 1041, exclusion of interest from Series EE and I U.S. Savings Bonds issued after 1989, don't include the amount from line 2b of Form 1040 or 1040-SR on line 3 of this worksheet. Instead, include the amount from Schedule B (Form 1040 or 1040-SR), line 2.

1. Enter the total amount from box 5 of ALL your Forms SSA-1099 and RRB-1099 . Also, enter this amount on Form 1040 or 1040-SR, line 5a	1.	\$5,980	
2. Multiply line 1 by 50% (0.50)	2.		2,990
3. Combine the amounts from Form 1040 or 1040-SR, lines 1, 2b, 3b, 4b, 4d, 6, and Schedule 1 (Form 1040 or 1040-SR), line 9	3.		28,990
4. Enter the amount, if any, from Form 1040 or 1040-SR, line 2a	4.		-0-
5. Enter the total of any exclusions/adjustments for: <ul style="list-style-type: none"> • Adoption benefits (Form 8839, line 28) • Foreign earned income or housing (Form 2555, lines 45 and 50), and • Certain income of bona fide residents of American Samoa (Form 4563, line 15) or Puerto Rico 	5.		-0-
6. Combine lines 2, 3, 4, and 5	6.		31,980
7. Enter the amounts from Schedule 1 (Form 1040 or 1040-SR), lines 10 through 19, and any write-in adjustments you entered on the dotted line next to Schedule 1 (Form 1040 or 1040-SR), line 22	7.		-0-
8. Is the amount on line 7 less than the amount on line 6?			
No. <input checked="" type="radio"/> None of your social security benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b.			
Yes. <input type="radio"/> Subtract line 7 from line 6	8.		31,980
9. If you are: <ul style="list-style-type: none"> • Married filing jointly, enter \$32,000 • Single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019, enter \$25,000 Note. If you are married filing separately and you lived with your spouse at any time in 2019, skip lines 9 through 16; multiply line 8 by 85% (0.85) and enter the result on line 17. Then, go to line 18.	9.		25,000
10. Is the amount on line 9 less than the amount on line 8?			
No. <input checked="" type="radio"/> None of your benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b. If you are married filing separately and you lived apart from your spouse for all of 2019, be sure you entered "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a.			
Yes. <input type="radio"/> Subtract line 9 from line 8	10.		5,980
11. Enter \$12,000 if married filing jointly, \$9,000 if single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019	11.		9,000
12. Subtract line 11 from line 10. If zero or less, enter -0-	12.		-0-
13. Enter the smaller of line 10 or line 11	13.		5,980
14. Multiply line 13 by 50% (0.50)	14.		2,990
15. Enter the smaller of line 2 or line 14	15.		2,990
16. Multiply line 12 by 85% (0.85). If line 12 is zero, enter -0-	16.		-0-
17. Add lines 15 and 16	17.		2,990
18. Multiply line 1 by 85% (0.85)	18.		5,083
19. Taxable benefits. Enter the smaller of line 17 or line 18. Also, enter this amount on Form 1040 or 1040-SR, line 5b	19.		2,990

TIP  If you received a lump-sum payment in 2019 that was for an earlier year, also complete Worksheet 2 or 3 and Worksheet 4 to see if you can report a lower taxable benefit.

Example 2. Ray and Alice Hopkins file a joint return on Form 1040 for 2019. Ray is retired and received a fully taxable pension of \$15,500. He also received social security benefits, and his Form SSA-1099 for 2019 shows net benefits of \$5,600 in box 5. Alice worked during the year and had wages of \$14,000. She made a deductible payment to her IRA account of \$1,000 and isn't covered by a retirement plan at work. Ray and Alice have two savings accounts with a total of \$250 in taxable interest income. They complete Worksheet 1, shown below, entering \$29,750 (\$15,500 + \$14,000 + \$250) on line 3. They find none of Ray's social security benefits are taxable. On Form 1040, they enter \$5,600 on line 5a and -0- on line 5b.

Filed-in Worksheet 1. Figuring Your Taxable Benefits

Keep for Your Records 

Before you begin:

- If you are married filing separately and you **lived apart** from your spouse for all of 2019, enter "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a.
- Don't use this worksheet if you received benefits in 2019 and your total payments (box 4 of Forms SSA-1099 and RRB-1099) were more than your gross benefits for 2019 (box 3 of Forms SSA-1099 and RRB-1099). None of your benefits are taxable for 2019. For more information, see [Figuring Social Security and Railroad Retirement Benefits](#).
- If you are filing Form 9915, Exclusion of Interest From Series EE and U.S. Savings Bonds Issued After 1989, don't include the amount from line 2b of Form 1040 or 1040-SR on line 3 of this worksheet. Instead, include the amount from Schedule B (Form 1040 or 1040-SR), line 2.

1. Enter the total amount from box 5 of ALL your Forms SSA-1099 and RRB-1099 . Also, enter this amount on Form 1040 or 1040-SR, line 5a	1. <u>55,600</u>	
2. Multiply line 1 by 50% (0.50)		2. <u>2,800</u>
3. Combine the amounts from: Form 1040 or 1040-SR, lines 1, 2b, 3b, 4b, 4d, 6, and Schedule 1 (Form 1040 or 1040-SR), line 9		3. <u>29,750</u>
4. Enter the amount, if any, from Form 1040 or 1040-SR, line 2a		4. <u>-0-</u>
5. Enter the total of any exclusions/adjustments for: <ul style="list-style-type: none"> • Adoption benefits (Form 8839, line 28) • Foreign earned income or housing (Form 2555, lines 45 and 50), and • Certain income of bona fide residents of American Samoa (Form 4563, line 15) or Puerto Rico 		5. <u>0</u>
6. Combine lines 2, 3, 4, and 5		6. <u>32,550</u>
7. Enter the amounts from Schedule 1 (Form 1040 or 1040-SR), lines 10 through 19, and any write-in adjustments you entered on the dotted line next to Schedule 1 (Form 1040 or 1040-SR), line 22		7. <u>1,000</u>
8. Is the amount on line 7 less than the amount on line 6?		
No. <input checked="" type="radio"/> None of your social security benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b.		
Yes. Subtract line 7 from line 6		8. <u>31,550</u>
9. If you are: <ul style="list-style-type: none"> • Married filing jointly, enter \$32,000 • Single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019, enter \$25,000 Note. If you are married filing separately and you lived with your spouse at any time in 2019, skip lines 9 through 16; multiply line 8 by 85% (0.85) and enter the result on line 17. Then, go to line 18.		9. <u>32,000</u>
10. Is the amount on line 9 less than the amount on line 8?		
No. <input checked="" type="radio"/> None of your benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b. If you are married filing separately and you lived apart from your spouse for all of 2019, be sure you entered "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a.		
Yes. Subtract line 9 from line 8		10. _____
11. Enter \$12,000 if married filing jointly; \$9,000 if single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019		11. _____
12. Subtract line 11 from line 10. If zero or less, enter -0-		12. _____
13. Enter the smaller of line 10 or line 11		13. _____
14. Multiply line 13 by 50% (0.50)		14. _____
15. Enter the smaller of line 2 or line 14		15. _____
16. Multiply line 12 by 85% (0.85). If line 12 is zero, enter -0-		16. _____
17. Add lines 15 and 16		17. _____
18. Multiply line 1 by 85% (0.85)		18. _____
19. Taxable benefits. Enter the smaller of line 17 or line 18. Also, enter this amount on Form 1040 or 1040-SR, line 5b		19. _____



If you received a lump-sum payment in 2019 that was for an earlier year, also complete Worksheet 2 or 3 and Worksheet 4 to see if you can report it as a taxable benefit.

the SEEB portion of tier 1 railroad retirement benefits. Joe's Form RRB-1099 shows \$10,000 in box 5. Betty is a retired government worker and received a fully taxable pension of \$38,000. They had \$2,300 in taxable interest income plus interest of \$200 on a qualified U.S. savings bond. The savings bond interest qualified for the exclusion. They figure their taxable benefits by completing Worksheet 1, shown below. Because they have qualified U.S. savings bond interest, they follow the note at the beginning of the worksheet and use the amount from line 2 of their Schedule B (Form 1040 or 1040-SR) on line 3 of the worksheet instead of the amount from line 2b of their Form 1040. On line 3 of the worksheet, they enter \$40,500 (\$38,000 + \$2,500). More than 50% of Joe's net benefits are taxable because the income on line 8 of the worksheet (\$45,500) is more than \$44,000. (See [Maximum Taxable](#) part under *How Much Is Taxable*, earlier.) Joe and Betty enter \$10,000 on Form 1040, line 5a; and \$6,275 on Form 1040, line 5b.

Filed-in Worksheet 1. Figuring Your Taxable Benefits

Keep for Your Records 

Before you begin:

- If you are married filing separately and you lived apart from your spouse for all of 2019, enter "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a.
- Don't use this worksheet if you received benefits in 2019 and your total payments (box 4 of Forms SSA-1099 and RRB-1099) were more than your gross benefits for 2019 (box 3 of Forms SSA-1099 and RRB-1099). None of your benefits are taxable for 2019. For more information, see [Receiving More Than Gross Benefits](#).
- If you are filing Form 9913, *Exclusion of Interest From Taxes EE* and U.S. Savings Bonds Issued After 1989, don't include the amount from line 2b of Form 1040 or 1040-SR on line 3 of this worksheet. Instead, include the amount from Schedule B (Form 1040 or 1040-SR), line 2.

1. Enter the total amount from box 5 of ALL your Forms SSA-1099 and RRB-1099. Also, enter this amount on Form 1040 or 1040-SR, line 5a	1.	\$10,000	2.	5,000
2. Multiply line 1 by 50% (0.50)				
3. Combine the amounts from Form 1040 or 1040-SR, lines 1, 2b, 3b, 4b, 4c, 6, and Schedule 1 (Form 1040 or 1040-SR), line 9	3.	40,500		
4. Enter the amount, if any, from Form 1040 or 1040-SR, line 2a	4.	-0-		
5. Enter the total of any exclusions/adjustments for: <ul style="list-style-type: none"> Adoption benefits (Form 8839, line 25) Foreign earned income or housing (Form 2555, lines 45 and 50), and Certain income of bona fide residents of American Samoa (Form 4563, line 15) or Puerto Rico 	5.	-0-		
6. Combine lines 2, 3, 4, and 5	6.	45,500		
7. Enter the amounts from Schedule 1 (Form 1040 or 1040-SR), lines 10 through 19, and any write-in adjustments you entered on the dotted line next to Schedule 1 (Form 1040 or 1040-SR), line 22	7.	-0-		
8. Is the amount on line 7 less than the amount on line 6? <p>No. <input checked="" type="radio"/> None of your social security benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b.</p> <p>Yes. Subtract line 7 from line 6</p>	8.	45,500		
9. If you are: <ul style="list-style-type: none"> Married filing jointly, enter \$32,000 Single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019, enter \$25,000 <p>Note: If you are married filing separately and you lived with your spouse at any time in 2019, skip lines 9 through 16; multiply line 5 by 85% (0.85) and enter the result on line 17. Then, go to line 18.</p>	9.	22,000		
10. Is the amount on line 9 less than the amount on line 8? <p>No. <input checked="" type="radio"/> None of your benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b. If you are married filing separately and you lived apart from your spouse for all of 2019, be sure you entered "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a.</p> <p>Yes. Subtract line 9 from line 8</p>	10.	13,500		
11. Enter \$12,000 if married filing jointly, \$9,000 if single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019	11.	12,000		
12. Subtract line 11 from line 10. If zero or less, enter -0-	12.	1,500		
13. Enter the smaller of line 10 or line 11	13.	12,000		
14. Multiply line 13 by 50% (0.50)	14.	6,000		
15. Enter the smaller of line 2 or line 14	15.	5,000		
16. Multiply line 12 by 85% (0.85). If line 12 is zero, enter -0-	16.	1,275		
17. Add lines 15 and 16	17.	6,275		
18. Multiply line 1 by 85% (0.85)	18.	8,500		
19. Taxable benefits. Enter the smaller of line 17 or line 18. Also, enter this amount on Form 1040 or 1040-SR, line 5b	19.	6,275		

TIP If you received a lump-sum payment in 2019 that was for an earlier year, also complete Worksheet 2 or 3 and Worksheet 4 to see if you can report a lower taxable benefit.

Example 4. Bill and Eileen Jones are married and live together, but file separate Form 1040 returns for 2019. Bill earned \$8,000 during 2019. The only other income he had for the year was \$4,000 net social security benefits (box 5 of his Form SSA-1099). Bill figures his taxable benefits by completing Worksheet 1, shown below. He must include 85% of his social security benefits in his taxable income because he is married filing separately and lived with his spouse during 2019. See [How Much Is Taxable](#), earlier. Bill enters \$4,000 on his Form 1040, line 5a; and \$3,400 on Form 1040, line 5b.

Filed-in Worksheet 1. Figuring Your Taxable Benefits

Keep for Your Records



Before you begin:

- If you are married filing separately and you **lived apart** from your spouse for all of 2019, enter "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a.
- Don't use this worksheet if you **received** benefits in 2019 and your total repayments (box 4 of Forms SSA-1099 and RRB-1099) were more than your gross benefits for 2019 (box 3 of Forms SSA-1099 and RRB-1099). None of your benefits are taxable for 2019. For more information, see [Repayments More Than Gross Benefits](#).
- If you are filing Form 8815, Exclusion of Interest From Series EE and I U.S. Savings Bonds Issued After 1989, don't include the amount from line 2b of Form 1040 or 1040-SR on line 3 of this worksheet. Instead, include the amount from Schedule B (Form 1040 or 1040-SR), line 2.

1. Enter the total amount from box 5 of ALL your Forms SSA-1099 and RRB-1099 . Also, enter this amount on Form 1040 or 1040-SR, line 5a	1.	\$4,000	2.	2,000
2. Multiply line 1 by 50% (0.50)			3.	8,000
3. Combine the amounts from Form 1040 or 1040-SR, lines 1, 2b, 3b, 4b, 4d, 6, and Schedule 1 (Form 1040 or 1040-SR), line 9	4.		4.	-0-
4. Enter the amount, if any, from Form 1040 or 1040-SR, line 2a			5.	-0-
5. Enter the total of any exclusions/adjustments for: • Adoption benefits (Form 8839, line 2b), • Foreign earned income or housing (Form 2555, lines 45 and 50), and • Certain income of bona fide residents of American Samoa (Form 4563, line 15) or Puerto Rico	6.		6.	10,000
6. Combine lines 2, 3, 4, and 5			7.	-0-
7. Enter the amounts from Schedule 1 (Form 1040 or 1040-SR), lines 10 through 19, and any write-in adjustments you entered on the dotted line next to Schedule 1 (Form 1040 or 1040-SR), line 22				
8. Is the amount on line 7 less than the amount on line 6? No. <input checked="" type="radio"/> None of your social security benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b. Yes. Subtract line 7 from line 6	8.		8.	10,000
9. If you are: • Married filing jointly, enter \$32,000 • Single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019, enter \$25,000 Note. If you are married filing separately and you lived with your spouse at any time in 2019, skip lines 9 through 16; multiply line 8 by 85% (0.85) and enter the result on line 17. Then, go to line 18.	9.		9.	
10. Is the amount on line 9 less than the amount on line 8? No. <input checked="" type="radio"/> None of your benefits are taxable. Enter -0- on Form 1040 or 1040-SR, line 5b. If you are married filing separately and you lived apart from your spouse for all of 2019, be sure you entered "D" to the right of the word "benefits" on Form 1040 or 1040-SR, line 5a. Yes. Subtract line 9 from line 8	10.		10.	
11. Enter \$12,000 if married filing jointly, \$9,000 if single, head of household, qualifying widow(er), or married filing separately and you lived apart from your spouse for all of 2019	11.		11.	
12. Subtract line 11 from line 10. If zero or less, enter -0-	12.		12.	
13. Enter the smaller of line 10 or line 11	13.		13.	
14. Multiply line 13 by 50% (0.50)	14.		14.	
15. Enter the smaller of line 2 or line 14	15.		15.	
16. Multiply line 12 by 85% (0.85). If line 12 is zero, enter -0-	16.		16.	
17. Add lines 15 and 16	17.		17.	8,500
18. Multiply line 1 by 85% (0.85)	18.		18.	3,400
19. Taxable benefits. Enter the smaller of line 17 or line 18. Also, enter this amount on Form 1040 or 1040-SR, line 5b	19.		19.	53,400



If you received a lump-sum payment in 2019 that was for an earlier year, also complete Worksheet 2 or 3 and Worksheet 4 to see if you can report a lower taxable benefit.

ADJUSTMENTS TO INCOME

- Educator Expense -- \$ 250 out-of-pocket
- Moving Expense – Active Duty Military Only
- SE Tax – $\frac{1}{2}$ Self Employment Tax
- Alimony Paid – before January 01, 2019

EDUCATOR EXPENSE

- \$ 250 out-of-pocket
- Classroom supplies
- PPE – personal protective equipment

HEALTH SAVINGS ACCOUNT

1. Participated in a High Deductible Health Insurance Plan.
2. Annual contribution limitation of \$ 3,550 for individual coverage and \$ 7,100 for family coverage.
3. If over age 55 there is an additional \$ 1,000 contribution allowed.
4. Medicare recipients may not contribute to an HSA but may take distributions out of an HSA.
5. 20% Penalty for distributions not used for medical expenses.

**HSA
REPORTING**

W-2

Box 12

Code w

Form 8889

STUDENT LOAN INTEREST

- Student Loan Interest – up to \$ 2,500
 - 2018-2025: discharge due to death or disability
- Reduced by:
 - ✓ Nontaxable employer-provided educational assistance.
 - ✓ Nontaxable distributions from Coverdell education savings account.
 - ✓ Nontaxable distributions from QTP.
 - ✓ U.S. Savings Bonds interest used to pay for qualified higher education expense.
 - ✓ Nontaxable scholarship or fellowship.
 - ✓ Veteran's educational assistance.
 - ✓ Nontaxable gifts, bequests or inheritances received for educational expense.

Part II Adjustments to Income

10	Educator expenses	10	
11	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106	11	
12	Health savings account deduction. Attach Form 8889	12	
13	Moving expenses for members of the Armed Forces. Attach Form 3903	13	
14	Deductible part of self-employment tax. Attach Schedule SE	14	
15	Self-employed SEP, SIMPLE, and qualified plans	15	
16	Self-employed health insurance deduction	16	
17	Penalty on early withdrawal of savings	17	
18a	Alimony paid	18a	
	b Recipient's SSN ▶		
	c Date of original divorce or separation agreement (see instructions) ▶ _____		
19	IRA deduction	19	
20	Student loan interest deduction	20	
21	Tuition and fees deduction. Attach Form 8917	21	
22	Add lines 10 through 21. These are your adjustments to income. Enter here and on Form 1040, 1040-SR, or 1040-NR, line 10a	22	

ITEMIZED DEDUCTIONS



Medical & Dental – 7.5% of AGI



SALT (State & Local Tax) –
Maximum \$ 10,000



Home Mortgage &
Home Equity
Interest – Buy, Build
or Improve

\$ 750,000 debt
after
12/15/2017
\$ 1 M before
12/15/2017

Taxes You Paid

5 State and local taxes.

a State and local income taxes or general sales taxes. You may include either income taxes or general sales taxes on line 5a, but not both. If you elect to include general sales taxes instead of income taxes, check this box

b State and local real estate taxes (see instructions)

c State and local personal property taxes

d Add lines 5a through 5c

e Enter the smaller of line 5d or \$10,000 (\$5,000 if married filing separately)

6 Other taxes. List type and amount

7 Add lines 5e and 6

5a	
5b	
5c	
5d	
5e	
6	
7	

Table 11-1. Which Taxes Can You Deduct?

Type of Tax	You Can Deduct	You Can't Deduct
Fees and Charges	Fees and charges that are expenses of your trade or business or of producing income.	Fees and charges that aren't expenses of your trade or business or of producing income, such as fees for driver's licenses, car inspections, parking, or charges for water bills (see Taxes and Fees You Can't Deduct). Fines and penalties.
Income Taxes	State and local income taxes. Foreign income taxes. Employee contributions to state funds listed under Contributions to state benefit funds .	Federal income taxes. Employee contributions to private or voluntary disability plans. State and local general sales taxes if you choose to deduct state and local income taxes.
General Sales Taxes	State and local general sales taxes, including compensating use taxes.	State and local income taxes if you choose to deduct state and local general sales taxes.
Other Taxes	Taxes that are expenses of your trade or business. Taxes on property producing rent or royalty income. One-half of self-employment tax paid.	Federal excise taxes, such as tax on gasoline, that aren't expenses of your trade or business or of producing income. Per capita taxes.
Personal Property Taxes	State and local personal property taxes.	Customs duties that aren't expenses of your trade or business or of producing income.
Real Estate Taxes	State and local real estate taxes. Tenant's share of real estate taxes paid by cooperative housing corporation.	Real estate taxes that are treated as imposed on someone else (see Division of real estate taxes between buyers and sellers). Foreign real estate taxes. Taxes for local benefits (with exceptions). See Real Estate-Related Items You Can't Deduct . Trash and garbage pickup fees (with exceptions). See Real Estate-Related Items You Can't Deduct . Rent increase due to higher real estate taxes. Homeowners' association charges.

MORTGAGE INTEREST



Form 1098 – reports
interest, mortgage
insurance premium (PMI)



Address of property

Gifts to Charity <i>Caution:</i> If you made a gift and got a benefit for it, see instructions.	11 Gifts by cash or check. If you made any gift of \$250 or more, see instructions	11	
	12 Other than by cash or check. If you made any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500. . . .	12	
	13 Carryover from prior year	13	
	14 Add lines 11 through 13		14

- **Charitable Contributions**
 - **60% of AGI**
 - **Qualified Organization**
 - **No Athletic Tickets**
 - **> \$ 250 requires Contemporaneous Written Acknowledgement**

Examples of Qualified and Nonqualified Organizations

Qualified

- ❖ Churches, mosques, temples, synagogues.
- ❖ Boy and Girl Scouts, Boys and Girls Clubs of America, Red Cross, Goodwill, Salvation Army, United Way.
- ❖ Fraternal orders, if gifts used for qualified charitable purposes.
- ❖ Veterans' and certain cultural groups.
- ❖ Nonprofit schools, colleges, museums, hospitals, and organizations trying to find medical cures.
- ❖ Federal, state, and local governments, if gifts are solely for public purposes, including nonprofit volunteer fire departments, public parks facilities, and civil defense organizations.

Nonqualified

- Country clubs, lodges, fraternal orders, and similar groups, unless used for charitable purposes.
- Civic leagues, social and sports clubs, labor unions and chambers of commerce.
- Political organizations and candidates.
- Communist organizations. [IRC §170(k)]
- Foreign organizations. Exceptions:
Contributions to certain Canadian, Israeli, and Mexican charities are deductible. See IRS Pub. 526.
- Homeowner's associations.

CASUALTY & THEFT LOSS

Federally Declared Disaster Areas Only

CASUALTY EXAMPLES

- Hurricanes
- Tornadoes
- Earthquakes
- Fire
- Flood
- Automobile accident
- Terrorist
- Vandalism
- Economic

NON-CASUALTY EXAMPLES

- Termite
- Rotten Timber
- Infestation
- Normal wear and tear
- Gradual or progressive deterioration

CALCULATING CASUALTY LOSS

1. Deduction limitation – the lesser of the adjusted tax basis or decrease in fair market value (FMV) of the property.
2. Reductions –
 - a. Insurance proceeds
 - b. \$ 100 per casualty event; AND
 - c. 10% of taxpayers adjusted gross income (AGI) for all casualty events for the tax year.
 - d. For federally declared disasters declared before February 19, 2020 and occurred in 2018 but before December 21, 2019 through January 19, 2020 the \$ 100 per casualty increased to \$ 500 and the 10% AGI reduction was eliminated.
3. Report Casualty on Schedule A of Form 1040 – if a taxpayer does not use that for the casualty loss it provides no tax benefit to the taxpayer.

CARES ACT PENALTY RELIEF

- 10% penalty relief, I.R.C. 72(t)(2)
- \$ 100,000 withdrawal
- 3-year repayment or tax-free rollover period

To qualify for the penalty, repayment or tax-free rollover the individual must meet the following criteria:

1. Diagnosed with COVID-19, verified with testing;
2. Spouse or dependent is diagnosed, verified with testing;
3. Experiences adverse financial consequences due to quarantine, furlough, lay off, work reduction due to COVID-19;
4. Experiences adverse financial consequences due to childcare, school, business closures due to COVID-19.

**MISCELLANEOUS ITEMIZED DEDUCTIONS
SUBJECT TO 2% OF AGI**

SUSPENDED

NON-REFUNDABLE CREDIT

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Against Tax Liability

Foreign Tax Credit – Form 1116

Child & Dependent Care

- Form 2441
- Qualified Depended under ag 13
- \$ 3,000 (one) or \$ 6,000 (more than one)
- **§ 125 -- \$ 5,000 Dependent Care Benefit**

EDUCATION CREDITS

- American Opportunity Credit
 - 1st Four Years of Post-Secondary Education
 - \$ 2,500 per student per year
- Lifetime Learning Credit
 - \$2,000 per year

Qualifying Student for AOTC:

- Be enrolled at post-secondary institution and may not have completed their fourth year.
- Must be enrolled at least half-time in a program leading to a degree, trade certificate or other recognized educational credential for at least one academic period beginning during the tax year.
- The student must not have been convicted of a drug related felony.

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- Must reduce qualifying educational expenses by any tax-free educational assistance, not including gifts and inheritance. For example:
 - Tax-free scholarships and fellowships.
 - Pell Grants.
 - Employer-provided educational assistance.
 - Veterans' educational assistance.
 - Nontaxable qualified tuition program and educational savings account distributions.
- Expenses paid with loan proceeds, like student loans, are deductible in the year incurred not in the year of the loan repayment.

QUALIFIED EDUCATION EXPENSES



Qualified tuition, fees and related materials like books, supplies and equipment needed for course studies.



(Lifetime Learning credit restricts eligible equipment to having to be paid directly to the institution as a requirement of enrollment or attendance)

Prepaid educational expenses do not qualify as the education expense must be paid in the same year the individual is enrolled.

CHILD TAX CREDIT UNDER TCJA

- **\$ 2,000 for each Qualifying Child**
- **Up to \$ 1,400 may be Refundable**
- **Inflation Indexed**
- **Must have a Qualifying Child**
- **Must have SSN**

QUALIFYING CHILD

**Child of
taxpayer who
is under ag 17**

**I.R.C. 152(c) --
Must Meet all
5 Tests of
Dependency**

5 TESTS FOR DEPENDENCY

- 1. Relationship – taxpayer’s child, foster child, brother, sister, step brother, stepsister, half-brother, half-sister or a descent of one of those relatives**
- 2. Residency – child must have lived with taxpayer for more than $\frac{1}{2}$ the year AND be a US Citizen, US National or US Resident**
- 3. Age – child must be under age 17 at the end of the year**
- 4. Joint Return – child may not file MFJ UNLESS it is to Claim a Refund Only**

6. Support – taxpayer must provide over $\frac{1}{2}$ of the individual's support

➤ Multiple Support Agreement (Form 2120)

- No one person provides over $\frac{1}{2}$ of the support;**
- Over $\frac{1}{2}$ support received from 2 or more persons**
- Taxpayer contributed 10% or more of his/her support**
- Each person (other than the taxpayer) contributed over 10% of support AND files a written declaration stating that person will not claim the individual as a dependent**

TIE-BREAKER RULES – QUALIFYING CHILD OF ANOTHER

- **The parent if they file a joint return;**
- **The parent, if only one of the persons is the child's parent;**
- **The parent with whom the child lived the longest during the tax year, defined by the number of nights;**
- **The parent or taxpayer with highest AGI if child lived with each the same amount of time**

RELEASE OF CTC

- **The child receives over ½ of support from parents;**
- **The parents are divorced or legally separated under a decree or judgement agreement;**
- **Shared custody; AND**
- **The parent releases Claim on Form 8332**

FIGURE 8.1 Form 8332 for Mary and Matt Jones

Form 8332 (Rev. January 2010) Department of the Treasury Internal Revenue Service	Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent ▶ Attach a separate form for each child.	OMB No. 1545-0074
		Attachment Sequence No. 115
Name of noncustodial parent Matt Jones	Noncustodial parent's social security number (SSN) ▶	000 : 00 : 0000
Part I Release of Claim to Exemption for Current Year		
I agree not to claim an exemption for <u>Jack Jones</u>		
for the tax year 20 <u>18</u> .	Name of child	
<u>Mary Jones</u>	000 : 00 : 0000	<u>1-1-2018</u>
Signature of custodial parent releasing claim to exemption	Custodial parent's SSN	Date

\$ 1,400 Maximum per QC

**15% of taxpayer's earned
income that exceeds \$ 2,500**

**\$ 11,833 of earned income to
qualify for full CTC (1,400/15%
+ 2,500)**

**REFUNDABLE
PART OF CTC**

FAMILY TAX CREDIT

- **\$ 500**
- **Qualifying Person**
 - **Qualifying Child – meets all CTC test except age, includes students age 19-24**
 - **Qualifying Relative**

QUALIFYING RELATIVE

- **A child or a descendant of a child**
- **A brother, sister, stepbrother, or stepsister**
- **The father or mother, or an ancestor or either**
- **A stepfather or step mother**
- **A Niece or Nephew (from siblings)**
- **An In-Law**
- **An individual, other than spouse, who was a member of the household at any time during the tax year**
- **AGI < Exemption Amount**

NOTICE 2018-70

- **Annual Exemption Limit (inflation indexed)**
- **Canadian & Mexican dependents who are not US Citizens or US Nationals DO NOT qualify for FTC**
- **2020 Exemption = \$ 4,300**

**DUE
DILIGENCE &
FORM 8867**

**I.R.C. § 6695(g) – requires return
preparer to exercise due diligence
for CTC, EITC, AOTC & HOH
Filing Status**

AFFORDABLE CARE ACT

- Requires Minimum Essential Coverage
- Share Responsibility Payment for Non-Coverage
 - Eliminated after 12/31/2018

Pages 80 - 85

**AFFORDABLE
CARE ACT**

Individual Shared
Responsibility Payment
=
\$ 0.00

Employer – ESRP still applies for ALE's that do not provide minimum essential coverage

Employee – ISR eliminated tax years after December 31, 2018

All other provisions still apply

ACA – SHARED RESPONSIBILITY

Filing Status	Threshold Amount
Married filing jointly	\$250,000
Married filing separate	\$125,000
Single	\$200,000
Head of household (with qualifying person)	\$200,000
Qualifying widow(er) with dependent child	\$200,000

ADDITIONAL MEDICARE TAX 0.9%

NET INVESTMENT INCOME TAX (NIIT)

3.8% Tax on Any Investment Income

Filing Status	Threshold Amount
Married filing jointly	\$250,000
Married filing separate	\$125,000
Single	\$200,000
Head of household (with qualifying person)	\$200,000
Qualifying widow(er) with dependent child	\$200,000

WHAT IS INVESTMENT INCOME FOR NIIT?

- Interest
- Dividends
- Net Capital Gains
- Rental Income
- Royalty Income
- Non-qualified Annuities
- Financial Instruments & Commodities Business Income

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Susie realized a capital loss of \$ 40,000 when she sold stock A; she also realized a \$ 10,000 capital gain when she sold stock B. She has a Net Capital Loss of \$ 30,000. Susie has no other gains/losses.

Her total income will consist of:

Wages	\$ 250,000
Interest	5,000
Capital Loss	<u><3,000></u>
Total Income & AGI	\$ 253,000



Her NIIT base is how much?

\$ 2,000

= \$ 5,000 (interest) - \$ 3,000 (capital loss)

How much is Susie's Capital Loss carry over?

\$ 27,000

= \$ 30,000 (cap loss) - \$ 3,000

OTHER GAINS TO INCLUDE

➤ Sale of a Primary
Residence, I.R.C. §121

➤ Stock, Bond, Mutual Funds

➤ Sale of Passive Activity
Interest in a Partnership
and/or S Corp

MAGI = AGI + ADD BACKS

➤ Foreign Earned Income (I.R.C.
§911(a)(1))

➤ Non-Resident Alien Income if MFJ to U.S.
Citizen or Resident Alien AND elect to be
treated as Resident Alien

➤ MJS if Non-Resident Alien does not elect

- Salaries, Wages & Compensation
- Social Security
- Alimony
- Unemployment Compensation
- Distributions from certain
Qualified Retirement Plans
- **Non-passive Business Income –
watch your pass through entities**
- Income from Self Employment
- Tax-Exempt Interest
- Alaska Permanent Fund Dividends

INCOME NOT CONSIDERED FOR NIIT



It's Time For A Break

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1996 DEFENSE OF MARRIAGE ACT, DOMA

Pg. 85

- Must be legally married in a state that recognizes same sex marriages
- May Amend back to 2011 if legally married in a state that recognized same sex marriage
- Registered Domestic Partnerships & Civil Unions DO NOT COUNT

****** 2015 June 26 – Supreme Court Case No 14-556, Obergefell et al., v. Hodges, Director of Ohio Dept of Health et al. ruled that all states must recognize same sex marriages.**

ESTIMATED TAX PAYMENTS

- 90% of Current Year Tax Liability
- 100% Prior Year's Tax Liability
- 110% Prior Year's Tax Liability High Income Taxpayers
 - \$ 150,000 MFJ, \$ 75,000 MFS
- Farmer's Special Rules – Page 86

THE CARES ACT: ECONOMIC IMPACT PAYMENTS

1. \$ 1,200 per taxpayer (\$ 2,400 MFJ);
2. \$ 500 per qualifying child (I.R.C. § 24(c));
3. AGI limitations – \$ 150,000 MFJ, \$ 112,000 HOH and \$ 75,000 all others;
4. Ineligible taxpayers – nonresident aliens, dependent of another, or an estate or trust.

THE COVID-RELATED TAX RELIEF ACT OF 2021 ECONOMIC IMPACT PAYMENTS

1. \$ 600 per taxpayer (\$ 1,200 MFJ);
2. \$ 600 per qualifying child (I.R.C. § 24(c)) with valid SSN or ATIN;
3. AGI limitations – \$ 150,000 MFJ, \$ 112,000 HOH and \$ 75,000 all others;
4. Ineligible taxpayers – nonresident aliens, dependent of another, or an estate or trust.

Name _____

Taxpayer Identification Number _____

2020 Tax Return Information

Filing Status

Economic impact payment for qualifying children: _____

- a. Children qualified for the child tax credit **a.** _____
- b. Children under 17 with adoption taxpayer identification number (ATIN) **b.** _____
- c. Add lines a and b. Total qualifying children with valid social security number(s) **c.** _____
- d. Multiply line c by \$500 and enter on line 6 below **d.** _____

1. Can you, or your spouse, if filing a joint return, be claimed as a dependent on another person's return?
 - No. Go to line 2.
 - Yes. **STOP** You can't take the credit.
2. Does your tax return include a valid social security number for you and, if filing a joint return, your spouse?
 - Yes. Skip lines 3 and 4 and go to line 5.
 - No. Go to line 3.
3. Are you filing a joint return for 2020?
 - Yes. Go to line 4.
 - No. **STOP** You can't take the credit.
4. Were either you or spouse a member of the U.S. Armed Forces at any time during 2020?
 - Yes. Go to line 5.
 - No. **STOP** You can't take the credit.
5. Enter \$1,200 (\$2,400 if married filing jointly) **5.** _____
6. Multiply \$500 by the number of qualifying children for whom you entered a valid social security number in the dependents section on Form 1040 or 1040-SR **6.** _____
7. Add lines 5 and 6 **7.** _____
8. Enter the amount from line 11 of Form 1040 or 1040-SR **8.** _____
9. Enter the amount shown below for your filing status:
 - \$150,000 if married filing jointly
 - \$112,500 if head of household.
 - \$75,000 if single or married filing separately, or qualifying widow(er)
 **9.** _____
10. Is the amount on line 8 more than the amount on line 9?
 - No. Skip line 11. Enter the amount from line 7 on line 12 below.
 - Yes. Subtract line 9 from line 8 **10.** _____
11. Multiply line 10 by 5% (0.05) **11.** _____
12. Subtract line 11 from line 7. If zero or less, enter -0- **12.** _____
13. Enter the amount, if any, of the economic impact payment you received (before offset) as shown on Notice 1444. If filing a joint return, include your spouse's payment as shown on your spouse's Notice 1444. If you filed a joint return for 2019 and received an economic impact payment, you and your spouse are each treated as having received half of the payment **13.** _____
14. Recovery rebate credit for 2020. Subtract line 13 from line 12. If zero or less, enter -0-. Enter the result here and, if more than zero, on line 30 of Form 1040 or 1040-SR. If line 13 is more than line 12, you don't have to pay back the difference **14.** _____

REFUNDABLE CREDITS

Less than Zero Tax Liability

Earned
Income Tax
Credit

Additional
Child Tax
Credit

American
Opportunity
Credit

Net
Premium
Tax Credit

- If you have a qualifying child, attach Sch. EIC.
- If you have nontaxable combat pay, see instructions.

26	2020 estimated tax payments and amount applied from 2019 return		26
27	Earned income credit (EIC)	27	
28	Additional child tax credit. Attach Schedule 8812	28	
29	American opportunity credit from Form 8863, line 8	29	
30	Recovery rebate credit. See instructions	30	
31	Amount from Schedule 3, line 13	31	
32	Add lines 27 through 31. These are your total other payments and refundable credits . . . ▶		32
33	Add lines 25d, 26, and 32. These are your total payments ▶		33

**EACH
CHILD
CLAIMED**

1. Must have valid Social Security Number for each child;
2. Must be biological, adopted, step, foster or grand child;
3. Must be the taxpayer's sibling or descendant of their sibling;
4. Must be younger than the taxpayer AND younger than age 19 (24 if full-time student) OR any age if Permanently & Totally Disabled; AND
5. Must have lived with the taxpayer in the U.S. for more than half the year.

Table 1. Earned Income Credit in a Nutshell

First, you must meet all the rules in this column.		Second, you must meet all the rules in one of these columns, whichever applies.		Third, you must meet the rule in this column.
Chapter 1. Rules for Everyone		Chapter 2. Rules If You Have a Qualifying Child	Chapter 3. Rules If You Do Not Have a Qualifying Child	Chapter 4. Figuring and Claiming the EIC
<p>1. Your adjusted gross income (AGI) must be less than:</p> <ul style="list-style-type: none"> • \$48,340 (\$53,930 for married filing jointly) if you have three or more qualifying children, • \$45,007 (\$50,597 for married filing jointly) if you have two qualifying children, • \$39,617 (\$45,207 for married filing jointly) if you have one qualifying child, or • \$15,010 (\$20,600 for married filing jointly) if you don't have a qualifying child. 	<p>2. You must have a valid social security number by the due date of your 2017 return (including extensions).</p> <p>3. Your filing status can't be married filing separately.</p> <p>4. You must be a U.S. citizen or resident alien all year.</p> <p>5. You can't file Form 2555 or Form 2555-EZ (relating to foreign earned income).</p> <p>6. Your investment income must be \$3,450 or less.</p> <p>7. You must have earned income.</p>	<p>8. Your child must meet the relationship, age, residency, and joint return tests.</p> <p>9. Your qualifying child can't be used by more than one person to claim the EIC.</p> <p>10. You can't be a qualifying child of another person.</p>	<p>11. You must be at least age 25 but under age 65.</p> <p>12. You can't be the dependent of another person.</p> <p>13. You can't be a qualifying child of another person.</p> <p>14. You must have lived in the United States more than half of the year.</p>	<p>15. Your earned income must be less than:</p> <ul style="list-style-type: none"> • \$48,340 (\$53,930 for married filing jointly) if you have three or more qualifying children, • \$45,007 (\$50,597 for married filing jointly) if you have two qualifying children, • \$39,617 (\$45,207 for married filing jointly) if you have one qualifying child, or • \$15,010 (\$20,600 for married filing jointly) if you don't have a qualifying child.

2020 EITC THRESHOLDS

- Find the maximum AGI, investment income and credit amounts for tax year 2020.

- **Investment income limit:** \$3,650 or less

- **Maximum Credit Amounts**

The maximum amount of credit you can claim

- No qualifying children: \$538
- 1 qualifying child: \$3,584
- 2 qualifying children: \$5,920
- 3 or more qualifying children: \$6,660

Children or Relatives Claimed	Maximum AGI (filing as Single, Head of Household or Widowed)	Maximum AGI (filing as Married Filing Jointly)
Zero	\$15,820	\$21,710
One	\$41,756	\$47,646
Two	\$47,440	\$53,330
Three	\$50,594	\$56,844

CIRCULAR 230 § 10.33(A)(1-4)

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- *Communicating clearly with the client about the terms of the engagement.*
- *Establish the facts, determining which facts are relevant, evaluating the reasonableness of any assumptions or representations, relating the applicable law to the relevant facts, and arriving at a conclusion supported by the law and facts.*
- *Advising the client about the import of the conclusions reached, including, for example, whether a taxpayer can avoid accuracy-related penalties under the Code (§ V-2000 et seq.) if a taxpayer acts in reliance on the advice.*
- *Acting fairly and with integrity in practice before the IRS.*

WHAT IS PREPARER COMPLIANCE?

- Providing Credible Advice
- Providing Knowledgeable Advice
- Providing Advice rooted in facts based upon Statute
- Training subordinates to meet standards

TREAS. REG. § 1.6695-2

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- 1. Meet the knowledge requirement**
 - **Interview**
 - **Adequately Question**
 - **Contemporaneously Documentation Questions & Responses**
 - **Review all information before claiming credit or allowing filing status**
- 2. Not know or have reason to know information is correct and accurate**
- 3. Cannot ignore implications of any information given by the client or known by practitioner – must ask more questions to meet knowledge requirement**
- 4. Complete Form 8867 Truthfully**
- 5. Submit Form 8867 timely**

PURPOSE OF IRS FORM 8867, PAID PREPARERS EARNED INCOME CREDIT, CHILD TAX CREDIT & HOH CHECKLIST & DUE DILIGENCE

“Paid preparers of federal income tax returns or claims for refund involving the EIC must meet due diligence requirements in determining the taxpayer's eligibility for, and the amount of, the EIC. Failure to do so could result in a \$520 penalty for each failure. See Internal Revenue Code section 6695(g) and Part IV of this form.”

COMPLIANCE

Reg § 1.6694-2(d)(3)(i)(C)

“the tax return preparers must also contemporaneously document the advice in the tax return preparer’s file”

- **For example,** if we use a taxpayer's Social Security Card, Driver's License and Dependents Social Security Card we should now retain a copy in that clients file.

We should also document on our intake sheet how we determined the taxpayer was eligible for the EITC, on what date, and who provided the information. This is above and beyond just answering the questions on IRS Form 8867.

- **For example,** 02/10/21 – met with Suzy, made a copy of her DL, SS Card as well as Tommy (dependent) SS Card. Verified Tommy's Birthdate with Suzy and determined he meets the dependent criteria for both exemption and EITC.

REASONABLE KNOWLEDGE

- Friends & Family
- Example:
 - You are having dinner with Jane & Lou on New Year's Eve. They tell you they had a stellar year in their Florist Shop, which you report on a Schedule C, and indicate their Net Profit is over \$ 75,000. When Jane & Lou come in March to get their taxes done and their Net Profit, according to the handwritten sheet of paper with Income and Expenses on it indicates a Net Profit of \$ 19,050, they have three children and they do not want to claim any depreciation. You also notice Jane is driving a new full-size SUV and they are excited that they were able to pay cash for the vehicle.
- What do you do?

LONG-TIME CLIENTS

- For example:
 - Suzy Taxpayer has been a long-time client. She states she is claiming Johnny (son, 8) and Tammy (niece, 12); this is the first year Tammy is being claimed by Suzy. Both children lived with Suzy the entire year, she provided their entire support and no other adult lived in the home at any time during the year.
- **What do you do?** We can more easily substantiate claiming Johnny than Tammy. With regard to Tammy we need to ask more questions about where her biological parents are, who placed her in the home with Suzy as well as asking to see Tammy's Social Security card, perhaps even a Birth Certificate to validate the Birthdate.

IRS PATTERNING

If a preparer prepares an above average number of returns with Schedule C included and of those Schedule C returns an above average number received EITC, then the IRS WILL review that preparer's filed returns.

DOCUMENT RETENTION

- You must keep records for 3 years from the latest of the following dates that apply:
 - The due date of the tax return (NOT including extensions)
 - The date the return was filed (if you are a signing tax return preparer electronically filing the return)
 - The date the return was presented to the taxpayer for signature (if you are a signing tax return preparer not electronically filing the return)
 - The date you submitted to the signing tax return preparer to part of the return for which you were responsible (if you are a non-signing tax return preparer)

Keep all five of the following records for 3 years from the latest of the dates specified in the instructions under Document Retention:

- a. Form 8867, Paid Preparer's Earned Income Credit Checklist,*
- b. The EIC worksheet(s) or your own worksheet,*
- c. Copies of any taxpayer documents you relied on to determine eligibility for or amount of EIC,*
- d. A record of how, when, and from whom the information used to prepare the form and worksheet(s) was obtained, and*
- e. A record of any additional questions you asked and your client's answers.*

Part VI Eligibility Certification

- ▶ **You will have complied with all due diligence requirements for claiming the applicable credit(s) and/or HOH filing status on the return of the taxpayer identified above if you:**
 - A. Interview the taxpayer, ask adequate questions, contemporaneously document the taxpayer’s responses on the return or in your notes, review adequate information to determine if the taxpayer is eligible to claim the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s);
 - B. Complete this Form 8867 truthfully and accurately and complete the actions described in this checklist for any applicable credit(s) claimed and HOH filing status, if claimed;
 - C. Submit Form 8867 in the manner required; **and**
 - D. Keep all five of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under *Document Retention*.
 - 1. A copy of this Form 8867.
 - 2. The applicable worksheet(s) or your own worksheet(s) for any credit(s) claimed.
 - 3. Copies of any documents provided by the taxpayer on which you relied to determine the taxpayer’s eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s).
 - 4. A record of how, when, and from whom the information used to prepare this form and the applicable worksheet(s) was obtained.
 - 5. A record of any additional information you relied upon, including questions you asked and the taxpayer’s responses, to determine the taxpayer’s eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s).
- ▶ **If you have not complied with all due diligence requirements, you may have to pay a \$540 penalty for each failure to comply related to a claim of an applicable credit or HOH filing status.**

15 Do you certify that all of the answers on this Form 8867 are, to the best of your knowledge, true, correct, and complete?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Form **886-H-EIC**
(October 2019)

Department of the Treasury—Internal Revenue Service

Documents You Need to Send to Claim the Earned Income Credit on the Basis of a Qualifying Child or Children for Tax Year 2019

Taxpayer name	Taxpayer Identification Number	Tax year
---------------	--------------------------------	----------

To get Earned Income Credit (EIC), the child must have lived with you, be related to you and be a certain age.

Para recibir el Crédito por Ingreso del Trabajo (EIC, por sus siglas en inglés), el niño tiene que haber convivido con usted, ser su pariente, y tener una edad específica. Visite IRS.gov/espanol para buscar la versión en español del Formulario 886-H-EIC (SP) (Rev. 10-2019) o llame al 1-800-829-3676.

Visit IRS.gov/eic to find out more about who qualifies for EIC.

1. Each child that you claim must have lived with you for more than half of 2019* in the United States. The United States includes the 50 states and the District of Columbia. It doesn't include Puerto Rico or U.S. possessions such as Guam.

*Count time that you or the child is temporarily away from home due to special circumstances as time the child lived with you. Examples include illness, college, business, vacation, military service or detention in a juvenile facility.

To prove the child lived with you in the United States, the document(s) must have:

- your U.S. address, your name, and the child's name. (If you use a P.O. Box as your mailing address, you must send a completed Form 1093, P.O. Box Application stamped by the Post Office)
- the dates in 2019 the child lived at the same address as you must cover more than half of 2019
- if the document has the child's name and your address but not your name, you need to send in another document with your name showing the same address

You can send one or more of the following documents to prove the child lived with you for more than half of 2019:

- school records (you may need to send one or more school records)
- Medical records from doctors, hospital or medical clinic (immunization records may not include all the necessary information)
- adoption or child placement documents
- court records

Or, send dated statements on letterhead from:

- the child's school
- the child's childcare provider (not a relative)
- the child's health care provider, doctor, nurse or clinic
- a social service agency
- a placement agency official
- your employer
- an Indian tribal official
- your landlord or property manager
- a place of worship
- shelters

2. Each child that you claim must be related to you in one of the ways listed below, if the child is:

Then, send in copies of:

Your son or daughter (including an adopted child)

Nothing at this time, go to Section 3.
If your name is **not on** the child's birth certificate, send us other records or documents proving you are the parent such as adoption records, court decree or paternity test results.

If the child was not born in the United States, we need a copy of the birth certificate or immigration papers in English or a copy of the legal translation.

Your grandchild or great grandchild

One or more birth certificates or other legal documents proving how you are related. For example, if you are claiming your:

- Grandchild, send your child's and grandchild's birth certificates
- Great grandchild, send your child's, your grandchild's and your great grandchild's birth certificates

If the names aren't on the birth certificates, you need to send another type of document such as a court decree or paternity test results.

Table continued . . .

2. Each child that you claim must be related to you in one of the ways listed below. If the child is	Then, send in copies of:
Your niece or nephew	One or more birth certificates or other legal documents proving how you are related. For example, the child's birth certificate, showing your brother as the father, your brother's birth certificate showing your mother's name and your birth certificate showing your mother's name. If the names aren't on the birth certificates, you need another type of document such as a court decree or paternity test.
Your brother, sister, half brother, or half sister	One or more birth certificates or other legal documents proving how you are related. For example, if you are claiming your half-brother, you need your brother's birth certificate with the name of your mother or father and your birth certificate with the name of the same mother or father. Both birth certificates must have the name of the parent in common. If not, you need another type of document, such as a court decree or paternity test results.
Your stepson, stepdaughter, step-brother, step-sister, step-grandchild, or step-great grandchild	One or more birth certificates or other legal documents, such as court papers or marriage licenses, proving how you are related. If the birth certificate doesn't have the name of the parent to prove how you are related, you need another type of document, such as court decree or DNA test results.
A child pending adoption	If the adoption is not final, you need a statement on letterhead from an authorized adoption agency.
Your foster child placed with you by an authorized placement agency	A statement on the letterhead of the authorized placement agency or the court document placing the child with you during 2019.
3. Age of each child that you claim is:	Then, send in copies of:
Under age 19 at the end of 2019 and younger than you (or your spouse if filing a joint return)	Nothing at this time.
<ul style="list-style-type: none"> • age 19 but under age 24 at the end of 2019, and • a full-time student for any part of 5 calendar months during 2019, and • younger than you (or your spouse if filing a joint return) 	<ul style="list-style-type: none"> • School records showing the child was considered a full-time student for any part of five months of the tax year. It can be any five months of the year. The months do not have to be consecutive. • The school records must show the child's name and the dates the child attended school during 2019.
Any age and permanently and totally disabled at any time during 2019	A letter from a doctor, other health care provider, a social service program or government agency verifying the person is permanently and totally disabled. To be permanently and totally disabled for EIC purposes, the condition must last or be expected to last continuously for at least a year or is expected to result in death; and the person can't work or perform other substantial gainful activities.

We must have proof for all three: you are related to the child, the child lived with you and the child's age. If you don't have or can't get the legal documents that we ask for, you can't claim EITC with that child. But, you may still be eligible for EIC without a qualifying child.

Important things to check before sending copies of your documents to us:

- Your records and documents prove all three: the child lived with you, is related to you and is a certain age. If not, we cannot allow your claim for EIC.
- Your documents are for 2019 not the current year.
- If your documents are not in English, you are sending a legally translated document.
- We cannot accept documents signed by **someone related to you** for example, your sister takes care of the child while you work. You can't send a statement signed by your sister as the childcare provider to prove the child lived with you.
- You are using the same record or document to prove different things. For example, you use a school record to show the child attended school from January to May and then another record showing the same child attended from September to December during 2019. If the records show your address and list you as the parent, you can use the records to prove the child lived with you for more than half the year in 2019 and that the child is related to you. If the child is age 19 but under age 24, the records also prove the child is the right age.

Form **8867**

Paid Preparer's Due Diligence Checklist

OMB No. 1545-0074

Department of the Treasury
Internal Revenue Service

Earned Income Credit (EIC), American Opportunity Tax Credit (AOTC),
Child Tax Credit (CTC) (including the Additional Child Tax Credit (ACTC)) and
Credit for Other Dependents (ODC), and Head of Household (HOH) Filing Status
▶ To be completed by preparer and filed with Form 1040, 1040-SR, 1040-NR, 1040-PR, or 1040-SS.
▶ Go to www.irs.gov/Form8867 for instructions and the latest information.

2020

Attachment
Sequence No. 70

Taxpayer name(s) shown on return

Taxpayer identification number

Enter preparer's name and PTIN

Part I Due Diligence Requirements

Please check the appropriate box for the credit(s) and/or HOH filing status claimed on the return and complete the related Parts I-V for the benefit(s) claimed (check all that apply). EIC CTC/ACTC/ODC AOTC HOH

	Yes	No	N/A
1 Did you complete the return based on information for tax year 2020 provided by the taxpayer or reasonably obtained by you?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 If credits are claimed on the return, did you complete the applicable EIC and/or CTC/ACTC/ODC worksheets found in the Form 1040, 1040-SR, 1040-NR, 1040-PR, or 1040-SS instructions, and/or the AOTC worksheet found in the Form 8863 instructions, or your own worksheet(s) that provides the same information, and all related forms and schedules for each credit claimed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Did you satisfy the knowledge requirement? To meet the knowledge requirement, you must do both of the following: • Interview the taxpayer, ask questions, and contemporaneously document the taxpayer's responses to determine that the taxpayer is eligible to claim the credit(s) and/or HOH filing status. • Review information to determine that the taxpayer is eligible to claim the credit(s) and/or HOH filing status and to figure the amount(s) of any credit(s).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Did any information provided by the taxpayer or a third party for use in preparing the return, or information reasonably known to you, appear to be incorrect, incomplete, or inconsistent? (If "Yes," answer questions 4a and 4b. If "No," go to question 5.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a Did you make reasonable inquiries to determine the correct, complete, and consistent information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b Did you contemporaneously document your inquiries? (Documentation should include the questions you asked, whom you asked, when you asked, the information that was provided, and the impact the information had on your preparation of the return.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Did you satisfy the record retention requirement? To meet the record retention requirement, you must keep a copy of your documentation referenced in 4b, a copy of this Form 8867, a copy of any applicable worksheet(s), a record of how, when, and from whom the information used to prepare Form 8867 and any applicable worksheet(s) was obtained, and a copy of any document(s) provided by the taxpayer that you relied on to determine eligibility for the credit(s) and/or HOH filing status or to figure the amount(s) of the credit(s). List those documents provided by the taxpayer, if any, that you relied on: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Did you ask the taxpayer whether he/she could provide documentation to substantiate eligibility for the credit(s) and/or HOH filing status and the amount(s) of any credit(s) claimed on the return if his/her return is selected for audit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Did you ask the taxpayer if any of these credits were disallowed or reduced in a previous year? (If credits were disallowed or reduced, go to question 7a; if not, go to question 8.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a Did you complete the required recertification Form 8862?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b If the taxpayer is reporting self-employment income, did you ask questions to prepare a complete and correct Schedule C (Form 1040)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For Paperwork Reduction Act Notice, see separate instructions.

OMB No. 1545-0074

Form **8867** 2020

Part II Due Diligence Questions for Returns Claiming EIC (if the return does not claim EIC, go to Part III.)

	Yes	No	N/A
9a Have you determined that the taxpayer is eligible to claim the EIC for the number of qualifying children claimed, or is eligible to claim the EIC without a qualifying child? (If the taxpayer is claiming the EIC and does not have a qualifying child, go to question 10.)	<input type="checkbox"/>	<input type="checkbox"/>	
b Did you ask the taxpayer if the child lived with the taxpayer for over half of the year, even if the taxpayer has supported the child the entire year?	<input type="checkbox"/>	<input type="checkbox"/>	
c Did you explain to the taxpayer the rules about claiming the EIC when a child is the qualifying child of more than one person (tiebreaker rules)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Part III Due Diligence Questions for Returns Claiming CTC/ACTC/ODC (if the return does not claim CTC, ACTC, or ODC, go to Part IV.)

	Yes	No	N/A
10 Have you determined that each qualifying person for the CTC/ACTC/ODC is the taxpayer's dependent who is a citizen, national, or resident of the United States?	<input type="checkbox"/>	<input type="checkbox"/>	
11 Did you explain to the taxpayer that he/she may not claim the CTC/ACTC if the taxpayer has not lived with the child for over half of the year, even if the taxpayer has supported the child, unless the child's custodial parent has released a claim to exemption for the child?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Did you explain to the taxpayer the rules about claiming the CTC/ACTC/ODC for a child of divorced or separated parents (or parents who live apart), including any requirement to attach a Form 8332 or similar statement to the return?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Part IV Due Diligence Questions for Returns Claiming AOTC (if the return does not claim AOTC, go to Part V.)

	Yes	No
13 Did the taxpayer provide substantiation for the credit, such as a Form 1098-T and/or receipts for the qualified tuition and related expenses for the claimed AOTC?	<input type="checkbox"/>	<input type="checkbox"/>

Part V Due Diligence Questions for Claiming HOH (if the return does not claim HOH filing status, go to Part VI.)

	Yes	No
14 Have you determined that the taxpayer was unmarried or considered unmarried on the last day of the tax year and provided more than half of the cost of keeping up a home for the year for a qualifying person?	<input type="checkbox"/>	<input type="checkbox"/>

Part VI Eligibility Certification

- ▶ You will have complied with all due diligence requirements for claiming the applicable credit(s) and/or HOH filing status on the return of the taxpayer identified above if you:
 - A. Interview the taxpayer, ask adequate questions, contemporaneously document the taxpayer's responses on the return or in your notes, review adequate information to determine if the taxpayer is eligible to claim the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s);
 - B. Complete this Form 8867 truthfully and accurately and complete the actions described in this checklist for any applicable credit(s) claimed and HOH filing status, if claimed;
 - C. Submit Form 8867 in the manner required; and
 - D. Keep all five of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under *Document Retention*.
 1. A copy of this Form 8867.
 2. The applicable worksheet(s) or your own worksheet(s) for any credit(s) claimed.
 3. Copies of any documents provided by the taxpayer on which you relied to determine the taxpayer's eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s).
 4. A record of how, when, and from whom the information used to prepare this form and the applicable worksheet(s) was obtained.
 5. A record of any additional information you relied upon, including questions you asked and the taxpayer's responses, to determine the taxpayer's eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s).

▶ If you have not complied with all due diligence requirements, you may have to pay a \$540 penalty for each failure to comply related to a claim of an applicable credit or HOH filing status.

15 Do you certify that all of the answers on this Form 8867 are, to the best of your knowledge, true, correct, and complete?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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CONFLICT OF INTEREST

“ A conflict of interest is a set of circumstances that creates a risk that professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest”



- **Question:** What are we to do when a long-time client comes in, stating they are now divorced.
- **Question:** What are we to do when we know of a client's private life happenings, which are not disclosed to you when preparing their tax return?

PRIVACY & CONFIDENTIALITY

- Privacy Policy
- Non-Disclosure



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- **Gramm-Leach-Bliley Act**
- "We do not disclose any non-public personal information about our customers or former customers to anyone, except as instructed to do so by such customers or as required by law. We restrict access to non-public personal information to those professionals necessary to [brief description of service provided] and we maintain physical, electronic, and procedural safeguards to guard your non-public personal information."

REFUND OPTIONS

- 
- Check
 - Direct Deposit – up to 3 accounts

TAX DUE

- **Pay online:** You can pay online with a direct transfer from your bank account using Direct Pay, the Electronic Federal Tax Payment System, or by debit or credit card.
- Pay through -- www.irs.gov/Payments or www.eftps.gov
- **Pay by phone:** To pay by direct transfer from your bank account, call 1-800-555-4477 (English) or 1-800-244-4829 (Español). People who are deaf, hard of hearing, or have a speech disability and have access to TTY/TDD equipment can call 1-800-733-4829.
- To pay using a debit or credit card, you can call one of the following service providers.
- There is a convenience fee charged by these providers that varies by provider, card type, and payment amount.

WorldPay US, Inc.

1-844-PAY-TAX-8™ (1-844-729-8298)

www.payUSAtax.com

Official Payments Corporation

1-888-UPAY-TAX™ (1-888-872-9829)

www.officialpayments.com

Link2Gov Corporation

1-888-PAY-1040™ (1-888-729-1040)

www.PAY1040.com

For the latest details on how to pay by phone, go to

www.irs.gov/Payments.

PAY-NEAR-ME



TAXPAYER BILL OF RIGHTS



Your Rights as a Taxpayer

Publication 1

This publication explains your rights as a taxpayer and the processes for examination, appeal, collection, and refunds. Also available in Spanish.

The Taxpayer Bill of Rights

1. The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

2. The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

3. The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

4. The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

5. The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

6. The Right to Finality

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

7. The Right to Privacy

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

8. The Right to Confidentiality

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

9. The Right to Retain Representation

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

10. The Right to a Fair and Just Tax System

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying abilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

FINAL QUESTIONS

