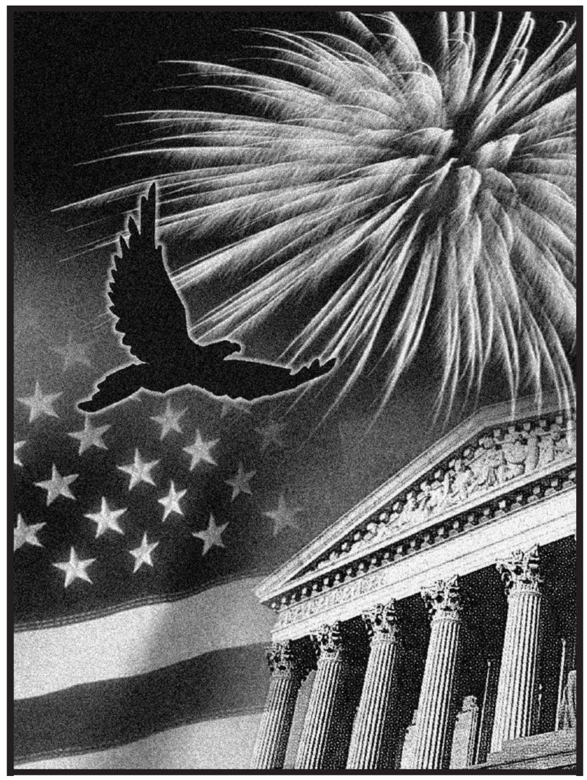
Publication 503

Child and Dependent Care Expenses

For use in preparing **2023** Returns

Volume 1 of 2



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Contents

Topic	Regular Page	Large Print Page
What's New	1	4
Reminders	1	5
Introduction	2	7
Can You Claim the Credit?	2	11
Who Is a Qualifying Person?	3	17
You Must Have Earned Income	4	23
Are These Work-Related Expenses?	6	30
What's Your Filing Status?	8	46
Care Provider Identification Test	9	51
How To Figure the Credit	10	55

Figuring Total Work-Related Expenses	10	56
Earned Income Limit	11	63
Dollar Limit	12	73
Amount of Credit	13	78
How To Claim the Credit	14	86
Do You Have Household Employees?	14	87
How To Get Tax Help	15	90
Index	19	114

Future Developments

For the latest information about developments related to Pub. 503, such as legislation enacted after it was published, go to *IRS.gov/Pub503*.

What's New

The temporary special rules for dependent care flexible spending arrangements (FSAs) have expired. The temporary special rules under Section 214 of the Taxpayer Certainty and Disaster Relief Act of 2020 that allowed employers to amend their dependent care plan to carry forward unused amounts from 2020 and/or 2021 to be used in a subsequent year have expired. For 2023, you may only enter on Form 2441, line 13, amounts you carried over from 2022 and used in 2023 during the grace period. See the line 13 instructions for Form 2441.

Reminders

Personal exemption suspended. For 2023, you can’t claim a personal exemption for yourself, your spouse, or your dependents.

Taxpayer identification number needed for each qualifying person. You must include on line 2 of Form 2441, Child and Dependent Care Expenses, the name and taxpayer identification number (generally, the social security number (SSN)) of each qualifying person. See *Taxpayer identification* *number* under *Who Is a Qualifying Person*, later.

You may have to pay employment taxes. If you pay someone to come to your home and care for your dependent or spouse, you may be a household employer who has to pay employment taxes. Usually, you aren't a household employer if the person who cares for your dependent or spouse does so at his or her home or place of business. See *Do You Have Household Employees*, later.

Photographs of missing children. The IRS is a proud partner with the *National Center for Missing & Exploited Children® (NCMEC)*. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Introduction

This publication explains the tests you must meet to claim the credit for child and dependent care expenses. It explains how to figure and claim the credit.

You may be able to claim the credit if you pay someone to care for your dependent who is under age 13 or for your spouse or dependent who isn't able to care for themselves. The credit can be up to 35% of your employment-related expenses. To qualify, you must pay these expenses so you (or your spouse if filing jointly) can work or look for work.

This publication also discusses some of the employment tax rules for household employers.

Dependent care benefits. If you received any dependent care benefits from your employer during the year, you may be able to exclude all or part of them from your income. You must complete Form 2441, Part III, before you can figure the amount of your credit. See *Dependent Care Benefits* under *How To Figure the Credit,* later.

Comments and suggestions. We welcome your comments about this publication and suggestions for future editions.

You can send us comments through *IRS.gov/FormComments*. Or, you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR6526, Washington, DC 20224.

Although we can’t respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications. **Don’t** send tax questions, tax returns, or payments to the above address.

Getting answers to your tax questions. If you have a tax question not answered by this publication or the *How To Get Tax Help* section at the end of this publication, go to the IRS Interactive Tax Assistant page at *IRS.gov/Help/ITA* where you can find topics by using the search feature or viewing the categories listed.

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Useful Items

You may want to see:

Publication

☐ **501** Dependents, Standard Deduction, and Filing Information

☐ **926** Household Employer's Tax Guide

Form (and Instructions)

☐ **2441** Child and Dependent Care Expenses

☐ **Schedule H (Form 1040)** Household Employment Taxes

☐ **W-10** Dependent Care Provider's Identification and Certification

See *How To Get Tax Help* near the end of this publication for additional information.

Can You Claim the Credit?

To be able to claim the credit for child and dependent care expenses, you must file Form 1040, 1040SR, or 1040NR, and meet all the tests in *Tests you must meet to claim a credit for child and dependent care expenses* next.

Tests you must meet to claim a credit for child and dependent care expenses. To be able to claim the credit for child and dependent care expenses, you must meet all the following tests.

1. **Qualifying Person Test.** The care must be for one or more qualifying persons who are identified on Form 2441. (See *Who Is a Qualifying Person*, later.)

2. **Earned Income Test.** You (and your spouse if filing jointly) must have earned income during the year. (However, see *Rule for student-spouse or spouse not able to care for self*

under *You Must Have Earned Income,* later.)

3. **Work-Related Expense Test.** You must pay child and dependent care expenses so you (or your spouse if filing jointly) can work or look for work. (See *Are These Work-Related Expenses,* later.)

4. You must make payments for child and dependent care to someone you (and your spouse) can't claim as a dependent. If you make payments to your child (including stepchild or foster child), he or she can't be your dependent and must be age 19 or older by the end of the year. You can't make payments to:

   a. Your spouse, or

   b. The parent of your qualifying person if your qualifying person is your child and under age 13.

See *Payments to Relatives or Dependents* under *Are These Work-Related Expenses,* later.

5. **Joint Return Test.** Your filing status may be single, head of household, or qualifying surviving spouse. If you are married, you must file a joint return, unless an exception applies to you. See *What's Your Filing Status*, later.

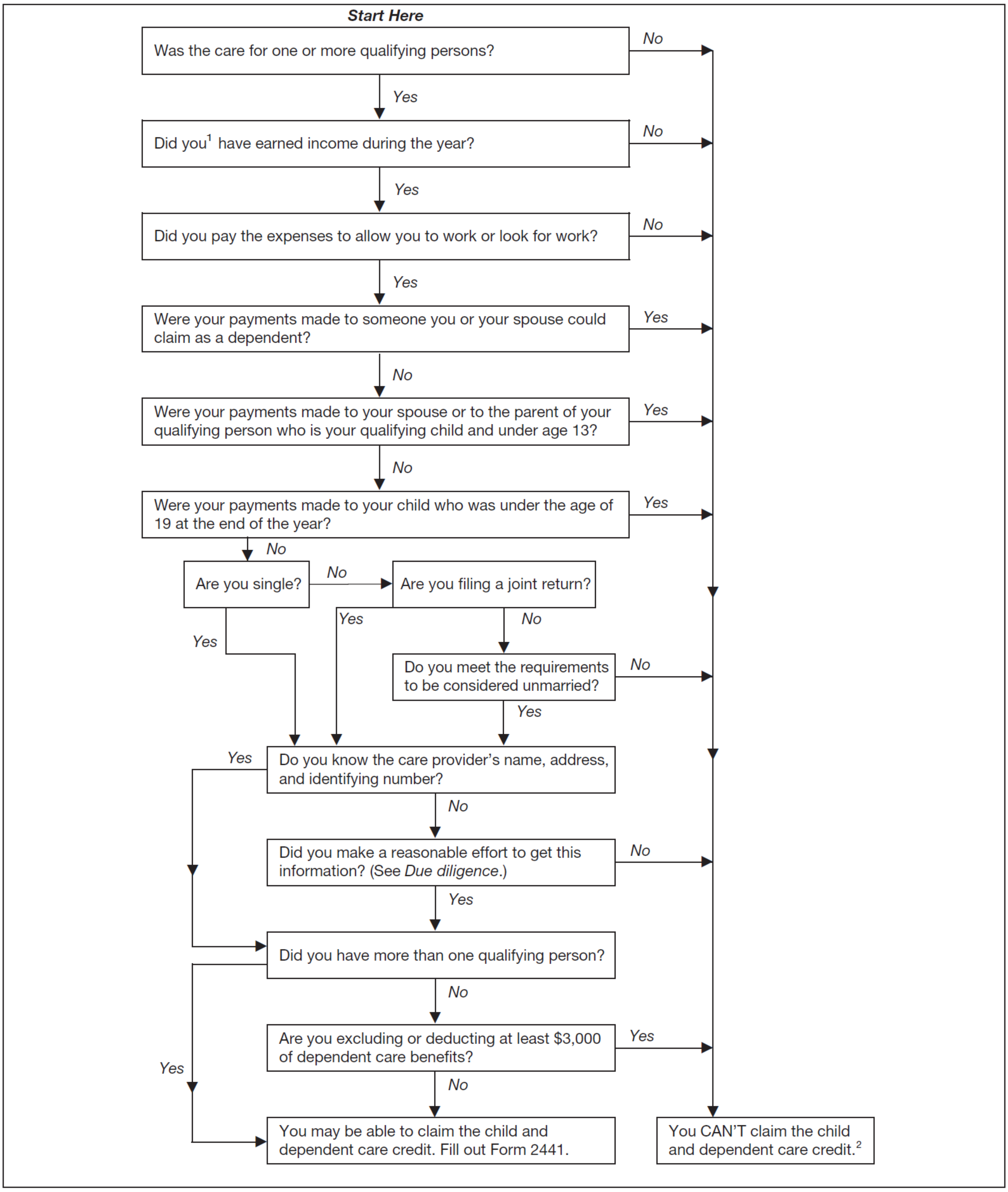
6. **Provider Identification Test.** You must identify the care provider on your tax return. (See *Care Provider Identification Test*, later.)

7. If you exclude or deduct dependent care benefits provided by a dependent care benefit plan, the total amount you exclude or deduct must be less than the dollar limit for qualifying expenses (generally, $3,000 if you had one qualifying person or $6,000 if you had two or more qualifying persons) in order for you to claim a credit on the

remaining amount. (If you had two or more qualifying persons, the amount you exclude or deduct will always be less than the dollar limit because the total amount you can exclude or deduct is limited to $5,000. See *Reduced Dollar Limit* under *How To Figure the Credit,* later.)

These tests are presented in Figure A and are also explained in detail in this publication.

Figure A. **Can You Claim the Credit?**



[1] This also applies to your spouse, unless your spouse was disabled or a full-time student.

[2] If you had expenses that met the requirements for 2022, except that you didn't pay them until 2023, you may be able to claim those expenses in 2023. See *Expenses not paid until the following year* under *How To Figure the Credit*.

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Who Is a Qualifying Person?

Your child and dependent care expenses must be for the care of one or more qualifying persons.

A qualifying person is:

1. Your qualifying child who is your dependent and who was under age 13 when the care was provided (but see *Child of divorced or separated parents or parents living apart*, later);
2. Your spouse who wasn't physically or mentally able to care for themselves and lived with you for more than half the year; or
3. A person who wasn't physically or mentally able to care for themselves, lived with you for more than half the year, and either:
    a. Was your dependent, or

b. Would have been your dependent except that:

i. He or she received gross income of $4,700 or more,

ii. He or she filed a joint return, or

iii. You, or your spouse if filing jointly, could be claimed as a dependent on someone else's 2023 return.

Dependent defined. A dependent is a person, other than you or your spouse, for whom you could claim an exemption. To be your dependent, a person must be your qualifying child (or your qualifying relative). However, the deductions for personal and dependency exemptions for tax years 2018 through 2025 are suspended, and, therefore, the amount of the deduction is zero. But, in determining whether you may claim a person as a qualifying relative for 2023, the person's gross income must be less than $4,700.

Qualifying child. To be your qualifying child, a child must live with you for more than half the year and meet other requirements.

More information. For more information about who is a dependent or a qualifying child, see Pub. 501.

Physically or mentally not able to care for oneself. Persons who can't dress, clean, or feed themselves because of physical or mental disabilities are considered not able to care for themselves. Also, persons who must have constant attention to prevent them from injuring themselves or others are considered not able to care for themselves.

Person qualifying for part of year. You determine a person's qualifying status each day. For example, if your child for whom you pay child and dependent care expenses turns 13 years old and no longer qualifies on

September 16, count only those expenses through September 15. Also see *Yearly limit* under *Dollar Limit,* later.

Birth or death of otherwise qualifying person. In determining whether a person is a qualifying person, a person who was born or died in 2023 is treated as having lived with you for more than half of 2023 if your home was the person's home more than half the time he or she was alive in 2023.

Taxpayer identification number. You must include on your return the name and taxpayer identification number (generally, the SSN) of the qualifying person(s). If the correct information isn't shown, the credit may be reduced or disallowed.

Individual taxpayer identification number (ITIN) for aliens. If your qualifying person is a nonresident or resident alien who doesn't have and can't get an SSN, use that person's ITIN. The ITIN is entered wherever an SSN is requested on a tax return. If the alien doesn't have an ITIN, he or she must apply for one. See Form W-7, Application for IRS Individual Taxpayer Identification Number, for details.

An ITIN is for tax use only. It doesn't entitle the holder to social security benefits or change the holder's employment or immigration status under U.S. law.

All ITINs not used on a federal tax return at least once for tax year 2020, 2021, or 2022 will expire on December 31, 2023. Additionally, ITINs with certain specified middle digits have expired. All expired ITINs must be renewed before being used on your tax return. See the Instructions for Form W-7 or go to IRS.gov/ITIN for information about which ITINs have expired.

Adoption taxpayer identification number (ATIN). If your qualifying person is a child who was placed in your home for adoption and for whom you don't have an SSN, you must get an ATIN for the child. File Form W-7A, Application for Taxpayer Identification Number for Pending U.S. Adoptions.

Child of divorced or separated parents or parents living apart. Even if you can't claim your child as a dependent, he or she is treated as your qualifying person if:

- The child was under age 13 or wasn't physically or mentally able to care for themselves;
- The child received over half of his or her support during the calendar year from one or both parents who are divorced or legally separated under a decree of divorce or separate maintenance, are separated under a written separation agreement, or lived apart at all times during the last 6 months of the calendar year;
- The child was in the custody of one or both parents for more than half the year; and

- You were the child's custodial parent.

The custodial parent is the parent with whom the child lived for the greater number of nights in 2023. If the child was with each parent for an equal number of nights, the custodial parent is the parent with the higher adjusted gross income. For details and an exception for a parent who works at night, see Pub. 501.

The noncustodial parent can't treat the child as a qualifying person even if that parent is entitled to claim the child as a dependent under the special rules for a child of divorced or separated parents.

You Must Have Earned Income

To claim the credit, you (and your spouse if filing jointly) must have earned income during the year.

Earned income. Earned income includes wages, salaries, tips, other taxable employee compensation, and net earnings from self-employment. A net loss from self-employment reduces earned income. Earned income also includes strike benefits and any disability pay you report as wages.

Generally, only taxable compensation is included. For example, foreign earned income you exclude from income isn't included. However, you can elect to include nontaxable combat pay in earned income. If you are filing a joint return and both you and your spouse received nontaxable combat pay, you can each make your own election. (In other words, if one of you makes the election, the other one can also make it but doesn't have to.) Including this income will give you a larger credit only if your (or your spouse's) other earned income is less than the amount entered on line 3 of Form 2441.

You can elect to include your nontaxable combat pay in earned income when figuring your credit for *child and dependent care expenses, even if you elect not to include it in earned income for the earned income credit or the exclusion or deduction for dependent care benefits.*

Members of certain religious faiths opposed to social security. This section is for persons who are members of certain religious faiths that are opposed to participation in Social Security Act programs and have an IRS-approved form that exempts certain income from social security and Medicare taxes. These forms are:

- Form 4361, Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners; and
- Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits, for use by members of recognized religious groups.

Each form is discussed here in terms of what is or isn't earned income for purposes of the child and dependent care credit. For information on the use of these forms, see Pub. 517, Social Security and Other Information for Members of the Clergy and Religious Workers.

Form 4361. Whether or not you have an approved Form 4361, amounts you received for performing ministerial duties as an employee are earned income. This includes wages, salaries, tips, and other taxable employee compensation.

However, amounts you received for ministerial duties, but not as an employee, don't count as earned income. Examples include fees for performing marriages and honoraria for delivering speeches.

Any amount you received for work that isn't related to your ministerial duties is earned income.

Form 4029. Whether or not you have an approved Form 4029, all wages, salaries, tips, and other taxable employee compensation are earned income.

However, amounts you received as a self-employed individual don't count as earned income.

What isn't earned income? Earned income doesn't include:

- Amounts excluded as foreign earned income (including any housing exclusion) on Form 2555, line 43;
- Pensions and annuities;
- Social security and railroad retirement benefits;
- Workers' compensation;
- Interest and dividends;
- Unemployment compensation;

- Scholarships or fellowship grants, except for those reported on Form W-2 and paid to you for teaching or other services;
- Nontaxable workfare payments;
- Child support payments received;
- Income of a nonresident alien that isn't effectively connected with a U.S. trade or business; or
- Any amount received for work while an inmate in a penal institution.

Rule for student-spouse or spouse not able to care for self. Your spouse is treated as having earned income for any month that he or she is:

1. A full-time student, or
2. Physically or mentally not able to care for themselves. (Your spouse must also live with you for more than half the year.)

If you are filing a joint return, this rule also applies to you. You can be treated as having earned income for any month you are a full-time student or not able to care for yourself.

Figure the earned income of the nonworking spouse, described under (1) or (2) above, as shown under *Earned Income Limit* under *How To Figure the Credit,* later.

This rule applies to only one spouse for any 1 month. If, in the same month, both you and your spouse didn't work and are either full-time students or not physically or mentally able to care for yourselves, only one of you can be treated as having earned income in that month.

Full-time student. You are a full-time student if you are enrolled at a school for the number of hours or classes that the school considers full-time. You must have been a full-time student for some part of each of 5 calendar months during the year. (The months need not be consecutive.)

School. The term “school” includes high schools, colleges, universities, and technical, trade, and mechanical schools. A school doesn't include an on-the-job training course, correspondence school, or school offering courses only through the Internet.

Are These Work-Related Expenses?

Child and dependent care expenses must be work related to qualify for the credit. Expenses are considered work related only if both of the following are true.

- They allow you (or your spouse if filing jointly) to work or look for work.
- They are for a qualifying person's care.

Working or Looking for Work

To be work related, your expenses must allow you to work or look for work. If you are married, you or your spouse must work or look for work. Note, however, that employment-related expenses are limited to the lower of the earned income of you or your spouse. If you or your spouse was a full-time student or disabled, see *Rule for student-spouse or spouse not able to care for self*, earlier.

Your work can be for others or in your own business or partnership. It can be either full-time or part-time and it can be either in or out of your home.

Work also includes actively looking for work. However, if you don't find a job and have no earned income for the year, you can't take this credit. See *You Must Have Earned Income*, earlier.

An expense isn't considered work related merely because you had it while you were working. The purpose of the expense must be to allow you to work. Whether your expenses allow you to work or look for work depends on the facts.

Example 1. The cost of a babysitter while you and your spouse go out to eat isn't normally a work-related expense.

Example 2. You work during the day. Your spouse works at night and sleeps during the day. You pay for care of your 5-year-old child during the hours when you are working and your spouse is sleeping. Your expenses are considered work related.

Volunteer work. For this purpose, you aren't considered to be working if you do unpaid volunteer work or work for a nominal salary.

Work for part of year. If you work or actively look for work during only part of the period covered by the expenses, then you must figure your expenses for each day. For example, if you work all year and pay care expenses of $250 a month ($3,000 for the year), all the expenses are work related. However, if you work or look for work for only 2 months and 15 days during the year and pay expenses of $250 a month, your work-related expenses are limited to $625 ($2\frac{1}{2}$ months × $250).

Temporary absence from work. You don't have to figure your expenses for each day during a short, temporary absence from work, such as for vacation or a minor illness, if you have to pay for care anyway. Instead, you can figure your credit including the expenses you paid for the period of absence.

An absence of 2 weeks or less is a short, temporary absence. An absence of more than 2 weeks may be considered a short, temporary absence, depending on the circumstances.

Example 1. You pay a dependent care center, which complies with all state and local regulations, to care for your 2-year-old daughter so you can work full-time. The center requires payment for days when a child is absent. You take 8 days off from work as vacation days. Because the absence is less than 2 consecutive calendar weeks, your absence is a short, temporary absence. You aren't required to allocate expenses between days worked and days not worked. The entire fee for the period that includes the 8 vacation days may be a work-related expense.

Example 2. You pay a nanny to care for your 2-year-old son and 4-year-old daughter so you can work. You become ill and miss 4 months of work but receive sick pay. You continue to pay the nanny to care for the children while you are ill. Your absence isn't a short, temporary absence, and your expenses aren't considered work related.

Part-time work. If you work part-time, you must generally figure your expenses for each day. However, if you are required to pay for care weekly, monthly, or in another way that includes both days worked and days not worked, you can figure your credit including the expenses you paid for days you didn't work. Any day when you work at least 1 hour is a day of work.

Example 1. You work 3 days a week. While you work, your 6-year-old child attends a dependent care center, which complies with all state and local regulations. You can pay the center $150 for any 3 days a week or $250 for 5 days a week. Your child attends the center 5 days a week. You must allocate your expenses for dependent care between days worked and days not worked; your work-related expenses are limited to $150 a week.

Example 2. The facts are the same as in *Example 1*, except the center doesn't offer a 3-day option. The entire $250 weekly fee may be a work-related expense.

Care of a Qualifying Person

To be work related, your expenses must be to provide care for a qualifying person.

You don't have to choose the least expensive way of providing the care. The cost of a paid care provider may be an expense for the care of a qualifying person even if another care provider is available at no cost.

Expenses are for the care of a qualifying person only if their main purpose is the person's well-being and protection.

Expenses for household services qualify if part of the services is for the care of qualifying persons. See *Household Services*, later.

Expenses not for care. Expenses for care don't include amounts you pay for food, lodging, clothing, education, and entertainment. However, you can include small amounts paid for these items if they are incidental to and can't be separated from the cost of caring for the qualifying person. Otherwise, see the discussion under *Expenses partly work related*, later.

Child support payments aren't for care and don't qualify for the credit.

Education. Expenses for a child in nursery school, preschool, or similar programs for children below the level of kindergarten are expenses for care.

Expenses to attend kindergarten or a higher grade aren't expenses for care. Don't use these expenses to figure your credit.

However, expenses for before or after-school care of a child in kindergarten or a higher grade may be expenses for care.

Summer school and tutoring programs aren't for care.

Example 1. You send your 3-year-old child to a nursery school while you work. The nursery school provides lunch and a few educational activities as part of its preschool childcare service. The lunch and educational activities are incidental to the childcare, and their cost can't be separated from the cost of care. You can count the total cost when you figure the credit.

Example 2. You are a member of the Armed Forces, and you are ordered to a combat zone. To be able to comply with the order, you place your 10-year-old child in a boarding school. Only the part of the boarding school expense that is for the care of your child is a work-related expense. You can count that part of the expense in figuring your credit if it can be separated from the cost of education. You can't count any part of the amount you pay the school for your child's education.

Care outside your home. You can count the cost of care provided outside your home if the care is for your dependent under age 13 or any other qualifying person who regularly spends at least 8 hours each day in your home.

Dependent care center. You can count care provided outside your home by a dependent care center only if the center complies with all state and local regulations that apply to these centers.

A dependent care center is a place that provides care for more than six persons (other than persons who live there) and receives a fee, payment, or grant for providing services for any of those persons, even if the center isn't run for profit.

Camp. The cost of sending your child to an overnight camp isn't considered a work-related expense.

The cost of sending your child to a day camp may be a work-related expense, even if the camp specializes in a particular activity, such as computers or soccer.

Example 1. You send your 9-year-old child to a summer day camp while you work. The camp offers computer activities and recreational activities such as swimming and arts and crafts. The full cost of the summer day camp may be for care and the costs may be a work-related expense.

Example 2. You send your 10-year-old child to a math tutoring program for 2 hours per day during the summer while you work. The cost of the tutoring program isn't for care and the costs are not considered work-related expenses.

Transportation. If a care provider takes a qualifying person to or from a place where care is provided, that transportation is for the care of the qualifying person. This includes transportation by bus, subway, taxi, or private car.

However, transportation not provided by a care provider isn't for the care of a qualifying person. Also, if you pay the transportation cost for the care provider to come to your home, that expense isn't for care of a qualifying person.

Fees and deposits. Fees you paid to an agency to get the services of a care provider, deposits you paid to an agency or preschool, application fees, and other indirect expenses are work-related expenses if you have to pay them to get care, even though they aren't directly for care. However, a forfeited deposit isn't for the care of a qualifying person if care isn't provided.

Example 1. You paid a fee to an agency to get the services of the nanny who cares for your 2-year-old daughter while you work. The fee you paid is a work-related expense.

Example 2. You placed a deposit with a preschool to reserve a place for your 3-year-old child. You later sent your child to a different preschool and forfeited the deposit. The forfeited deposit isn't for care and therefore not a work-related expense.

Household Services

Expenses you pay for household services meet the work-related expense test if they are at least partly for the well-being and protection of a qualifying person.

Definition. Household services are ordinary and usual services done in and around your home that are necessary to run your home. They include, for example, the services of a cook, maid, babysitter, housekeeper, or cleaning person if the services were partly for the care of the qualifying person. However, they don't include the services of a chauffeur, bartender, or gardener.

Housekeeper. In this publication, the term “housekeeper” refers to any household employee whose services include the care of a qualifying person.

Expenses partly work related. If part of an expense is work related (for either household services or the care of a qualifying person) and part is for other purposes, you have to divide the expense. To figure your credit, count only the part that is work related. However, you don't have to divide the expense if only a small part is for other purposes.

Example. You pay a housekeeper to care for your 9-year-old and 14-year-old children so you can work. The housekeeper spends most of the time doing normal household work and spends 30 minutes a day driving you to and from work. You don't have to divide the expenses. You can treat the entire expense of the housekeeper as work related because the time spent driving is minimal. Nor do you have to divide the expenses between the two children, even though the expenses are partly for the 14-year-old child who isn't a qualifying person, because the expense is also partly for the care of your 9-year-old child, who is a qualifying person.

However, the dollar limit (discussed later) is based on one qualifying person, not two.

Meals and lodging provided for housekeeper. If you have expenses for meals that your housekeeper eats in your home because of his or her employment, count these as work-related expenses. If you have extra expenses for providing lodging in your home to the housekeeper, count these as work-related expenses also.

Example. To provide lodging to the housekeeper, you move to an apartment with an extra bedroom. You can count the extra rent and utility expenses for the housekeeper's bedroom as work related. However, if your housekeeper moves into an existing bedroom in your home, you can count only the extra utility expenses as work related.

Taxes paid on wages. The taxes you pay on wages for qualifying child and dependent care services are work-related expenses. For more information on a household employer's tax responsibilities, see *Do You Have Household Employees*, later.

Payments to Relatives or Dependents

You can count work-related payments you make to relatives who aren't your dependents, even if they live in your home. However, don't count any amounts you pay to:

1. A person for whom you (or your spouse if filing jointly) can claim as a dependent;
2. Your child (including stepchild or foster child) who was under age 19 at the end of the year, even if he or she isn't your dependent;
3. A person who was your spouse any time during the year; or

4. The parent of your qualifying person if your qualifying person is your child and under age 13.

What’s Your Filing Status?

Generally, married couples must file a joint return to take the credit. However, if you are legally separated or living apart from your spouse, you may be able to file a separate return and still take the credit.

Legally separated. You aren't considered married if you are legally separated from your spouse under a decree of divorce or separate maintenance. You may be eligible to take the credit on your return using head of household filing status.

Married and living apart. You aren't considered married and are eligible to take the credit if all the following apply.

1. You file a return apart from your spouse.

2. Your home is the home of a qualifying person for more than half the year.

3. You pay more than half the cost of keeping up your home for the year.

4. Your spouse doesn't live in your home for the last 6 months of the year.

Example 1. Amy separated from her spouse in March. She isn't separated under a decree of divorce or separate maintenance agreement and uses the married filing separate filing status. Amy maintains a home for herself and Sam, her disabled brother. Sam is permanently and totally disabled and unable to care for himself.

Because Sam earns $5,600 in interest income, Amy can't claim him as a dependent (his gross income is greater than $4,700). And, because Amy isn't able to claim Sam as a dependent and she is still married as of the end of the year, she can't use the head of household filing status. Amy’s filing status is married filing separately and Sam qualifies as a qualifying person for the child and dependent care credit.

Because of the following facts, Amy is able to claim the credit for child and dependent care expenses even though Amy uses the married filing separately filing status.

- Amy didn't live with her spouse for the last 6 months of the year.
- She has maintained a home for herself and Sam (a qualifying person) since she separated from her spouse in March.
- She maintains her own household and provides more than half of the cost of maintaining that home for her and Sam.
- Amy pays an adult daycare center to care for Sam to allow her to work.

Example 2. Dean separated from his spouse in April. He isn't separated under a decree of divorce or separate maintenance agreement.

He and his spouse haven't lived together since April, and Dean maintains his own home and provides more than half the cost of maintaining that home for himself and his daughter, Nicole, who is permanently and totally disabled.

Because Nicole is married and files a joint return with her husband, who is away in the military, Dean can't claim Nicole as a dependent and therefore can't use the head of household filing status. Dean’s filing status is married filing separately and Nicole qualifies as a qualifying person for the child and dependent care credit.

Because of the following facts, Dean is able to claim the credit for child and dependent care expenses even though he uses the married filing separately filing status.

- Dean didn't live with his spouse for the last 6 months of the year.

- He has maintained a home for himself and Nicole (a qualifying person) since he separated from his spouse in April.
- He maintains his own household and provides more than half of the cost of maintaining that home for him and Nicole.
- Dean pays a daycare provider to care for Nicole to allow him to work.

Costs of keeping up a home. The costs of keeping up a home normally include property taxes, mortgage interest, rent, utility charges, home repairs, insurance on the home, and food eaten at home.

The costs of keeping up a home don't include payments for clothing, education, medical treatment, vacations, life insurance, transportation, or mortgage principal.

They also don't include the purchase, permanent improvement, or replacement of property. For example, you can't include the cost of replacing a water heater. However, you can include the cost of repairing a water heater.

Death of spouse. If your spouse died during the year and you don't remarry before the end of the year, you must generally file a joint return to take the credit. If you do remarry before the end of the year, the credit can be claimed on your deceased spouse's own return.

Care Provider Identification Test

You must identify all persons or organizations that provide care for your child or dependent. Use Form 2441, Part I, to show the information.

If you don't have any care providers and you are filing Form 2441 only to report taxable income in Part III, enter “none” on line 1, column (a).

Information needed. To identify the care provider, you must give the provider's:

1. Name,
2. Address, and
3. Taxpayer identification number.

If the care provider is an individual, the taxpayer identification number is his or her social security number or individual taxpayer identification number. If the care provider is an organization, then it is the employer identification number (EIN).

You don't have to show the taxpayer identification number if the care provider is a tax-exempt organization (such as a church or school). In this case, enter “Tax-Exempt” in the space where Form 2441 asks for the number.

If you can't provide all of the information or the information is incorrect, you must be able to show that you used due diligence (discussed later) in trying to furnish the necessary information.

Getting the information. You can use Form W-10 to request the required information from the care provider. If you don't use Form W-10, you can get the information from one of the other sources listed in the instructions for Form W-10, including:

1. A copy of the provider's social security card;
2. A copy of the provider's completed Form W-4, Employee's Withholding Certificate, if he or she is your household employee;
3. A copy of the statement furnished by your employer if the provider is your employer's dependent care plan; or
4. A recently printed letterhead or invoice that shows the provider's name, address, and TIN.

You should keep this information with your tax records. Don't send Form W-10 (or other document containing this information) to the IRS.

Due diligence. If the care provider information you give is incorrect or incomplete, your credit may not be allowed. However, if you can show that you used due diligence in trying to supply the information, you can still claim the credit.

You can show due diligence by getting and keeping the provider's completed Form W-10 or one of the other sources of information just listed. Care providers can be penalized if they don't provide this information to you or if they provide incorrect information.

Provider refusal. If the provider refuses to give you the identifying information, you should report on Form 2441 whatever information you have (such as the name and address). Enter “See Attached Statement” in the columns calling for the information you don't have. Then attach a statement explaining that you requested the information from the care provider, but the provider didn't give you the information. Be sure to write your name and SSN on this statement. The statement will show that you used due diligence in trying to furnish the necessary information.

U.S. citizens and resident aliens living abroad. If you are living abroad, your care provider may not have, and may not be required to get, a U.S. taxpayer identification number (for example, an SSN or an EIN). If so, enter “LAFCP” (Living Abroad Foreign Care Provider) in the space for the care provider's taxpayer identification number.

How To Figure the Credit

Your credit is a percentage of your work-related expenses. Your expenses are subject to the earned income limit and the dollar limit. The percentage is based on your adjusted gross income.

Figuring Total Work-Related Expenses

To figure the credit for 2023 work-related expenses, count only those you paid by December 31, 2023.

Expenses prepaid in an earlier year. If you pay for services before they are provided, you can count the prepaid expenses only in the year the care is received. Claim the expenses for the later year as if they were actually paid in that later year.

Expenses not paid until the following year. Don't count 2022 expenses that you paid in 2023 as work-related expenses for 2023. You may be able to claim an additional credit for them on your 2023 return, but you must figure it separately. See *Payments for prior-year expenses* under *Amount of Credit,* later.

TIP *If you had expenses in 2023 that you didn't pay until 2024, you can't count them when figuring your 2023 credit. You may be able to claim a credit for them on your 2024 return.*

Expenses reimbursed. If your employer reimburses your employment-related expenses under a dependent care assistance program, you can't count the expenses that are reimbursed as work-related expenses.

If a state social services agency pays you a nontaxable amount to reimburse you for some of your child and dependent care expenses, you can't count the expenses that are reimbursed as work-related expenses.

Example. You paid work-related expenses of $3,000. You are reimbursed $2,000 by a state social services agency. You can use only $1,000 to figure your credit.

Medical expenses. Some expenses for the care of qualifying persons who aren't able to care for themselves may qualify as work-related expenses and also as medical expenses. You can use them either way, but you can't use the same expenses to claim both a credit and a medical expense deduction.

If you use these expenses to figure the credit and they are more than the earned income limit or the dollar limit, discussed later, you can add the excess to your medical expenses. However, if you use your total expenses to figure your medical expense deduction, you can't use any part of them to figure your credit. For information on medical expenses, see Pub. 502, Medical and Dental Expenses.

Amounts excluded from your income under your employer's dependent care benefits plan can't be used to claim a medical expense deduction.

Dependent Care Benefits

If you receive dependent care benefits, your dollar limit for purposes of the credit may be reduced. See *Reduced Dollar Limit*, later. But, even if you can't take the credit, you may be able to take an exclusion or deduction for the dependent care benefits.

Dependent care benefits. Dependent care benefits include:

1. Amounts your employer paid directly to either you or your care provider for the care of your qualifying person while you work,
2. The fair market value of care in a daycare facility provided or sponsored by your employer, and
3. Pre-tax contributions you made under a dependent care flexible spending arrangement.

Your salary may have been reduced to pay for these benefits. If you received dependent care benefits as an employee, they should be shown in box 10 of your Form W-2, Wage and Tax Statement. See *Statement for employee*, later. Benefits you received as a partner should be shown in box 13 of your Schedule K-1 (Form 1065) with code O.

Enter the amount of these benefits on Form 2441, Part III, line 12.

Exclusion or deduction. If your employer provides dependent care benefits under a qualified plan, you may be able to exclude these benefits from your income. Your employer can tell you whether your benefit plan qualifies. To claim the exclusion, you must complete Part III of Form 2441.

If you are self-employed and receive benefits from a qualified dependent care benefit plan, you are treated as both employer and employee. Therefore, you wouldn't get an exclusion from wages. Instead, you would get a deduction on Schedule C (Form 1040), line 14; Schedule E (Form 1040), line 19 or 28; or Schedule F (Form 1040), line 15. To claim the deduction, you must use Form 2441.

The amount you can exclude or deduct is limited to the smallest of:

1. The total amount of dependent care benefits you received during the year,
2. The total amount of qualified expenses you incurred during the year,
3. Your earned income,
4. Your spouse's earned income, or
5. The maximum amount allowed under your dependent care plan. For 2023, the maximum amount that can be excluded from an employee's income through a dependent care assistance program is $5,000 ($2,500 if married filing separately).

The definition of earned income for the exclusion or deduction is the same as the definition used when figuring the credit except that earned income for the exclusion or deduction doesn't include any dependent care benefits you receive.

You can elect to include your nontaxable combat pay in earned income when figuring your exclusion or deduction, even if you elect not to include it in earned income for the earned income credit or the credit for child and dependent care expenses.

Statement for employee. Your employer must give you a Form W-2 (or similar statement), showing in box 10 the total amount of dependent care benefits provided to you during the year under a qualified plan. Your employer will also include in your wages shown in box 1 of your Form W-2 any dependent care benefits that exceed the maximum amount of dependent care benefits allowed to be excluded. The maximum amount is $5,000 ($2,500 if married filing separately).

Effect of exclusion on credit. If you exclude dependent care benefits from your income, the amount of the excluded benefits:

1. Isn't included in your work-related expenses; and
2. Reduces the dollar limit, discussed later.

Earned Income Limit

The amount of work-related expenses you use to figure your credit can't be more than:

1. Your earned income for the year if you are single at the end of the year, or
2. The smaller of your or your spouse's earned income for the year if you are married at the end of the year.

Earned income for the purpose of figuring the credit is defined under *You Must Have Earned Income*, earlier.

TIP *For purposes of item (2), use your spouse's earned income for the entire year, even if you were married for only part of the year.*

Example. You remarried on December 3. Your earned income for the year was $18,000. Your new spouse's earned income for the year was $2,000. You paid work-related expenses of $3,000 for the care of your 5-year-old child and qualified to claim the credit. The amount of expenses you use to figure your credit can't be more than

$2,000 (the smaller of your earned income or that of your spouse).

Separated spouse. If you are legally separated or married and living apart from your spouse (as described under *What's Your Filing Status*, earlier), you aren't considered married for purposes of the earned income limit. Use only your income in figuring the earned income limit.

Surviving spouse. If your spouse died during the year and you file a joint return as a surviving spouse, you may, but aren't required to, take into account the earned income of your spouse who died during the year.

Community property laws. Disregard community property laws when you figure earned income for this credit. Community property laws are explained in Pub. 555.

Self-employment earnings. If you are self-employed, include your net earnings in earned income. For purposes of the child and dependent care credit, net earnings from self-employment generally means the amount from Schedule SE (Form 1040), line 3, minus any deduction for self-employment tax on Schedule 1 (Form 1040), line 15. Include your self-employment earnings in earned income, even if they are less than $400 and you didn't file Schedule SE (Form 1040).

Clergy or church employee. If you are a member of the clergy or a church employee, see the Instructions for Form 2441 for details.

Statutory employee. If you filed Schedule C (Form 1040) to report income as a statutory employee, also include as earned income the amount from line 1 of that Schedule C (Form 1040).

Net loss. You must reduce your earned income by any net loss from self-employment.

Optional method if earnings are low or a net loss. If your net earnings from self-employment are low or you have a net loss, you may be able to figure your net earnings by using an optional method instead of the regular method. See Pub. 334, Tax Guide for Small Business, for details. If you use an optional method to figure net earnings for self-employment tax purposes, include those net earnings in your earned income for this credit. In this case, subtract any deduction you claimed on Schedule 1 (Form 1040), line 15, from the total of the amounts on Schedule SE (Form 1040), lines 3 and 4b, to figure your net earnings.

You or your spouse is a student or not able to care for self. Your spouse who is either a full-time student or not able to care for themselves is treated as having earned income. His or her earned income for each month is considered to be at least $250 if there is one qualifying person in your home, or at least $500 if there are two or more qualifying persons at any time during the year.

Spouse works. If your spouse works during that month, use the higher of $250 (or $500) or his or her actual earned income for that month.

Spouse qualifies for part of month. If your spouse is a full-time student or not able to care for themselves for only part of a month, the full $250 (or $500) still applies for that month.

You are a student or not able to care for yourself. These rules also apply if you are a student or not able to care for yourself and are filing a joint return. For each month or part of a month you are a student or not able to care for yourself, your earned income is considered to be at least $250 (or $500). If you also work during that month, use the higher of $250 (or $500) or your actual earned income for that month.

Both spouses qualify. If, in the same month, both you and your spouse are either full-time students or not able to care for yourselves, only one spouse can be considered to have this earned income of $250 (or $500) for that month.

Example 1. Jim works and keeps up a home for himself and his wife, Sharon. Because of an accident, Sharon isn't able to care for herself for 11 months during the tax year.

During the 11 months, Jim pays $3,300 of work-related expenses for Sharon's care. These expenses also qualify as medical expenses. Their adjusted gross income is $29,000 and the entire amount is Jim's earned income.

Jim and Sharon's earned income limit is the smallest of the following amounts.

Jim and Sharon's Earned Income Limit

1)	Work-related expenses Jim paid.	$3,300
2)	Jim's earned income.	$29,000
3)	Income considered earned by Sharon (11 × $250).	$2,750

Jim and Sharon can use $2,750 to figure the credit and treat the balance of $550 ($3,300 − $2,750) as a medical expense. However, if they use the $3,300 first as a medical expense, they can't use any part of that amount to figure the credit.

Example 2. For all of the year, Karen is a full-time student and Mark, Karen's husband, is an individual who is incapable of self-care. Karen and Mark have no earned income and pay expenses of $5,000 for Mark's care. Either Karen or Mark may be deemed to have $3,000 of earned income. However, earned income may be attributed to only one spouse. Therefore, the lesser of Karen's and Mark's earned income is zero. Karen and Mark may not take the expenses into account and may not claim the credit for the year.