

Publication 3

Armed Forces' Tax Guide

For use in preparing
2023 Returns

Volume 2 of 3



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Combat Related Special Compensation (CRSC) is a benefit awarded to certain retired veterans with combat-related disabilities. CRSC is excluded from income.

Combat Zone Defined

A combat zone is any area the President of the United States designates by Executive order as an area in which the U.S. Armed Forces are engaging or have engaged in combat. An area usually becomes a combat zone and ceases to be a combat zone on the dates the President designates by Executive order. To date, the Afghanistan area, the Kosovo area, and the Arabian Peninsula have been designated as combat zones. Combat zone tax benefits have been designated by Congress for the Sinai Peninsula of Egypt under certain circumstances. Though the former Yugoslavia is no longer treated as a combat zone, certain benefits may still be available to those who served in that area at that time. Each of the combat zones, the

Sinai Peninsula, and the former Yugoslavia area are discussed below.

Serving outside combat zone considered serving in a combat zone. Military service outside a combat zone is considered to be performed in a combat zone if:

- The DoD designates that the service is in direct support of military operations in the combat zone, and
- The service qualifies you for special military pay for duty subject to hostile fire or imminent danger under 37 U.S.C. 351.

Military pay received for this service will qualify for the combat zone exclusion if all of the requirements discussed under *Service Eligible for Combat Zone Exclusion*, later, other than service in a combat zone, are met and if the pay is verifiable by reference to military pay records.

The Afghanistan area. By Executive Order No. 13239, Afghanistan (and the airspace above) was designated as a combat zone beginning September 19, 2001.

The following countries were certified by the DoD for combat zone tax benefits due to their direct support of military operations in the Afghanistan combat zone.

- Jordan and Pakistan (as of September 19, 2001).
- Djibouti (as of July 1, 2002).
- Yemen (as of April 10, 2002).
- Somalia and Syria (as of January 1, 2004).

Note. For the Philippines only, the personnel must have deployed in conjunction with Operation Enduring Freedom or Operation Freedom Sentinel supporting military operations in the Afghanistan combat zone.

The Kosovo area. By Executive Order No. 13119, the following locations (including the airspace above) were designated as a combat zone beginning March 24, 1999.

- Federal Republic of Yugoslavia (Serbia/Montenegro).
- Albania.
- Kosovo.
- The Adriatic Sea.
- The Ionian Sea—north of the 39th parallel.

Note. The combat zone designation for Montenegro and Kosovo (previously a province within Serbia) under Executive Order 13119 remains in force even though Montenegro and Kosovo have become independent nations since EO 13119 was signed.

The Arabian Peninsula. By Executive Order No. 12744, the following locations (and the airspace above) were designated as a combat zone beginning January 17, 1991.

- The Persian Gulf.
- The Red Sea.
- The Gulf of Oman.
- The part of the Arabian Sea that is north of 10 degrees north latitude and west of 68 degrees east longitude.
- The Gulf of Aden.
- The total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

The following countries were certified by the DoD for combat zone tax benefits due to their direct support of military operations in the Arabian Peninsula combat zone.

- Jordan (as of March 19, 2003).

- Lebanon (as of February 12, 2015).
- Turkey east of 33.51 degrees east longitude (as of September 19, 2016).

Sinai Peninsula. Section 11026 of Public Law 115-97 designates the Sinai Peninsula of Egypt as a qualified hazardous duty area that is treated as if it were a combat zone. This designation generally applies for the period beginning June 10, 2015. For more information about amending prior-year returns to take advantage of the benefits associated with this designation, see the Instructions for Form 1040-X.

The former Yugoslavia area. Section 1 of Public Law 104-117 designated the following locations as qualified hazardous duty areas that were treated as if they were combat zones.

- Bosnia and Herzegovina.
- Croatia.

- Macedonia.

That designation generally applied beginning November 21, 1995, and ending November 1, 2007, allowing, for example, members of the Armed Forces who die by reason of wounds that were incurred in that area and during that period to qualify for special tax treatment upon their death.

Service Eligible for Combat Zone Exclusion

As noted earlier, pay eligible for the combat zone exclusion must have been received for a month in which you either served in a combat zone or were hospitalized as a result of wounds, disease, or injury incurred while serving in the combat zone. We discuss these below. Also see *Serving outside combat zone considered serving in a combat zone*, earlier, under *Combat Zone Defined*.

Serving in a Combat Zone

You are considered to be serving in a combat zone if you are either assigned on official temporary duty to a combat zone or you qualify for hostile fire/imminent danger pay while in a combat zone.

Service in a combat zone includes any periods you are absent from duty because of sickness, wounds, or leave. If, as a result of serving in a combat zone, a person becomes a prisoner of war or is missing in action, that person is considered to be serving in the combat zone so long as he or she keeps that status for military pay purposes.

Hospitalization as a Result of Wounds, Disease, or Injury Incurred While Serving in a Combat Zone

Hospitalized while serving in a combat zone. If you are hospitalized while serving in a combat zone, the wound, disease, or injury causing the hospitalization will be presumed

to have been incurred while serving in the combat zone unless there is clear evidence to the contrary.

Example. You are hospitalized for a specific disease in a combat zone where you have been serving for 3 weeks, and the disease for which you are hospitalized has an incubation period of 2 to 4 weeks. The disease is presumed to have been incurred while you were serving in the combat zone. On the other hand, if the incubation period of the disease is 1 year, the disease wouldn't have been incurred while you were serving in the combat zone.

Hospitalized after leaving a combat zone.

In some cases, the wound, disease, or injury may have been incurred while you were serving in the combat zone, even though you weren't hospitalized until after you left. In that case, you can exclude military pay earned while you are hospitalized as a result of the wound, disease, or injury.

Example. You were hospitalized for a specific disease 3 weeks after you departed the combat zone. The incubation period of the disease is from 2 to 4 weeks. The disease is presumed to have been incurred while serving in the combat zone.

Time limit on combat zone exclusion for pay received while hospitalized. If you are hospitalized, you can't exclude any military pay received for any month of service that begins more than 2 years after the end of combat activities in the combat zone. This pay won't be combat zone pay.

Nonqualifying Presence in a Combat Zone

None of the following types of military service qualify as service in a combat zone.

- Presence in a combat zone while on leave from a duty station located outside the combat zone.

- Passage over or through a combat zone during a trip between two points that are outside a combat zone.
- Presence in a combat zone solely for your personal convenience.

Gain or Loss From Sale of Home

You may not have to pay tax on all or part of the gain from the sale of your main home.

Usually, your main home is the one you live in most of the time. It can be a:

- House,
- Houseboat,
- Mobile home,
- Cooperative apartment, or
- Condominium.

How much can you exclude? You can generally exclude up to \$250,000 of gain (\$500,000, in most cases, if married filing a joint return) realized on the sale or exchange of a main home in 2023. The exclusion is allowed each time you sell or exchange a main home, but generally not more than once every 2 years.

What must you do to be eligible for the exclusion? You will be eligible for the exclusion if, during the **5-year period** ending on the date of the sale, you:

- Owned the home for at least 2 years (the ownership test), and
- Lived in the home as your main home for at least 2 years (the use test).

It doesn't have to be a single block of time.

What happens if I don't meet the ownership and use tests? If you don't meet the ownership and use tests due to a move to a new permanent duty station, you

can exclude gain, but the maximum amount of gain you can exclude will be reduced. See Pub. 523 for more details.

5-year test period can be suspended for members of the Armed Forces. You can choose to have the 5-year test period for ownership and use suspended during any period you or your spouse serves on qualified official extended duty as a member of the Armed Forces. This means that you may be able to meet the 2-year use test even if, because of your service, you didn't actually live in your home for the required 2 years during the 5-year period ending on the date of sale.

Example. David bought and moved into a home in 2015. He lived in it as his main home for 2¹/₂ years. For the next 6 years, he didn't live in it because he was on qualified official extended duty with the Army. He then sold the home at a gain in 2023. To meet the use test, David chooses to suspend the 5-year

test period for the 6 years he was on qualifying official extended duty. This means he can disregard those 6 years. Therefore, David's 5-year test period consists of the 5 years before he went on qualifying official extended duty. He meets the ownership and use tests because he owned and lived in the home for 2¹/₂ years during this test period.

Limits on period of suspension. The period of suspension can't last more than 10 years. You can't suspend the 5-year period for more than one property at a time. You can revoke your choice to suspend the 5-year period at any time.

Qualified official extended duty. You are on qualified official extended duty if you serve on extended duty either:

- At a duty station at least 50 miles from your main home, or
- While you live in government quarters under government orders.

You are *on extended duty* when you are called or ordered to active duty for a period of more than 90 days or for an indefinite period.

What if the property was used for rental or business? You may still qualify for a reduced exclusion of the gain from the sale of a home that you have used as a rental property or for business. However, you must meet the ownership and use tests discussed in Pub. 523.

What if there were periods when I didn't use the property as my main home and wasn't on qualified official extended duty? If the sale of your main home results in a gain that is allocated to one or more period(s) of nonqualified use, you can't exclude that gain from your income.

Nonqualified use means any period after 2008 when neither you nor your spouse (or your former spouse) used the property as a main home, with certain exceptions. For example, a period of nonqualified use doesn't include any

period (not to exceed a total of 10 years) during which you or your spouse is serving on qualified official extended duty, discussed above. You will be able to exclude the gain attributable to the period during which you or your spouse served on qualified official extended duty.

Are my losses deductible? You can't deduct a loss from the sale of your main home.

More information. For more information, see Pub. 523.

Foreclosures

There may be tax consequences as a result of compensation payments for foreclosures.

Payments made for violations of the Servicemembers Civil Relief Act (SCRA).

All servicemembers who received a settlement payment reported on a Form 1099 may need to report the amount on their tax return as income. However, the tax treatment

of settlement payments will depend on the facts and circumstances as illustrated below.

Lump-sum portion of settlement

payment. Generally, you must include the lump-sum payment in gross income. In limited circumstances, you may be able to exclude part or all of the lump-sum payment from gross income. For example, you may qualify to exclude part or all of the payment from gross income if you can show that the payment was made to reimburse specific nondeductible expenses (such as living expenses) you incurred because of the SCRA violation.

Interest payment on lump-sum portion of settlement payment. You must include any interest on the lump-sum portion of your settlement payment in your income.

Lost equity portion of settlement

payment. If you lost your main home in foreclosure, you should treat the lost equity payment as an additional amount you

received on the foreclosure of the home. You will have a gain on the foreclosure only if the sum of the lost equity payment and the value of the main home at foreclosure is more than what you paid for the home. In many cases, this gain may be excluded from income. For more information on the rules for excluding all or part of any gain from the sale (including a foreclosure) of a main home, see Pub. 523.

The rules that apply to a lost equity payment you received for the foreclosure of a property that wasn't your main home are different. To find rules for reporting gain or loss on the foreclosure of property that wasn't your main home, see Pub. 544, Sales and Other Dispositions of Assets.

Interest payment on lost equity portion of settlement payment. You must include any interest on the lost equity portion of your settlement payment in your income.

Itemized Deductions

You can no longer claim any miscellaneous itemized deductions, including the deduction for unreimbursed employee business expenses. Miscellaneous itemized deductions are those deductions that would have been subject to the 2%-of-adjusted-gross-income limitation.

If you are an Armed Forces reservist, you may be able to deduct unreimbursed employee business expenses as an adjustment to income. See *Travel Expenses of Armed Forces Reservists*, earlier. These deductions aren't available for active duty service members.

Repayments to Your Employer

If you had to repay to your employer an amount that you included in your income in an earlier year, you may be able to deduct the repaid amount from your income for the

year in which you repaid it. Where you report the repayment on your tax return will depend on the amount of the repayment. See *Repayments* in Pub. 525.

Credits

After you have figured your taxable income and tax liability, you can determine if you are entitled to any tax credits. This section discusses the child tax credit, additional child tax credit, credit for other dependents, earned income credit, and credit for excess social security tax withheld. For information on other credits, see your tax form instructions.

Child Tax Credit, Credit for Other Dependents, and Additional Child Tax Credit

The child tax credit is a credit that may reduce your tax by as much as \$2,000 for

each of your qualifying children. See *How Much Can I Claim as a Child Tax Credit*, later.

The additional child tax credit (ACTC) is a credit you may be able to take if you aren't able to claim the full amount of the child tax credit. The additional child tax credit is discussed later.

The credit for other dependents (ODC) is a credit that may reduce your tax by as much as \$500 for each of your qualifying children or other dependents who can't be claimed for the CTC. The amount you may claim for your CTC is calculated together with the amount you may claim for your credit for other dependents on the Child Tax Credit and Credit for Other Dependents Worksheet in the instructions for your tax return. These credits are reported on the same line of your return. The credit for other dependents is discussed later.



The additional child tax credit (ACTC) is a credit you may be able to take if you aren't able to claim the full amount of the child tax credit. The child tax credit isn't the same as the credit for child and dependent care expenses. See Pub. 503 for information on the credit for child and dependent care expenses.



Refunds for returns claiming the ACTC can't be issued before mid-February 2024. This delay applies to the entire refund, not just the portion associated with the ACTC. This delay does not apply if the return claims the CTC unless the return also claims the earned income credit.

Can I claim the child tax credit if I don't have a social security number (SSN) or an individual taxpayer identification number (ITIN)? If you or your spouse (if filing jointly) don't have an SSN or ITIN issued on or before the due date of your 2023

return (including extensions), you can't claim the child tax credit on either your original or an amended 2023 return, even if you later get an SSN. If an ITIN is applied for on or before the due date of a 2023 return (including extensions) and the IRS issues an ITIN as a result of the application, the IRS will consider the ITIN as issued on or before the due date of the return.

Is My Child a Qualifying Child?

Your child is a qualifying child for purposes of the child tax credit if your child meets all seven of the following conditions.

1. Is your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, half brother, or half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew).
2. Was under age 17 at the end of 2023.

3. Didn't provide over half of the child's own support for 2023.
4. Lived with you for more than half of 2023 (but see *Are there exceptions to the time lived with you requirement*, later).
5. Is claimed as a dependent on your return.
6. Doesn't file a joint return for the year (or files it only to claim a refund of income tax withheld or estimated tax paid).
7. Was a U.S. citizen, a U.S. national, or a U.S. resident alien. If the child was adopted, see *Adopted child*, later.

Are there exceptions to the time lived with you requirement? Temporary absences by you or the other person for special circumstances, such as school, vacation, business, medical care, military

service, or detention in a juvenile facility, count as time the person lived with you.

If the person meets all other requirements to be your qualifying child but was born or died in 2023, the person is considered to have lived with you for more than half of 2023 if your home was this person's home for more than half the time he or she was alive in 2023.

Any other person is considered to have lived with you for all of 2023 if the person was born or died in 2023 and your home was this person's home for the entire time he or she was alive in 2023.

There are also exceptions for kidnapped children, children lawfully placed with you for legal adoption by you in 2023, eligible foster children placed with you in 2023, and children of divorced or separated parents. For details, see Pub. 501.

What if my child is the qualifying child of more than one person? A special rule applies if your qualifying child is the qualifying child of more than one person as only one person can actually treat the child as a qualifying child. For details, see Pub. 501.

Adopted child. Your adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption. If you are a U.S. citizen or U.S. national and your adopted child lived with you as a member of your household all year, that child meets condition 7.

How Much Can I Claim as a Child Tax Credit?

The maximum amount you can claim for the credit is \$2,000 for each qualifying child under age 17 at the end of 2023, who has an SSN that is valid for employment and issued before the due date of your 2023 return (including extensions). If your child was issued an SSN that wasn't valid for

employment and became eligible for a card without the legend “Not valid for employment” by the due date of your return (including extensions), you may claim the CTC on an original or amended return for that tax year even if your child’s card wasn't updated by the due date of your return.

Modified AGI. For purposes of the CTC and ACTC, your modified AGI is the amount on Form 1040 or 1040-SR, line 11, plus the following amounts that may apply to you.

- Any amount excluded from income because of the exclusion of income from Puerto Rico.
- Any amount on line 45 or line 50 of Form 2555.
- Any amount on line 15 of Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa.

If you don't have any of the above, your modified AGI is the same as your AGI.

Claiming the Credit

To claim the CTC and/or ACTC, you must file Form 1040, 1040-SR, or 1040-NR. For each qualifying child, you must check the “child tax credit” box in column (4) of the Dependents section on page 1 of Form 1040, 1040-SR, or 1040-NR and complete Schedule 8812 (Form 1040). If you meet the residency requirements to claim the ACTC, you will claim the ACTC on Form 1040, 1040-SR, or 1040-NR, line 28. Otherwise, you will claim the CTC on Form 1040, 1040-SR, or 1040-NR, line 19. For more information on these credits, see the Instructions for Form 1040, or the Instructions for Form 1040-NR, and the Instructions for Schedule 8812 (Form 1040).

Form 8862, who must file. You must file Form 8862 to claim the CTC, ACTC, or ODC if your ACTC or ODC for a year after 2015 was denied or reduced for any reason other than a math or clerical error. Attach a completed Form 8862 to your 2023 return unless an

exception applies. See Form 8862, Information To Claim Certain Credits After Disallowance, and its instructions for more information, including whether an exception applies.



If you take the CTC, ACTC, or ODC even though you aren't eligible and it is determined that your error is due to reckless or intentional disregard of the rules for these credits, you won't be allowed to take the CTC, ACTC, or ODC for 2 years even if you are otherwise eligible to do so. If you fraudulently take the CTC, ACTC, or ODC, you won't be allowed to take the CTC, ACTC, or ODC for 10 years. See the Instructions for Form 8862 for more information. You may also have to pay penalties.

Credit for Other Dependents (ODC)

This credit is a nonrefundable credit of up to \$500 for each eligible dependent who can't be claimed for the CTC or ACTC. The CTC, ACTC,

and ODC are figured using Schedule 8812 (Form 1040).

To claim the credit, you must file Form 1040, 1040-SR, or 1040-NR. For each qualifying child, you must check the "Credit for other dependents" box in column (4) of the *Dependents* section on page 1 of Form 1040, 1040-SR, or 1040-NR. For more information on the ODC, see the Instructions for Schedule 8812 (Form 1040).

Form 8862, who must file. You must file Form 8862 to claim the CTC, ACTC or ODC if your CTC, ACTC, or ODC for a year after 2015 was denied or reduced for any reason other than a math or clerical error. Attach a completed Form 8862 to your 2023 return to claim the CTC, ACTC or ODC unless an exception applies. See Form 8862, *Information To Claim Certain Credits After Disallowance*, and its instructions for more information, including whether an exception applies.



If you take the CTC, ACTC or ODC even though you aren't eligible and it is determined that your error is due to reckless or intentional disregard of the rules for these credits, you won't be allowed to take the ODC for 2 years even if you are otherwise eligible to do so. If you fraudulently take the CTC, ACTC or ODC, you won't be allowed to take the CTC, ACTC or ODC for 10 years. See the Instructions for Form 8862 for more information. You may also have to pay penalties.

Additional Child Tax Credit (ACTC)

What is the ACTC? This credit is for certain individuals who get less than the full amount of the CTC.



The ODC can't be used to figure the ACTC. Only your CTC can be used to figure your ACTC. If you are claiming the ODC but not the CTC, you can't claim the ACTC.



Refunds for returns claiming the ACTC can't be issued before mid-February 2024. This delay applies to the entire refund, not just the portion associated with the ACTC. This delay does not apply if the return claims the CTC unless the return also claims the earned income credit.

Form 8862, who must file. You must file Form 8862 to claim the ACTC if your CTC, ACTC or ODC for a year after 2015 was denied or reduced for any reason other than a math or clerical error. Attach a completed Form 8862 to your 2023 return unless an exception applies. See Form 8862, Information To Claim Certain Credits After Disallowance, and its instructions for more information, including whether an exception applies.



If you take the CTC, ACTC, or ODC even though you aren't eligible and it is determined that your error is due to reckless or intentional disregard of the rules

for these credits, you won't be allowed to take the CTC, ACTC, or ODC for 2 years even if you are otherwise eligible to do so. If you fraudulently take the CTC, ACTC, or ODC, you won't be allowed to take the CTC, ACTC, or ODC for 10 years. See the Instructions for Form 8862 for more information. You may also have to pay penalties.

Earned Income Credit (EIC)

The EIC is a credit for certain persons who work. The credit may give you a refund even if you don't owe any tax or didn't have any tax withheld.

You must satisfy certain criteria in order to claim the EIC. The criteria you must meet depends on whether you have a qualifying child. Detailed information is provided in *Claiming the EIC if I Have a Qualifying Child* and *Claiming the EIC if I Don't Have a Qualifying Child*, later.

Form 8862, who must file. You must file Form 8862 to claim the EIC if your EIC for a year after 1996 was denied or reduced for any reason other than a math or clerical error. Attach a completed Form 8862 to your 2023 return. Don't file Form 8862 if you filed Form 8862 for a tax year after the denial or reduction if the EIC was allowed for that year or if the 10-year period and/or 2-year period in the Caution below is over. See Form 8862 and its instructions for details.



If you take the EIC even though you aren't eligible and it is determined that your error is due to reckless or intentional disregard of the EIC rules, you won't be allowed to take the credit for 2 years even if you are otherwise eligible to do so. If you fraudulently take the EIC, you won't be allowed to take the credit for 10 years. You may also have to pay penalties. See Form 8862 and its instructions for details.



Refunds for returns claiming the EIC can't be issued before mid-February 2024. This delay applies to the entire refund, not just the portion associated with the EIC.

Can I claim the EIC if I don't have an SSN? If you don't have an SSN by the due date of your 2023 return (including extensions), you can't claim the EIC on either your original or an amended 2023 return, even if you later get an SSN.

Claiming the EIC if I Have a Qualifying Child



*If you are claiming the EIC with a qualifying child, you should follow the **eligibility** rules that apply to filers with a qualifying child or children when determining whether you are eligible to claim the EIC even if your qualifying child hasn't been issued a **valid SSN** on or before the due date of your return (including extensions). However, when calculating the amount of EIC*

that you are eligible to claim on your return, you should follow the rules that apply to taxpayers who do not have a qualifying child.

If you have a qualifying child (defined later), you must satisfy all nine of the following rules to claim the EIC.

1. You must have earned income (defined later).
2. Your earned income and adjusted gross income (AGI) must each be less than:
 - a. \$56,838 (\$63,398 for married filing jointly) if you have three or more qualifying children,
 - b. \$52,918 (\$59,478 for married filing jointly) if you have two qualifying children, or
 - c. \$46,560 (\$53,120 for married filing jointly) if you have one qualifying child.

3. If you are married, you must file a joint return to claim the EIC or satisfy certain requirements to be considered unmarried for EIC purposes.
4. You generally can't be a qualifying child of another person. If filing a joint return, your spouse also can't be a qualifying child of another person.
5. Your qualifying child can't be used by more than one person to claim the credit. If your qualifying child is the qualifying child of more than one person, you must be the person who can treat the child as a qualifying child. See the Caution below. If the other person can claim the child as a qualifying child, you may be able to claim the EIC under the rules for a taxpayer without a qualifying child. For details, see *Rule 9* in Pub. 596.
6. You can't file Form 2555 to exclude income earned in foreign countries, or

to deduct or exclude a foreign housing amount. See Pub. 54 for more information about this form.

7. You must be a U.S. citizen or resident alien all year unless:
 - a. You are married to a U.S. citizen or a resident alien,
 - b. Your filing status is married filing jointly, and
 - c. You choose to be treated as a resident alien for the entire year. If you need more information about making this choice, see *Resident Aliens*, later.
8. Certain investment income must be \$11,000 or less during the year. For most people, this investment income is taxable interest and dividends, tax-exempt interest, and capital gain net income. See Worksheet 1 in Pub. 596 for more information on the

investment income includible in the amount that must meet the \$11,000 limit.

9. You must have a valid SSN for yourself, your spouse (if filing a joint return), and any qualifying child.



If you and someone else have the same qualifying child but the other person can't claim the EIC because he or she isn't eligible or his or her earned income or AGI is too high, you may be able to treat the child as a qualifying child. But you can't treat the child as a qualifying child to claim the EIC if the other person uses the child to claim any of the tax benefits listed below.

1. *The child tax credit, ACTC, and ODC.*
2. *Head of household filing status.*
3. *The credit for child and dependent care expenses.*

4. *The exclusion* for dependent care benefits.

How to report. If you satisfy all these rules, fill out Schedule EIC (Form 1040), Earned Income Credit, and attach it to Form 1040 or 1040-SR. You will claim the EIC on Form 1040, 1040-SR, or 1040-NR, line 27.

Qualifying child. Your child is a qualifying child if your child passes four tests and has an SSN, as required in *Social security number (SSN) of child*, later. The four tests are:

1. Relationship,
2. Age,
3. Residency, and
4. Joint return.

Each test, and the SSN requirement, are discussed below.

Relationship test. In order to be classified as a qualifying child, your child must pass the relationship test. Your child passes this test if the child is your:

- Son, daughter, stepchild, or foster child, or a descendant of any of them (for example, your grandchild); or
- Brother, sister, half brother, half sister, stepbrother, or stepsister, or a descendant of any of them (for example, your niece or nephew).

An adopted child is always treated as your own child. The term “adopted child” includes a child who was lawfully placed with you for legal adoption.

Your foster child, for the relationship test, is a child placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. An authorized placement agency includes a state or local government agency.

It also includes a tax-exempt organization licensed by a state. In addition, it includes an Indian tribal government or an organization authorized by an Indian tribal government to place Indian children.

Age test. In order to be classified as a qualifying child, your child must pass the age test. A child passes the age test if he or she is in at least one of the following categories.

1. **Category 1.** Under age 19 at the end of 2023 and younger than you (or your spouse, if filing jointly).
2. **Category 2.** Under age 24 at the end of 2023, a student, and younger than you (or your spouse, if filing jointly).
3. **Category 3.** Permanently and totally disabled at any time during 2023, regardless of age.

Student defined. To qualify as a student, your child must be, during some part of each of any 5 calendar months of 2023:

1. A full-time student at a school that has a regular teaching staff, course of study, and regular student body at the school; or
2. A student taking a full-time, on-farm training course given by a school described in (1), or a state, county, or local government.

The 5 calendar months need not be consecutive.

A school can be an elementary school, junior or senior high school, college, university, or technical, trade, or mechanical school.

However, on-the-job training courses, correspondence schools, and schools offering courses only through the Internet don't count as schools for the EIC.

Students who work in co-op jobs in private industry as a part of a school's regular course of classroom and practical training are considered full-time students.

Permanently and totally disabled. Your child is permanently and totally disabled if, at any time in 2023, both of the following apply.

1. Your child couldn't engage in any substantial gainful activity because of a physical or mental condition.
2. A doctor determined the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

Residency test. In order to be classified as a qualifying child, your child must pass the residency test. A child passes the residency test if he or she has lived with you in the United States for more than half of 2023.

The IRS may ask you for documents to show you lived with each qualifying child.

Documents you might want to keep for this purpose include school and childcare records and other records that show your child's address.



You can't take the credit for a child who didn't live with you for more than half the year even if you paid most of the child's living expenses. But see below for allowable absences.

The United States includes the 50 states and the District of Columbia. It doesn't include U.S. territories such as Guam or Puerto Rico.

U.S. Armed Forces personnel stationed outside the United States on extended active duty are considered to live in the United States during that duty period for purposes of the EIC. Extended active duty means you are called or ordered to active duty for an indefinite period or for a period of more than 90 days. Once you begin serving your extended active duty, you are still considered to have been on extended active duty even if you don't serve more than 90 days.

A child 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 child's

home for more than half of the time he or she was alive in 2023.

Count time that you or your child is away from home on a temporary absence due to a special circumstance as time the child lived with you. Examples of a special circumstance include illness, school attendance, business, vacation, military service, and detention in a juvenile facility.

An adopted child in 2023, and that child was lawfully placed with you for legal adoption by you in 2023, or the child was an eligible foster child placed with you during 2023, the child is considered to have lived with you for more than half of 2023 if your main home was this child's main home for more than half the time he or she was adopted or placed with you in 2023.

A kidnapped child is treated as living with you for more than half of the year if the child lived with you for more than half the part of the year before the date of the kidnapping or

following the date of the child's return. The child must be presumed by law enforcement authorities to have been kidnapped by someone who isn't a member of your family or your child's family. This treatment applies for all years until the child is returned. However, the last year this treatment can apply is the earlier of:

1. The year there is a determination that the child is dead, or
2. The year the child would have reached age 18.

If your qualifying child has been kidnapped and meets these requirements, enter "KC," instead of a number, on line 6 of Schedule EIC.

Joint return test. In order to be classified as a qualifying child, your child must satisfy the joint return test. There are two parts to this test.

First, the child can't file a joint return for the year (unless the joint return is filed only as a claim for refund of income tax withheld or estimated tax paid).

Second, even if your child doesn't file a joint return, if your child was married at the end of the year, he or she can't be your qualifying child unless:

1. You can claim the child as a dependent, or
2. The reason you can't claim the child as a dependent is that you let the child's other parent claim the child as a dependent under the special rule for divorced or separated parents (or parents who live apart) described in Pub. 596 and the Instructions for Form 1040.

Social security number (SSN) of child. In order to be classified as a qualifying child, your child must have a valid SSN unless the

child was born and died in 2023. If a child didn't have an SSN on or before the due date of your return (including extensions), you can't count that child as a qualifying child in figuring the EIC on either your original or an amended 2023 return, even if that child later gets an SSN. You can't claim a higher EIC credit amount on the basis of a qualifying child if:

1. Your qualifying child's SSN is missing from your tax return or is incorrect;
2. Your qualifying child's social security card says "Not valid for employment" and was issued for use in getting a federally funded benefit; or
3. Instead of an SSN, your qualifying child has:
 - a. An ITIN which is issued to a noncitizen who can't get an SSN; or

- b. An adoption taxpayer identification number (ATIN), which is issued to adopting parents who can't get an SSN for the child being adopted until the adoption is final.

If you have more than one qualifying child and only one has a valid SSN, you can claim a higher EIC credit amount only for that one child.

More information. For more information on the EIC, see Pub. 596.

Claiming the EIC if I Don't Have a Qualifying Child

If you don't have a qualifying child, you can take the credit if you satisfy all 11 of the following rules.

1. You must have earned income (defined later).

2. Your earned income and adjusted gross income must each be less than \$17,640 (\$24,240 for married filing jointly).
3. If you are married, see Pub. 596 for more details.
4. You can't be a qualifying child of another person. You automatically meet this requirement if you are claiming the EIC on a joint return.
5. You must be at least age 25 but under age 65 at the end of 2023. If you are married filing a joint return, either you or your spouse must be at least age 25 but under age 65 at the end of 2023. It doesn't matter which spouse meets the age test, as long as one of the spouses does. See Pub. 596 for more details.

You meet the age test if you were born after December 31, 1958, and before January 2, 1999. If you are married

filing a joint return, you meet the age test if either you or your spouse was born after December 31, 1958, and before January 2, 1999.

If neither you nor your spouse meets the ages test, you can't claim the EIC. Enter "No" on the dotted line next to line 27 (Form 1040 or 1040-SR).

6. You can't be claimed as a dependent by anyone else on that person's return. You automatically meet this requirement if you are claiming the EIC on a joint return.
7. Your main home (and your spouse's, if filing a joint return) must be in the United States for more than half the year. Your home can be any location where you regularly live. You don't need a traditional home. (U.S. military personnel stationed outside the United States on extended active duty,

discussed earlier, are considered to be living in the United States.)

8. You can't file Form 2555.
9. You must be a U.S. citizen or resident alien all year unless:
 - a. You are married to a U.S. citizen or a resident alien,
 - b. Your filing status is married filing jointly, and
 - c. You choose to be treated as a resident alien for the entire year.
10. Certain investment income must be \$11,000 or less during the year. For most people, this investment income is taxable interest and dividends, tax-exempt interest, and capital gain net income. See Worksheet 1 in Pub. 596 for more information on the investment income includible in the

amount that must meet the \$11,000 limit.

11. You (and your spouse, if filing a joint return) must have a valid SSN.

How to report. If you satisfy all 11 of these rules, fill out the EIC Worksheet in your tax form instructions to figure the amount of your credit.

More information. For more information, see Pub. 596.

How Do I Figure My Earned Income?

When figuring your earned income for the EIC, you must know what counts as earned income as well as what doesn't count as earned income. Both categories of income are described below.

What is included in my earned income for the EIC? For purposes of the EIC, earned income generally includes the following.

- Wages, salaries, tips, and other taxable employee pay.
- Net earnings from self-employment.
- Gross income received as a statutory employee.
- Nontaxable combat zone pay if you elect to include it in earned income. See *Can I treat my nontaxable combat zone pay as earned income?* next.

Can I treat my nontaxable combat zone pay as earned income? You can elect to include your nontaxable combat zone pay in earned income for the EIC. If you make the election, you must include in earned income all nontaxable combat zone pay you received. If you are filing a joint return and both you and your spouse received nontaxable combat zone 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.

The amount of your nontaxable combat zone pay should be shown on your Form W-2 in box 12 with code Q. Electing to include nontaxable combat zone pay in earned income may increase or decrease your EIC.

Figure the credit with and without your nontaxable combat zone pay before making the election. Whether the election increases or decreases your EIC depends on your total earned income, filing status, and number of qualifying children. If your earned income without your combat zone pay is less than the amount shown below for your number of children, you may benefit from electing to include your nontaxable combat zone pay in earned income and you should figure the credit both ways. If your earned income without your combat zone pay is equal to or more than these amounts, you won't benefit

from including your combat zone pay in your earned income.

- \$7,840 if you have no qualifying children.
- \$11,750 if you have one qualifying child.
- \$16,510 if you have two or more qualifying children.

The following examples illustrate the effect of including nontaxable combat zone pay in earned income for the EIC.

Example 1—Election increases the EIC.

Gray and Jaidyn are married, were born in 1988, and will file a joint return. They have one qualifying child. Gray was in the Army and earned \$15,000 (\$5,000 taxable wages + \$10,000 nontaxable combat zone pay). Jaidyn worked part of the year and earned \$2,000. Their taxable earned income and AGI are both \$7,000. Gray and Jaidyn qualify for the EIC and fill out the EIC Worksheet in the Form 1040 instructions and Schedule EIC.

When they complete the EIC Worksheet without adding the nontaxable combat zone pay to their earned income, they find their credit to be \$2,389. When they complete the EIC Worksheet with the nontaxable combat zone pay added to their earned income, they find their credit to be \$3,584. Because making the election will increase their EIC, they elect to add the nontaxable combat zone pay to their earned income for the EIC. They enter \$3,584 on line 27 and they enter \$10,000 on line 1i of their Form 1040. They also enter the amount of their nontaxable pay and enter "NCP" in the space to the left of line 27 on Form 1040.

Example 2—Election doesn't increase the EIC. The facts are the same as in Example 1, except Gray had nontaxable combat pay of \$30,000. When Gray and Jaidyn add their nontaxable combat pay to their earned income, they find their credit to be \$1,771. Because the credit they can get if they don't

add the nontaxable combat pay to their earned income is \$2,389, they decide not to make the election. They enter \$2,389 on line 27 of their Form 1040.

What isn't earned income for the EIC?

When figuring your earned income for purposes of the EIC, don't include any of these amounts.

- Basic pay or special, bonus, or other incentive pay that is subject to the combat zone exclusion (unless you make the election described earlier under *Can I treat my nontaxable combat zone pay as earned income*).
- Basic Allowance for Housing (BAH).
- Basic Allowance for Subsistence (BAS).
- Any other nontaxable employee compensation.
- Interest and dividends.

- Social security and railroad retirement benefits.
- Certain workfare payments.
- Pensions or annuities.
- Veterans' benefits (including VA rehabilitation payments).
- Workers' compensation.
- Unemployment compensation.
- Alimony and child support.

The IRS Can Figure Your Credit for You

There are certain instructions you must follow before the IRS can figure the credit for you. See *IRS Will Figure the EIC for You* in Pub. 596.

Credit for Excess Social Security Tax Withheld

Most employers must withhold social security tax from your wages. If you worked for two or

more employers in 2023 and you earned more than \$160,200, you may be able to take the credit for excess social security tax withheld. The maximum amount of social security tax that should have been withheld for 2023 is \$9,932.40. You are eligible for the credit for excess social security tax withheld only if you had more than one employer. You should use the Credit for Excess Social Security Tax Withheld Worksheet to figure your credit.



All wages are subject to Medicare tax withholding.

What if one of my employers withheld more than \$9,932.40? If any one employer withheld more than \$9,932.40 in social security taxes in 2023, you can't take a credit for the excess social security tax withheld over \$9,932.40 by that employer. The employer should adjust the tax for you. If the employer doesn't adjust the overcollection, you can file a claim for refund using Form

843, Claim for Refund and Request for Abatement.

Joint return. If you are filing a joint return, you can't add the social security tax withheld from your spouse's wages to the amount withheld from your wages in determining whether you or your spouse had excess social security tax withheld. You must figure the withholding separately for you and your spouse to determine if either of you has excess withholding.

Credit for Excess Social Security Tax Withheld Worksheet. You can use the Credit for Excess Social Security Tax Withheld Worksheet to figure your credit for excess social security tax withheld on wages in 2023 only if you had no wages in 2023 from employers that were railroads. If you worked for a railroad employer in 2023, see *Do I figure my credit differently if I am a railroad employee?* next.

Credit for Excess Social Security Tax Withheld Worksheet

If you received wages from a railroad employer, you can't use this worksheet. See [Do I figure my credit differently if I am a railroad employee.](#)

If you had only one employer, don't use this worksheet. Instead, see [What if one of my employers withheld more than \\$9,932.40?](#).

1. Add all social security tax withheld (but not more than \$9,932.40 for each employer). Enter the total here	1. _____
2. Enter any uncollected social security tax on wages, tips, or group-term life insurance included in the total on Schedule 2 (Form 1040), line 6	2. _____
3. Add lines 1 and 2. If \$9,932.40 or less, stop here. You can't take the credit	3. _____
4. Social security tax limit	4. _____ 9,932.40
5. Subtract line 4 from line 3. This is your excess social security tax withheld credit. Enter the result here and on Schedule 3 (Form 1040), line 11	5. _____

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Do I figure my credit differently if I am a railroad employee? If you work for a railroad employer, the discussion in this section doesn't apply to you. Your railroad employer must withhold tier 1 railroad retirement (RRTA) tax and tier 2 RRTA tax. See chapter 2 of Pub. 505 for more information.

How to take the credit. Enter the credit on Schedule 3 (Form 1040), line 11.

First-Time Homebuyer Credit Repayment

If you claimed a first-time homebuyer tax credit for a home purchased after April 9, 2008, and before May 1, 2010, you must generally repay the first-time homebuyer credit over a 15-year period in 15 equal installments. For your 2023 (and later) tax returns, the repayment requirement will only apply to a home you bought during that time period.

For more information, see Form 5405, Repayment of the First-Time Homebuyer Credit, and its instructions.

Forgiveness of Decedent's Tax Liability

Tax liability can be forgiven if a member of the U.S. Armed Forces dies:

- While in active service in a combat zone (see Combat Zone Related Forgiveness, later);
- From wounds, disease, or injury received in a combat zone (see Combat Zone Related Forgiveness, later); or
- From wounds or injury incurred in a terrorist or military action (see Terrorist or Military Action Related Forgiveness, later).

What does tax forgiveness mean? When there is tax forgiveness, the following occurs.

- If the tax being forgiven hasn't yet been paid, it may not have to be paid.
- If the tax being forgiven has been paid, the payment may be refunded.

How Do I Make a Claim for Tax Forgiveness, later, provides details.

Combat Zone Related Forgiveness

Combat zone related forgiveness occurs when an individual meets both of the following criteria.

1. Is a member of the U.S. Armed Forces at death.
2. Dies while in active service in a combat zone, or at any place from wounds, disease, or injury incurred while in active service in a combat zone.

Except as limited in *Deadline for Filing a Claim for Tax Forgiveness*, later, forgiveness applies to:

- The tax year death occurred, and
- Any earlier tax year ending on or after the first day the member served in the combat zone in active service.

In addition, any unpaid taxes for years ending before the member began service in a combat zone will be forgiven and any of those taxes that are paid after the date of death will be refunded.

The beneficiary or trustee of the estate of a deceased servicemember doesn't have to pay tax on any amount received that would have been included (had the servicemember not died) in the deceased member's gross income for the year of death.

Service outside combat zone. These rules also apply to a member of the Armed Forces serving outside the combat zone if the service:

- Was in direct support of military operations in the zone, and
- Qualified the member for special military pay for duty subject to hostile fire or imminent danger.

For a description of combat zone, see *Combat Zone Defined*, earlier, under *Combat Zone Exclusion*.

Missing status. The date of death for a member of the Armed Forces who was in a missing status (missing in action or prisoner of war) is the date his or her name is removed from missing status for military pay purposes. This is true even if death actually occurred earlier.

Terrorist or Military Action Related Forgiveness

Terrorist or military action related forgiveness occurs when an individual meets both of the following criteria.

- Is a member of the U.S. Armed Forces at death.
- Dies from wounds or injury incurred while a member of the U.S. Armed Forces in a terrorist or military action.

Except as limited in *Deadline for Filing a Claim for Tax Forgiveness*, later, forgiveness applies to:

- The tax year death occurred, and
- Any earlier tax year in the period beginning with the year before the year in which the wounds or injury occurred.

A terrorist or military action is any terrorist activity primarily directed against the United States or its allies or any military action involving the U.S. Armed Forces and resulting from violence or aggression against the United States or its allies (or threat thereof).

Any multinational force in which the United States participates is considered an ally of the United States.

The beneficiary or trustee of the estate of a deceased servicemember doesn't have to pay tax on any amount received that would have been included (had the servicemember not died) in the deceased member's gross income for the year of death.

Example. Army Private John Kane died in 2023 of wounds incurred in a terrorist attack in 2022. His income tax liability is forgiven for all tax years from 2021 through 2023.

How Do I Make a Claim for Tax Forgiveness?

How Is Tax Forgiveness Claimed?

If the decedent's tax liability is forgiven, the personal representative should take the following steps.

Step 1: File the proper form. The form filed to claim the tax forgiveness depends on whether a return has already been filed for the tax year.

- File a paper Form 1040 or 1040-SR if a tax return hasn't been filed for the tax year. Form W-2 must accompany the return.
- File a paper Form 1040-X if a tax return has been filed. A separate paper Form 1040-X must be filed for each year in question.

Step 2: Properly identify the return.

Properly identify the return by providing the conflict or action on which the claim for tax forgiveness is based.

- All returns and claims must be identified by writing "Iraqi Freedom—KIA," "Enduring Freedom—KIA," "Kosovo Operation—KIA," "Desert Storm—KIA," or "Former Yugoslavia—KIA" in bold letters on the top of page 1 of the return or claim.
- On Forms 1040, 1040-SR, and 1040-X, the phrase "Iraqi Freedom—KIA," "Enduring Freedom—KIA," "Kosovo Operation—KIA," "Desert Storm—KIA," or "Former Yugoslavia—KIA" must be written on the line for total tax.
- If the individual was killed in a terrorist action, write "KITA" on the front of the return and on the line for total tax.

Step 3: Include a before and after tax forgiveness computation. Include an attachment with a computation of the decedent's tax liability before any amount is forgiven and the amount that is to be forgiven. For computations when the decedent has filed joint returns or the spouse has filed as married filing separately, see below.

Computation when the decedent filed joint returns. Only the decedent's part of the joint income tax liability is eligible for the refund or tax forgiveness. To determine the decedent's part, the person filing the claim must:

1. Figure the income tax for which the decedent would have been liable if a separate return had been filed,
2. Figure the income tax for which the spouse would have been liable if a separate return had been filed, and

3. Multiply the joint tax liability by a fraction. The top number of the fraction is the amount in (1) above. The bottom number of the fraction is the total of (1) and (2) above.

The amount in (3) is the decedent's tax liability that is eligible for the refund or tax forgiveness. If you are unable to complete this process, you should attach a statement of all income and deductions, indicating the part that belongs to each spouse. The IRS will determine the amount eligible for forgiveness.

Computation when in a community property state. If the decedent's legal residence was in a community property state and the spouse reported half the military pay on a separate return, the spouse can get a refund of taxes paid on his or her share of the pay for the years involved. The forgiveness of unpaid tax on the military pay would also apply to the half owed by the spouse for the years involved. See Community Property,

earlier, for a discussion of community property.

Step 4: Provide Form 1310, if required.

Form 1310 must accompany the return unless the person filing the return is:

- A surviving spouse filing an original or amended joint return, or
- A personal representative filing an original Form 1040 or 1040-SR for the decedent and a court certificate showing the appointment as personal representative is attached to the return.