

# Instructions for Form 8862



Department of the Treasury  
Internal Revenue Service

(Rev. October 2017)

## Information To Claim Certain Refundable Credits After Disallowance

Section references are to the Internal Revenue Code unless otherwise noted.

### Future Developments

For the latest information about developments related to Form 8862 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8862](http://IRS.gov/Form8862).

### What's New

**Form 8862 expanded and revised.** Due to changes in the law, the refundable credit recertification requirements have been expanded to also cover the child tax credit (CTC)/additional child tax credit (ACTC), and the American opportunity tax credit (AOTC). Form 8862 has been revised to account for these changes. Completing the form is not a substitute for actually completing all required forms and schedules for each credit you claim when preparing your return.

**Delayed refund for returns claiming certain credits.** Due to changes in the law, the IRS cannot issue refunds before February 15, for returns that claim the earned income credit (EIC) or the additional child tax credit (ACTC). This applies to the entire refund, not just the portion associated with these credits.

**Taxpayer identification number needed by due date of return. Earned income credit (EIC).** You must have a valid social security number (SSN) to claim the EIC. If you do not have an SSN by the due date of your return (including extensions), you cannot claim the EIC on either your original or amended return, even if you later get an SSN. Also, if a child does not have an SSN by the due date of your return (including extensions), you cannot count that child as a qualifying child in figuring the EIC on either your original or amended return, even if that child later gets an SSN.

**Child tax credit (CTC)/Additional child tax credit (ACTC).** You must have a valid SSN or individual taxpayer identification number (ITIN) to claim the CTC/ACTC. If you do not have an SSN or ITIN by the due date of your return (including extensions), you cannot claim the CTC/ACTC on either your original or amended return, even if you later get an SSN or ITIN. Also, neither credit is allowed on either your original or amended return for a child who does not have an SSN, ITIN, or adoption taxpayer identification number (ATIN) by the due date of your return (including extensions), even if that child later gets one of those numbers.

**American opportunity tax credit (AOTC).** You must have a valid SSN or individual taxpayer identification number (ITIN) to claim the AOTC. If you do not have an SSN or ITIN by the due date of your return (including extensions), you cannot claim the AOTC on either your original or amended return, even if you later get an SSN or ITIN. Also, the AOTC is not allowed on either your original or amended return for a student who does not have an SSN, ITIN, or adoption taxpayer identification number (ATIN) by the due date of your return (including extensions), even if that student later gets one of those numbers.

See your tax return instructions for more information.

## General Instructions

### Purpose of Form

You must complete Form 8862 and attach it to your tax return if both of the following apply.

1. Your EIC, CTC/ACTC, or AOTC was reduced or disallowed for any reason other than a math or clerical error.

2. You now want to take the EIC, CTC/ACTC, or AOTC and you meet all the requirements.



*You must attach the applicable schedules and forms for each credit you claim to your return. You may be asked to provide other information before any refund claimed is issued.*

**Exceptions.** Do not file Form 8862 if:

- After your EIC, CTC/ACTC, or AOTC was reduced or disallowed in an earlier year (a) you filed Form 8862 (or other documents) and your credit was then allowed, and (b) your credit has not been reduced or disallowed again for any reason other than a math or clerical error.
- You are taking the EIC without a qualifying child and the only reason your EIC was reduced or disallowed in the earlier year was because it was determined that a child listed on Schedule EIC was not your qualifying child.

In either of these cases, you can take the credit(s) without filing Form 8862 if you meet all the credit's eligibility requirements.

Do not file Form 8862 for the:

- 2 years after the most recent tax year for which there was a final determination that your EIC, CTC/ACTC, or AOTC claim was due to reckless or intentional disregard of the rules, or
- 10 years after the most recent tax year for which there was a final determination that your EIC, CTC/ACTC, or AOTC claim was due to fraud.

In either of these cases, you cannot take the credit(s).

**Have an ITIN instead of an SSN?** You must have a valid SSN to claim the EIC. You can have an ITIN instead of an SSN to claim the CTC/ACTC or AOTC. If you have an ITIN, enter your ITIN in the "social security number" space on the form.

**Need more space for an item?** If you need more space for an item, attach a statement to the end of your return that includes your name and SSN (or ITIN). Number each entry on the statement to correspond with the line number on Form 8862.

## Specific Instructions

### Part I—All Filers

**Line 1.** Enter the year for which you are filing this form to claim the credit(s) (for example, 2016). Do not enter the year the credit(s) was disallowed.

**Line 2.** Check the box(es) that applies to the credit(s) you are now claiming. You can check a box for each credit that was previously reduced or disallowed.

### Part II—Earned Income Credit

**Line 4.** If you (or your spouse if filing jointly) were a qualifying child of another taxpayer for the year shown on line 1, you cannot claim the EIC. Check "Yes" on line 4. This is true even if the taxpayer for whom you (or your spouse if filing jointly) are a qualifying child does not claim the EIC or meet all of the rules to claim the EIC. For more information, see Pub. 596.

Check "No" on line 4 if you could be claimed as a qualifying child of another taxpayer for the year shown on line 1 but the other taxpayer is not required to file, and is not filing, a tax return for that year or is filing it only as a claim for refund.

## Section A: Filers With a Qualifying Child or Children

**Line 6.** A qualifying child for the EIC is a child who:

1. Is your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, half brother, half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew);
2. Was (a) under age 19 at the end of the year on line 1 and younger than you (or your spouse, if filing jointly), (b) under age 24 at the end of the year on line 1, a student, and younger than you (or your spouse, if filing jointly), or (c) any age and permanently and totally disabled;
3. Is not filing a joint return for the year on line 1 or is filing a joint return for the year on line 1 only to claim a refund of withheld income tax or estimated tax paid; and
4. Lived with you in the United States for more than half of the year on line 1.

**Adopted child.** An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

For more information on who is a qualifying child see your tax return instructions or Pub. 596.

**Line 7.** You cannot take the credit for a child who lived with you for half of the year or less, even if you paid most of the child's living expenses. 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 child care records and other records that show your child's address.

Temporary absences by you or the child for special circumstances, such as school, vacation, business, medical care, military service, or detention in a juvenile facility, count as time the child lived with you.

If your child was born or died during the year entered on line 1 and your home was the child's home for more than half the time he or she was alive during that year, enter "365" ("366" if the year is a leap year) on line 7 and complete line 8.

For more information, see your tax return instructions or Pub. 596.

## Section B: Filers Without a Qualifying Child or Children

**Line 9.** Enter the number of days that your main home (and your spouse's if filing jointly) was in the United States during the year on line 1.

Temporary absences for special circumstances such as for business, medical care, school, or military service, count as time lived at your main home.

**Members of the military.** If you were on extended active duty outside the United States, your main home is considered to be in the United States during that duty period. Extended active duty is military duty ordered for an indefinite period or for a period of more than 90 days. Once you begin serving extended active duty, you are considered to be on extended active duty even if you do not serve more than 90 days.

**Line 10.** If your spouse died during the year on line 1, or you are preparing a return for someone who died during the year on line 1, the age test is met if your spouse, or the deceased taxpayer was at least age 25 but under age 65 at the time of death.

Your spouse, or the deceased taxpayer, is considered to reach age 25 on the day before his or her 25th birthday. However, the rule for reaching age 65 is different; your spouse, or the deceased taxpayer, reaches age 65 on his or her 65th birthday.

**Example 1.** You are married and filing a joint return with your spouse who died in August 2016. You are age 67. Your spouse would have become age 65 in November 2016. Because your spouse was under age 65 when she died, you meet the age test.

**Example 2.** Your spouse was born on February 14, 1991, and died on February 13, 2016. Your spouse is considered age 25 at the time of death. However, if your spouse died on February 12, 2016, your spouse isn't considered age 25 at the time of death and isn't at least age 25 at the end of 2016.

## Part III—Child Tax Credit and Additional Child Tax Credit

**Line 13.** A qualifying child for purposes of the CTC is a child who:

1. Is your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, half brother, 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 the year;
3. Did not provide over half of his or her own support for the year;
4. Lived with you for more than half of the year;
5. Is claimed as a dependent on your return;
6. Does not file a joint return for the year (or files it only to claim a refund of withheld income tax or estimated tax paid); and
7. Was a U.S. citizen, a U.S. national, or a U.S. resident alien. See Pub. 519 for the definition of a U.S. national or U.S. resident alien.

**Adopted child.** An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

For more information on who is a qualifying child, see your tax return instructions or Pub. 972.

**Line 14.** Generally, a child must live with you for more than half of the year for you to claim the credit. A child is considered to have lived with you for more than half of the year if the child was born or died during the year on line 1 and your home was this child's home for more than half the time he or she was alive. Temporary absences by you or the child for special circumstances, such as school, vacation, business, medical care, military service, or detention in a juvenile facility, count as time the child lived with you.

However, there are exceptions for *kidnapped children* and *children of divorced or separated parents*. If you meet one of these exceptions, including being the noncustodial parent who is entitled to claim the dependency exemption for the child, answer "Yes" to question 14 for that child. For details, see your tax return instructions.

**Line 15.** Use Part I of Schedule 8812 (Form 1040) to document that a child, who has an ITIN, is a resident of the United States because the child meets the substantial presence test and is not otherwise treated as a nonresident alien.

Even if your child meets the substantial presence test, your child may still be considered a nonresident alien because of an income tax treaty between the United States and your country or the child's tax home is in a foreign country and he or she has a closer connection to that country than the United States. See Pub. 519 for more information.

There are special circumstances where your child does not meet the substantial presence test, but may meet an exception or be treated as a resident of the United States. If your child does not meet the substantial presence test, but one of the following special circumstances applies, answer "Yes" to question 15 for that child.

- **First-year election.** If your child was present in the United States for at least 31 consecutive days in the year on line 1 and meets the substantial presence test in the following year, your child may be considered a resident of the United States for part of the year on line 1 if you make a valid election. See *First-Year Choice* in Pub. 519.
- **Child adopted by U.S. citizen or national.** A child legally adopted by you or lawfully placed with you for legal adoption is not required to meet the substantial presence test if you are a citizen or national of the United States, and, for your entire tax year, the child has the same main home as you and is a member of your household.

## Part IV—American Opportunity Tax Credit

**Line 20a.** An eligible student for purposes of the AOTC is a student for whom you pay qualified education expenses and meets all of the following requirements.

1. The student did not have expenses that were used to figure an AOTC in any 4 earlier tax years. This includes any tax year(s) in which the Hope scholarship credit was claimed for the same student.
2. The student had not completed the first 4 years of post-secondary education (generally, the freshman, sophomore, junior, and senior years of college) before the year on line 1.
3. For at least one academic period beginning in the year on line 1 (or the first 3 months of the following year if the qualified expenses were paid in the previous year), the student was enrolled at least half-time in a program leading to a degree, certificate, or other recognized educational credential.
4. The student has not been convicted of any federal or state felony for possessing or distributing a controlled substance as of the end of the year on line 1.

See Pub. 970 and the Instructions for Form 8863 for more information.

**Line 20b.** For tax years beginning after June 29, 2015, the law requires a taxpayer (or a dependent) to have received a Form 1098-T from an eligible educational institution in order to claim the AOTC.

However, a taxpayer may claim the AOTC if the student does not receive a Form 1098-T and the student's educational institution is not required to send a Form 1098-T to the student under existing rules (for example, if the student is a nonresident alien, has qualified education expenses paid entirely with scholarships, or has qualified education expenses paid under a formal billing arrangement), or because the student is enrolled in courses for which no academic credit is awarded. If a student's educational institution is not required to provide a Form 1098-T to the student, a taxpayer may claim the AOTC without a Form 1098-T if the taxpayer otherwise qualifies, can demonstrate that the taxpayer (or a dependent) was enrolled at an eligible educational institution, and can substantiate the payment of qualified tuition and related expenses. If the student did not receive a Form 1098-T because the educational institution was not required to send one, and you can otherwise claim the AOTC, answer "Yes" to question 20b for that student.

**Line 20c.** If the AOTC has been claimed for a student for any 4 tax years before the year on line 1 (including any year for which the Hope scholarship credit was claimed for the student), the AOTC cannot be claimed for this student for the year on line 1.

## Part V—Qualifying Child of More Than One Person

A child may meet the relationship, age, residency, support, and joint return tests to be a qualifying child of more than one person.

Although the child is a qualifying child of each of these persons, only one person can actually treat the child as a qualifying child to take the EIC, CTC/ACTC, or AOTC (provided the person is eligible for the credit).

To determine which person can treat the child as a qualifying child to claim any of these credits, the following tiebreaker rules apply.

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
- If the parents file a joint return together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
- If the parents do not file a joint return together but both parents claim the child as a qualifying child, the IRS will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time during the year. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year.
- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the year.
- If a parent can claim the child as a qualifying child but no parent does so claim the child, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who can claim the child. If the child's parents file a joint return with each other, this rule can be applied by dividing the parents' combined AGI equally between the parents.

Subject to these tiebreaker rules, you and the other person may be able to choose which of you claims the child as a qualifying child. For more information on this and other rules that may apply, see your tax return instructions and Pub. 501.

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**Paperwork Reduction Act Notice.** We ask for you to obtain the information on this form to carry out the Internal Revenue laws of the United States. You are required to obtain this information.

You are not required to obtain the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

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