



Department of the Treasury  
Internal Revenue Service

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# Armed Forces' Tax Guide

For use in preparing

**2008** Returns



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## What's New

**State bonus payments.** Bonus payments made by a state (or a political subdivision thereof) for service in a combat zone may not be taxable. See [State bonus payments](#), later under [Gross Income](#).

**Earned income credit.** The maximum amount of income you can earn and still claim the earned income credit has increased. You may be able to take the credit if you earned less than \$38,646 (\$41,646 for married filing jointly) if you have two or more qualifying children; \$33,995 (\$36,995 for married filing jointly) if you have one qualifying child; and, \$12,880 (\$15,880 for married filing jointly) if you do not have any qualifying children. See [Earned Income Credit](#), later, under [Credits](#).

**Standard mileage rate.** The standard mileage rate for the cost of operating your car for business use in 2008 is 50.5 cents a mile (58.5 cents a mile after June 30, 2008). The standard mileage rate for operating your car during 2008 to get medical care or to move is 19 cents a mile (27 cents a mile after June 30, 2008).

**Recovery rebate credit.** You may be able to claim the recovery rebate credit for 2008. See [Recovery Rebate Credit](#), later, under [Credits](#).

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## Reminders

**Change of address.** If you change your mailing address, be sure to notify the Internal Revenue Service (IRS) using Form 8822, Change of Address. Mail it to the Internal Revenue Service Center for your old address. (Addresses for the Service Centers are on the back of the form.)

**Third party designee.** You can check the *Yes* box in the *Third Party Designee* area of your return to authorize the IRS to discuss your return with a friend, family member, or any other person you choose. This allows the IRS to call the person you identified as your designee to answer any questions that may arise during the processing of your tax return. It also allows your designee to perform certain actions. See your income tax package for details.

**Photographs of missing children.** The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. 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.

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## Introduction

This publication covers the special tax situations of active members of the U.S. Armed Forces. It does not cover

military pensions or veterans' benefits or give the basic tax rules that apply to all taxpayers. For information on military pensions or veterans' benefits, see Publication 525, Taxable and Nontaxable Income. If you need the basic tax rules or information on another subject not covered here, you can check our other free publications. See Publication 910, IRS Guide to Free Tax Services, for a list and descriptions of the different tax publications.

For federal tax purposes, the U.S. Armed Forces includes commissioned officers, warrant officers, and enlisted personnel in all regular and reserve units under control of the Secretaries of the Defense, Army, Navy, and Air Force. The U.S. Armed Forces also includes the Coast Guard. It does not include the U.S. Merchant Marine or the American Red Cross.

Members serving in an area designated or treated as a combat zone are granted special tax benefits. In the event an area ceases to be a combat zone, the IRS will do its best to notify you. Many of the relief provisions will end at that time.

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

You can write to us at the following address:

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We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at [\\*taxforms@irs.gov](mailto:*taxforms@irs.gov). (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

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**Tax questions.** If you have a tax question, check the information available on [www.irs.gov](http://www.irs.gov) or call 1-800-829-1040. We cannot answer tax questions sent to either of the above addresses.

## Useful Items

You may want to see:

### Publication

- 54 Tax Guide for U.S. Citizens and Resident Aliens Abroad
- 463 Travel, Entertainment, Gift, and Car Expenses
- 501 Exemptions, Standard Deduction, and Filing Information
- 503 Child and Dependent Care Expenses
- 505 Tax Withholding and Estimated Tax
- 516 U.S. Government Civilian Employees Stationed Abroad
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- 596 Earned Income Credit (EIC)
- 970 Tax Benefits for Education
- 3920 Tax Relief for Victims of Terrorist Attacks

### Form (and Instructions)

- 1040X Amended U.S. Individual Income Tax Return
- 1310 Statement of Person Claiming Refund Due a Deceased Taxpayer
- 2848 Power of Attorney and Declaration of Representative
- 3903 Moving Expenses
- 4868 Application for Automatic Extension of Time To File U.S. Individual Income Tax Return
- 8822 Change of Address
- 9465 Installment Agreement Request

See [How To Get Tax Help](#), near the end of this publication, for information about getting IRS publications and forms.

## Gross Income

Members of the Armed Forces receive many different types of pay and allowances. Some are included in gross income while others are excluded from gross income. Included items (*Table 1*) are subject to tax and must be reported on your tax return. Excluded items (*Table 2*) are not subject to tax, but may have to be shown on your tax return.

For information on the exclusion of pay for service in a combat zone and other tax benefits for combat zone participants, see [Combat Zone Exclusion](#) and [Extension of Deadlines](#), later.

### Table 1. Included Items

These items are included in gross income, unless the pay is for service in a combat zone.

<p><b>Basic pay</b></p> <ul style="list-style-type: none"> <li>• Active duty</li> <li>• Attendance at a designated service school</li> <li>• Back wages</li> <li>• CONUS COLA</li> <li>• Drills</li> <li>• Reserve training</li> <li>• Training duty</li> </ul>	<p><b>Bonuses</b></p> <ul style="list-style-type: none"> <li>• Career status</li> <li>• Enlistment</li> <li>• Officer</li> <li>• Overseas extension</li> <li>• Reenlistment</li> </ul>
<p><b>Special pay</b></p> <ul style="list-style-type: none"> <li>• Aviation career incentives</li> <li>• Career sea</li> <li>• Diving duty</li> <li>• Foreign duty (outside the 48 contiguous states and the District of Columbia)</li> <li>• Foreign language proficiency</li> <li>• Hardship duty</li> <li>• Hostile fire or imminent danger</li> <li>• Medical and dental officers</li> <li>• Nuclear-qualified officers</li> <li>• Optometry</li> <li>• Pharmacy</li> <li>• Special duty assignment pay</li> <li>• Veterinarian</li> </ul>	<p><b>Other payments</b></p> <ul style="list-style-type: none"> <li>• Accrued leave</li> <li>• High deployment per diem</li> <li>• Personal money allowances paid to high-ranking officers</li> <li>• Student loan repayment from programs such as the Department of Defense Educational Loan Repayment Program when year's service (requirement) is not attributable to a combat zone</li> </ul> <p><b>Incentive pay</b></p> <ul style="list-style-type: none"> <li>• Submarine</li> <li>• Flight</li> <li>• Hazardous duty</li> <li>• High altitude/Low altitude (HALO)</li> </ul>

**Death gratuity.** Any death gratuity paid to a survivor of a member of the Armed Forces is nontaxable.

**Military base realignment and closure benefit.** Payments made under the Homeowners Assistance Program (HAP) generally are excluded from income. However, the excludable amount cannot be more than the following limit:

- 95% of the fair market value of the property for which the payments were made, as determined by the Secretary of Defense before public announcement of intent to close all or part of the military base or installation, minus
- The fair market value of the property as determined by the Secretary of Defense at the time of sale.

Any part of the payment that is more than this limit is included in income.

**State bonus payments.** Bonus payments made by a state (or a political subdivision thereof) to a member or former member of the uniformed services of the United States or to a dependent of such member are considered

combat pay (and therefore may not be taxable) if the payments are made only because of the member's service in a combat zone. See [Combat Zone](#), later, for a list of designated combat zones.



*If you received nontaxable bonus payments in an earlier year and reported them as taxable income, you may be able to amend your return for that year to claim a refund of the tax you paid on the bonus payment. Use Form 1040X to claim the refund. Generally, you can file an amended return within 3 years after you filed your original return or 2 years from the time you paid the tax, whichever is later.*

**Qualified reservist distribution (QRD).** A QRD is a distribution to an individual of all or part of the individual's balance in a cafeteria plan or health flexible spending arrangement if:

- The individual was a reservist who was ordered or called to active duty for more than 179 days or for an indefinite period, and

## Table 2. Excluded Items

The exclusion for certain items applies whether the item is furnished in kind or is a reimbursement or allowance. There is no exclusion for the personal use of a government-provided vehicle.

<p><b>Living allowances</b></p>	<ul style="list-style-type: none"> <li>• BAH (Basic Allowance for Housing). You can deduct mortgage interest and real estate taxes on your home even if you pay these expenses with your BAH</li> <li>• BAS (Basic Allowance for Subsistence)</li> <li>• Housing and cost-of-living allowances abroad whether paid by the U.S. Government or by a foreign government</li> <li>• OHA (Overseas Housing Allowance)</li> </ul>	<p><b>Combat zone pay</b></p> <ul style="list-style-type: none"> <li>• Compensation for active service while in a combat zone or a qualified hazardous duty area. Note: Limited amount for officers</li> </ul>
<p><b>Moving allowances</b></p>	<ul style="list-style-type: none"> <li>• Dislocation</li> <li>• Military base realignment and closure benefit (the exclusion is limited as described beginning on page 3)</li> <li>• Move-in housing</li> <li>• Moving household and personal items</li> <li>• Moving trailers or mobile homes</li> <li>• Storage</li> <li>• Temporary lodging and temporary lodging expenses</li> </ul>	<p><b>Family allowances</b></p> <ul style="list-style-type: none"> <li>• Certain educational expenses for dependents</li> <li>• Emergencies</li> <li>• Evacuation to a place of safety</li> <li>• Separation</li> </ul>
<p><b>Travel allowances</b></p>	<ul style="list-style-type: none"> <li>• Annual round trip for dependent students</li> <li>• Leave between consecutive overseas tours</li> <li>• Reassignment in a dependent restricted status</li> <li>• Transportation for you or your dependents during ship overhaul or inactivation</li> <li>• Per diem</li> </ul>	<p><b>Death allowances</b></p> <ul style="list-style-type: none"> <li>• Burial services</li> <li>• Death gratuity payments to eligible survivors</li> <li>• Travel of dependents to burial site</li> </ul> <p><b>Other payments</b></p> <ul style="list-style-type: none"> <li>• Defense counseling</li> <li>• Disability, including payments received for injuries incurred as a direct result of a terrorist or military action</li> <li>• Group-term life insurance</li> <li>• Professional education</li> <li>• ROTC educational and subsistence allowances</li> <li>• Survivor and retirement protection plan premiums</li> <li>• Uniform allowances</li> <li>• Uniforms furnished to enlisted personnel</li> </ul> <p><b>In-kind military benefits</b></p> <ul style="list-style-type: none"> <li>• Dependent-care assistance program</li> <li>• Legal assistance</li> <li>• Medical/dental care</li> <li>• Commissary/exchange discounts</li> <li>• Space-available travel on government aircraft</li> </ul>

- The distribution is made no sooner than the date the reservist was ordered or called to active duty and no later than the last day reimbursements could otherwise be made under the arrangement for the plan year which includes the date of the order or the call to duty.

A QRD made on or after June 18, 2008, is included in gross income and is subject to employment taxes. The employer must include the QRD (reduced by after-tax contributions to the health flexible spending arrangement) as wages on Form W-2.

## Foreign Source Income

If you are a U.S. citizen with income from sources outside the United States (foreign income), you must report all of that income (except for amounts that U.S. law allows you to exclude) on your tax return. This is true whether you reside inside or outside the United States and whether or not you receive a Form W-2, Wage and Tax Statement, or a Form 1099. This applies to earned income (such as wages and tips) as well as unearned income (such as interest, dividends, capital gains, pensions, rents, and royalties).

Certain taxpayers can exclude income earned in foreign countries. For 2008, this exclusion amount can be as much as \$87,600. However, the foreign earned income exclusion does not apply to the wages and salaries of military and civilian employees of the U.S. Government. Employees of the U.S. Government include those who work at United States Armed Forces exchanges, commissioned and noncommissioned officers' messes, Armed Forces motion picture services, and similar personnel. Other foreign income earned by military personnel or their spouses may be eligible for the foreign earned income exclusion. For more information on the exclusion, see Publication 54.

Residents of American Samoa may be able to exclude income from American Samoa. This possession exclusion does not apply to wages and salaries of military and civilian employees of the U.S. Government. If you need information on the possession exclusion, see Publication 570, Tax Guide for Individuals With Income From U.S. Possessions.

## Community Property

The pay you earn as a member of the Armed Forces may be subject to community property laws depending on your marital status, your domicile, and the nature of the payment. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

**Marital status.** Community property rules apply to married persons whose domicile during the tax year was in a community property state. The rules may affect your tax liability if you file separate returns or are divorced during the year.

**Domicile.** Your domicile is the permanent legal home you intend to use for an indefinite or unlimited period, and to

which, when absent, you intend to return. It is not always where you presently live.

**Nature of the payment.** Active duty military pay is subject to community property laws. Armed Forces retired or re-tainer pay may be subject to community property laws.

For more information on community property laws, see Publication 555, Community Property.

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## Adjustments to Income

Adjusted gross income is your total income minus certain adjustments. The following adjustments are of particular interest to members of the Armed Forces.

### Armed Forces Reservists

If you are a member of a reserve component of the Armed Forces and you travel more than 100 miles away from home in connection with your performance of services as a member of the reserves, you can deduct your travel expenses as an adjustment to income on line 24 of Form 1040, U.S. Individual Income Tax Return, rather than as a miscellaneous itemized deduction. Include all expenses from the time you leave home until the time you return home. The deduction is limited to the amount the federal government pays its employees for travel expenses. For more information about this limit, see *Per Diem and Car Allowances* in chapter 6 of Publication 463.

**Member of a reserve component.** You are a member of a reserve component of the Armed Forces if you are in the Army, Navy, Marine Corps, Air Force, or Coast Guard Reserve, the Army National Guard of the United States, the Air National Guard of the United States, or the Reserve Corps of the Public Health Service.

**How to report.** If you have reserve-related travel that takes you more than 100 miles from home, you should first complete Form 2106, Employee Business Expenses, or Form 2106-EZ, Unreimbursed Employee Business Expenses. Then enter on Form 1040, line 24, the part of your expenses, up to the federal rate, included on Form 2106, line 10, or Form 2106-EZ, line 6, that is for reserve-related travel more than 100 miles from your home. Subtract this amount from the total on Form 2106, line 10, or Form 2106-EZ, line 6, and deduct the balance as an itemized deduction on Schedule A (Form 1040), line 21.

**Example.** Captain Harris, a member of the Army Reserve, traveled to a location 200 miles from his home to perform his work in the reserves in April 2008. He incurred \$1,508 of expenses consisting of \$202 for mileage (400 miles × 50.5 cents per mile) and \$1,306 of meals, lodging and other expenses. He also had other travel expenses of \$1,000 for travel to a location 65 miles from his home. His total travel expenses of \$2,508 were shown on Form 2106, line 10. He entered the \$1,508 for travel over 100 miles from home on Form 1040, line 24. He then subtracted the \$1,508 from the amount on Form 2106, \$2,508, and reported \$1,000 on Schedule A (Form 1040), line 21.

## Individual Retirement Arrangements

Generally, you can deduct the lesser of the contributions to your traditional individual retirement arrangement (IRA) for the year or the general limit (or spousal IRA limit, if applicable). However, if you or your spouse was covered by an employer-maintained retirement plan at any time during the year for which contributions were made, you may not be able to deduct all of the contributions. The Form W-2 you or your spouse receives from an employer has a box used to indicate whether you were covered for the year. The "Retirement plan" box should have a mark in it if you were covered.

For purposes of a deduction for contributions to a traditional IRA, Armed Forces members (including reservists on active duty for more than 90 days during the year) are considered covered by an employer-maintained retirement plan.

Individuals serving in the U.S. Armed Forces or in support of the U.S. Armed Forces in designated combat zones have additional time to make a qualified retirement contribution to an IRA. For more information on this extension of deadline provision, see [Extension of Deadlines](#), later. For more information on IRAs, see Publication 590.

### Combat Pay

For IRA purposes, your compensation includes nontaxable combat pay. This means that even though you do not have to include the combat pay in your gross income, you do include it in your compensation when figuring the limits on contributions and deductions of contribution to IRAs.

**Prior tax years.** If you received nontaxable combat pay in 2004 or 2005, and the treatment of combat pay as compensation means that you can contribute more for those years than you already have, you can make additional contributions to an IRA for 2004 or 2005 by May 28, 2009. The contributions will be treated as having been made on the last day of the year for which they were made. If you have already filed your return for a year for which you make a contribution, you must file Form 1040X, Amended U.S. Individual Income Tax Return, by the latest of:

- 3 years from the date you filed your original return for the year for which you made the contribution,
- 2 years from the date you paid the tax due for the year for which you made the contribution, or
- 1 year from the date on which you made the contribution.

### Qualified Reservist Distributions

A qualified reservist distribution is not subject to the 10% additional tax on early distributions from certain retirement plans.

**Definition.** A distribution you receive is a qualified reservist distribution if the following requirements are met.

- You were ordered or called to active duty after September 11, 2001, and before December 31, 2007.
- You were ordered or called to active duty for a period of more than 179 days or for an indefinite period because you are a member of a reserve component (see [Member of a reserve component](#), earlier under [Armed Forces Reservists](#).)
- The distribution is from an IRA or from amounts attributable to elective deferrals under a section 401(k) or 403(b) plan or a similar arrangement.
- The distribution was made no earlier than the date of the order or call to active duty and no later than the close of the active duty period.



*If you received a qualified reservist distribution before 2006 and paid the 10% additional tax, you may be able to amend your return for the applicable year to claim a refund of the 10% additional tax on early distributions. Use Form 1040X to claim the refund. Generally, you can file an amended return within 3 years after you filed your original return or 2 years from the time you paid the tax, whichever is later.*

### Qualified Reservist Repayments

You may be able to contribute (repay) to an IRA amounts equal to any qualified reservist distributions (defined earlier) you received. You can make these repayment contributions even if they would cause your total contributions to the IRA to be more than the general limit on contributions. You make these repayment contributions to an IRA, even if you received the qualified reservist distribution from a section 401(k) or 403(b) plan or a similar arrangement.

**Limit.** Your qualified reservist repayments cannot be more than your qualified reservist distributions.

**When repayment contributions can be made.** You cannot make these repayment contributions after the date that is 2 years after your active duty period ends.

**No deduction.** You cannot deduct qualified reservist repayments.

**Figuring your IRA deduction.** The repayment of qualified reservist distributions does not affect the amount you can deduct as an IRA contribution.

**Reporting the repayment.** If you repay a qualified reservist distribution, include the amount of the repayment with nondeductible contributions on line 1 of Form 8606, Nondeductible IRAs.

### Moving Expenses

To deduct moving expenses, you generally must meet certain time and distance tests. However, if you are a member of the Armed Forces on active duty and you move because of a permanent change of station, you do not have to meet these tests. You can deduct your unreimbursed moving expenses on Form 3903.

**Permanent change of station.** A permanent change of station includes:

- A move from your home to your first post of active duty,
- A move from one permanent post of duty to another, and
- A move from your last post of duty to your home or to a nearer point in the United States. The move must occur within 1 year of ending your active duty or within the period allowed under the Joint Federal Travel Regulations.

**Spouse and dependents.** If you are the spouse or dependent of a member of the Armed Forces who deserts, is imprisoned, or dies, a permanent change of station for you includes a move to:

- The member's place of enlistment or induction,
- Your, or the member's, home of record, or
- A nearer point in the United States.

If the military moves you to or from a different location than the member, the moves are treated as a single move to your new main job location.

**Services or reimbursements provided by the government.** Do not include in your income the value of moving and storage services provided by the government because of a permanent change of station. Similarly, do not include in income amounts received as a dislocation allowance, temporary lodging expense, temporary lodging allowance, or move-in housing allowance.

Generally, if the total reimbursements or allowances that you receive from the government because of the move are more than your actual moving expenses, the excess is included in your wages on Form W-2. However, if any reimbursements or allowances (other than dislocation, temporary lodging, temporary lodging expense, or move-in housing allowances) exceed the cost of moving and the excess is not included in your wages on Form W-2, the excess still must be included in gross income on Form 1040, line 7.

Use Form 3903 to deduct qualified expenses that exceed your reimbursements and allowances (including dislocation, temporary lodging, temporary lodging expense, or move-in housing allowances that are excluded from gross income).

If you must relocate and your spouse and dependents move to or from a different location, do not include in income reimbursements, allowances, or the value of moving and storage services provided by the government to move you and your spouse and dependents to and from the separate locations.

Do not deduct any expenses for moving services that were provided by the government. Also, do not deduct any expenses that were reimbursed by an allowance you did not include in income.

## Deductible Moving Expenses

If you move because of a permanent change of station, you can deduct the reasonable unreimbursed expenses of moving you and members of your household.

You can deduct expenses (if not reimbursed or furnished in kind) for:

- Moving household goods and personal effects, and
- Travel.

**Moving household goods and personal effects.** You can deduct the expenses of moving your household goods and personal effects, including expenses for hauling a trailer, packing, crating, in-transit storage, and insurance. You cannot deduct expenses for moving furniture or other goods you bought on the way from your old home to your new home.

**Storing and insuring household goods and personal effects.** You can include only the cost of storing and insuring your household goods and personal effects within any period of 30 consecutive days after the day these goods and effects are moved from your former home and before they are delivered to your new home.

**Travel.** You can deduct the expenses of traveling (including lodging but not meals) from your old home to your new home, including car expenses and air fare. You can deduct as car expenses either:

- Your actual out-of-pocket expenses such as gas and oil, or
- The standard mileage rate of 19 cents a mile (27 cents a mile after June 30, 2008).

You can add parking fees and tolls to the amount claimed under either method. You cannot deduct any expenses for meals. You cannot deduct the cost of unnecessary side trips or lavish and extravagant lodging.

**Member of your household.** A member of your household is anyone who has both your former home and your new home as his or her main home. It does not include a tenant or employee unless you can claim that person as a dependent.

## Foreign Moves

A foreign move is a move from the United States or its possessions to a foreign country or from one foreign country to another foreign country. It is not a move from a foreign country to the United States or its possessions.

For a foreign move, the deductible moving expenses described earlier are expanded to include the reasonable expenses of:

- Moving your household goods and personal effects to and from storage, and
- Storing these items for part or all of the time the new job location remains your main job location. The new job location must be outside the United States.

## Reporting Moving Expenses

Figure moving expense deductions on Form 3903. Carry the deduction from Form 3903 to Form 1040, line 26. For more information, see Publication 521 and Form 3903.

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## Combat Zone Exclusion

If you are a member of the U.S. Armed Forces who serves in a combat zone ([defined later](#)), you can exclude certain pay from your income. This pay is generally referred to as “combat pay.” You do not actually need to show the exclusion on your tax return because income that qualifies for the combat zone exclusion is not included in the wages reported on your Form W-2. (See [Form W-2](#), later.)

The month for which you receive the pay must be 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. You do not have to receive the excluded pay while you are in a combat zone, are hospitalized, or in the same year you served in a combat zone.

If you are an enlisted member, warrant officer, or commissioned warrant officer, you can exclude the following amounts from your income. (Other officer personnel are discussed under [Amount of Exclusion](#), later.)

- Active duty pay earned in any month you served in a combat zone.
- Imminent danger/hostile fire pay.
- A reenlistment bonus if the voluntary extension or reenlistment occurs in a month you served in a combat zone.
- Pay for accrued leave earned in any month you served in a combat zone. The Department of Defense must determine that the unused leave was earned during that period.
- Pay received for duties as a member of the Armed Forces in clubs, messes, post and station theaters, and other nonappropriated fund activities. The pay must be earned in a month you served in a combat zone.
- Awards for suggestions, inventions, or scientific achievements you are entitled to because of a submission you made in a month you served in a combat zone.
- Student loan repayments. If the entire year of service required to earn the repayment was performed in a combat zone, the entire repayment made because of that year of service is excluded. If only part of that year of service was performed in a combat zone, only part of the repayment qualifies for exclusion. For example, if you served in a combat zone for 5 months,  $\frac{5}{12}$  of your repayment qualifies for exclusion.

Retirement pay and pensions do not qualify for the combat zone exclusion.

**Partial (month) service.** If you serve in a combat zone for any part of one or more days during a particular month, you are entitled to an exclusion for that entire month.

**Form W-2.** The wages shown in box 1 of your 2008 Form W-2 should not include military pay excluded from your income under the combat zone exclusion provisions. If it does, you will need to get a corrected Form W-2 from your finance office.

You cannot exclude as combat pay any wages shown in box 1 of Form W-2.

## Combat Zone

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.

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

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

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

**Persian Gulf area.** By Executive Order No. 12744, the following locations (and 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.

## 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.

## 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 would not 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 were not 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 left 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.

## Nonqualifying Presence in 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.

## Service Outside Combat Zone Considered Service in Combat Zone

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

- Department of Defense 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.

Military pay received for this service will qualify for the combat zone exclusion if all of the requirements (other than service in a combat zone) are met and the pay is verifiable by reference to military pay records.

## Amount of Exclusion

If you are an enlisted member, warrant officer, or commissioned warrant officer and you serve in a combat zone during any part of a month, you can exclude all of your military pay for that month. It should not be included in the wages reported on your Form W-2. You also can exclude military pay earned while you are hospitalized as a result of wounds, disease, or injury incurred in the combat zone. If you are hospitalized, you cannot 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. Your hospitalization does not have to be in the combat zone.

If you are a commissioned officer (other than a commissioned warrant officer), you can exclude your pay according to the rules just discussed. However, the amount of your exclusion is limited to the highest rate of enlisted pay (plus imminent danger/hostile fire pay you received) for each month during any part of which you served in a combat zone or were hospitalized as a result of your service there.

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## Alien Status

For tax purposes, an alien is an individual who is not a U.S. citizen. An alien is in one of three categories: resident, nonresident, or dual-status. Placement in the correct category is crucial in determining what income to report and what forms to file.

Under peacetime enlistment rules, you generally cannot enlist in the Armed Forces unless you are a citizen or have been legally admitted to the United States for permanent residence. If you are an alien enlistee in the Armed Forces, you are probably a resident alien. If, under an income tax treaty, you are considered a resident of a foreign country, see your base legal officer. Other aliens who are in the United States only because of military assignments and who have a home outside the United States are nonresident aliens. Guam and Puerto Rico have special rules. Residents of those areas should contact their taxing authority with their questions.

Most members of the Armed Forces are U.S. citizens or resident aliens. However, if you have questions about your alien status or the alien status of your dependents or spouse, you should read the information in the following paragraphs and see Publication 519.

## Resident Aliens

You are considered a resident alien of the United States for tax purposes if you meet either the “green card test” or the “substantial presence test” for the calendar year (January 1 – December 31).

If you meet the substantial presence test for 2008, you did not meet either the green card test or the substantial presence test for 2006 or 2007, and you did not choose to be treated as a resident for part of 2006, you may be able to choose to be treated as a U.S. resident for part of 2007. See *First-Year Choice* in Publication 519.

These tests are explained in Publication 519. Generally, resident aliens are taxed on their worldwide income and file the same tax forms as U.S. citizens.

**Treating nonresident alien spouse as resident alien.** A nonresident alien spouse can be treated as a resident alien if all the following conditions are met.

- One spouse is a U.S. citizen or resident alien at the end of the tax year.
- That spouse is married to the nonresident alien at the end of the tax year.
- You both choose to treat the nonresident alien spouse as a resident alien.

**Making the choice.** Both you and your spouse must sign a statement and attach it to your joint return for the first tax year for which the choice applies. Include in the statement:

- A declaration that one spouse was a nonresident alien and the other was a U.S. citizen or resident alien on the last day of the year,
- A declaration that both spouses choose to be treated as U.S. residents for the entire tax year, and
- The name, address, and taxpayer identification number (social security number or individual taxpayer identification number) of each spouse. If the nonresident alien spouse is not eligible to get a social security number, he or she should file Form W-7, Application for IRS Individual Taxpayer Identification Number (ITIN).

**TIP** *Once you make this choice, the nonresident alien spouse’s worldwide income is subject to U.S. tax. If the nonresident alien spouse has substantial foreign income, there may be no advantage to making this choice.*

**Ending the choice.** Once you make this choice, it applies to all later years unless one of the following situations occurs.

- You or your spouse revokes the choice.
- You or your spouse dies.
- You and your spouse become legally separated under a decree of divorce or separate maintenance.

- The Internal Revenue Service ends the choice because of inadequate records.

For specific details on these situations, see Publication 519.

If the choice is ended for any of these reasons, neither spouse can make the choice for any later year.

**Choice not made.** If you and your nonresident alien spouse do not make this choice:

- You cannot file a joint return. You can file as married filing separately, or head of household if you qualify.
- You can claim an exemption for your nonresident alien spouse if he or she has no gross income for U.S. tax purposes and is not another taxpayer’s dependent.
- The nonresident alien spouse generally does not have to file a federal income tax return if he or she had no income from sources in the United States. If a return has to be filed, see the [next discussion](#).
- The nonresident alien spouse is not eligible for the earned income credit if he or she has to file a return.

## Nonresident Aliens

If you are an alien who does not meet the requirements discussed earlier to be a resident alien, you are a nonresident alien. If you are required to file a federal tax return, you must file either Form 1040NR, U.S. Nonresident Alien Income Tax Return, or Form 1040NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents. See the form instructions for information on who must file and filing status.

If you are a nonresident alien, you generally must pay tax on income from sources in the United States. Your income that is from conducting a trade or business in the United States is taxed at graduated U.S. tax rates. Other income from U.S. sources is taxed at a flat 30% (or lower treaty) rate. For example, dividends from a U.S. corporation paid to a nonresident alien generally are subject to a 30% (or lower treaty) rate.

## Dual-Status Aliens

You can be both a nonresident and resident alien during the same tax year. This usually occurs in the year you arrive in or depart from the United States. If you are a dual-status alien, you are taxed on income from all sources for the part of the year you are a resident alien. Generally, for the part of the year you are a nonresident alien, you are taxed only on income from sources in the United States.

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## 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.

See Publication 523 for more information.

## Rules for Sales in 2008

You generally can 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 2008. The exclusion is allowed each time you sell or exchange a main home, but generally not more than once every 2 years. To be eligible, during the 5-year period ending on the date of the sale, you must have 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).

**Exception to ownership and use tests.** You can exclude gain, but the maximum amount of gain you can exclude will be reduced if you do not meet the ownership and use tests due to a move to a new permanent duty station.

**5-year test period suspended.** You can choose to have the 5-year test period for ownership and use suspended during any period you or your spouse serve 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 did not actually live in your home for at least the required 2 years during the 5-year period ending on the date of sale.

**Example.** David bought and moved into a home in 2000. He lived in it as his main home for 2½ years. For the next 6 years, he did not live in it because he was on qualified official extended duty with the Army. He then sold the home at a gain in 2008. 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 2½ years during this test period.

**Period of suspension.** The period of suspension cannot last more than 10 years. You cannot 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.

**Property used for rental or business.** You may be able to exclude your 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 Publication 523.

**Loss.** You cannot deduct a loss from the sale of your main home.

**More information.** For more information on the laws affecting the sale of a home in 2008, see Publication 523.

## Sale of a Home Before May 7, 1997

See *Rules for Sales Before May 7, 1997*, in the 2004 Publication 3 if you sold your main home at a gain before May 7, 1997, and all three of the following statements are true.

1. You postponed the gain.
2. The 2-year period you had to replace that home (your replacement period) was suspended while you served in the Armed Forces.
3. You have not already reported to the IRS either your purchase of a new home within your replacement period or a taxable gain resulting from the end of your replacement period.

The 2004 Publication 3 is available at [www.irs.gov](http://www.irs.gov).

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## Itemized Deductions

To figure your taxable income, you must subtract either your standard deduction or your itemized deductions from adjusted gross income. For information on the standard deduction, see Publication 501.

Itemized deductions are figured on Schedule A (Form 1040). This chapter discusses miscellaneous itemized deductions of particular interest to members of the Armed Forces. For information on other itemized deductions, see the publications listed below.

- Publication 502, Medical and Dental Expenses.
- Publication 526, Charitable Contributions.
- Publication 547, Casualties, Disasters, and Thefts.
- Publication 550, Investment Income and Expenses.

You must reduce the total of most miscellaneous itemized deductions by 2% of your adjusted gross income. For information on deductions that are not subject to the 2% limit, see Publication 529.

## Employee Business Expenses

Deductible employee business expenses generally are miscellaneous itemized deductions subject to the 2% limit.

Certain employee business are deductible as adjustments to income. For information on many employee business expenses, see Publication 463.

Generally, you must file Form 2106, Employee Business Expenses, or Form 2106-EZ, Unreimbursed Employee Business Expenses, to claim these expenses. You do not have to file Form 2106 or Form 2106-EZ if you are claiming only unreimbursed expenses for uniforms, professional society dues, and work-related educational expenses (all discussed later). You can deduct these expenses directly on Schedule A (Form 1040).

**Reimbursement.** Generally, to receive advances, reimbursements, or other allowances from the government, you must adequately account for your expenses and return any excess reimbursement. Your reimbursed expenses are not deductible.

If your expenses are more than your reimbursement, the excess expenses are deductible (subject to the 2% limit) if you can prove them. You must file Form 2106 to report these expenses.

You can use the shorter Form 2106-EZ if you meet all three of the following conditions.

- You are an employee deducting expenses related to your job.
- You were not reimbursed by your employer for your expenses. (Amounts included in box 1 of Form W-2 are not considered reimbursements.)
- If you claim car expenses, you use the standard mileage rate.



*For 2008, the standard mileage rate is 50.5 cents a mile (58.5 cents a mile after June 30, 2008) for all business miles driven. This rate is adjusted periodically.*

## Travel Expenses

You can deduct unreimbursed travel expenses only if they are incurred while you are traveling away from home. If you are a member of the U.S. Armed Forces on a permanent duty assignment overseas, you are not traveling away from home. You cannot deduct your expenses for meals and lodging while at your permanent duty station. You cannot deduct these expenses even if you have to maintain a home in the United States for your family members who are not allowed to accompany you overseas.

A naval officer assigned to permanent duty aboard a ship that has regular eating and living facilities has a home aboard ship for travel expense purposes.

To be deductible, your travel expenses must be work related. You cannot deduct any expenses for personal travel, such as visits to family while on furlough, leave, or liberty.

**Away from home.** Home is your permanent duty station (which can be a ship or base), regardless of where you or your family live. You are away from home if you are away from your permanent duty station substantially longer than

an ordinary day's work and you need to get sleep or rest to meet the demands of your work while away from home.

Examples of deductible travel expenses include:

- Expenses for business-related meals (generally limited to 50% of your unreimbursed cost), lodging, taxicabs, business telephone calls, tips, laundry, and dry cleaning while you are away from home on temporary duty or temporary additional duty, and
- Expenses of carrying out official business while on "No Cost" orders.



*You cannot deduct any expenses for travel away from home if the temporary assignment in a single location is realistically expected to last (and does in fact last) for more than 1 year. This rule may not apply if you are participating in a federal crime investigation or prosecution. For more information, see Publication 463 and the Form 2106 instructions.*

## Transportation Expenses

These expenses include the ordinary and necessary costs of:

- Getting from one workplace to another when you are not away from home,
- Going to a business meeting away from your regular workplace, and
- Getting from your home to a temporary workplace when you have a regular place of work.

These expenses include the costs of transportation by air, bus, rail, taxi, and driving and maintaining your car. Transportation expenses incurred while traveling away from home are travel expenses. However, if you use your car while traveling away from home overnight, see the rules in chapter 4 of Publication 463 to figure your car expense deduction.

If you must go from one workplace to another while on duty (for example, as a courier or to attend meetings) without being away from home, your unreimbursed transportation expenses are deductible. However, the expenses of getting to and from your regular place of work (commuting) are not deductible.

**Temporary work location.** If you have one or more regular places of business away from your home and you commute to a temporary work location in the same trade or business, you can deduct the expenses of the daily round-trip transportation between your home and the temporary location.

Generally, if your employment at a work location is realistically expected to last (and does in fact last) for 1 year or less, the employment is temporary.

If your employment at a work location is realistically expected to last for more than 1 year or if there is no realistic expectation that the employment will last for 1 year or less, the employment is not temporary, regardless of

whether it actually lasts for more than 1 year. If employment at a work location initially is realistically expected to last for 1 year or less, but at some later date the employment is realistically expected to last more than 1 year, that employment will be treated as temporary (unless there are facts and circumstances that would indicate otherwise) until your expectation changes.



*If you do not have a regular place of business, but you ordinarily work in the metropolitan area where you live, you can deduct daily transportation expenses between your home and a temporary work site outside your metropolitan area. However, you cannot deduct daily transportation costs between your home and temporary work sites within your metropolitan area. These are nondeductible commuting costs.*

**Armed Forces reservists.** A meeting of an Armed Forces reserve unit is a second place of business if the meeting is held on a day on which you work at your regular job. You can deduct the expense of getting from one workplace to the other. You usually cannot deduct the expense if the reserve meeting is held on a day on which you do not work at your regular job. In this case, your transportation generally is a nondeductible commuting expense. However, you can deduct your transportation expenses if the location of the meeting is temporary and you have one or more regular places of work.

If you ordinarily work in a particular metropolitan area but not at any specific location and the reserve meeting is held at a temporary location outside that metropolitan area, you can deduct your transportation expenses. If you travel away from home overnight to attend a guard or reserve meeting, you can deduct your travel expenses. See [Armed Forces Reservists](#) under [Adjustments to Income](#), earlier.

## Uniforms

You usually cannot deduct the expenses for uniform cost and upkeep. Generally, you must wear uniforms when on duty and you are allowed to wear them when off duty.

If military regulations prohibit you from wearing certain uniforms when off duty, you can deduct the cost and upkeep of the uniforms, but you must reduce your expenses by any allowance or reimbursement you receive.

Expenses for the cost and upkeep of the following articles are deductible.

- Military battle dress uniforms and utility uniforms that you cannot wear when off duty.
- Articles not replacing regular clothing, including insignia of rank, corps devices, epaulets, aiguillettes, and swords.
- Reservists' uniforms if you can wear the uniform only while performing duties as a reservist.

## Professional Dues

You can deduct dues paid to professional societies directly related to your military position. However, you cannot deduct amounts paid to an officers' club or a noncommissioned officers' club.

**Example.** Lieutenant Margaret Allen, an electrical engineer at Maxwell Air Force Base, can deduct professional dues paid to the American Society of Electrical Engineers.

## Educational Expenses

You can deduct the costs of qualifying work-related education. This is education that meets at least one of the following two tests.

- The education is required by your employer or the law to keep your present salary, status, or job. The required education must serve a bona fide business purpose of your employer.
- The education maintains or improves skills needed in your present work.

You can deduct the costs of qualifying education.

However, even if the education meets one or both of the above tests, it is not qualifying education if it:

- Is needed to meet the minimum educational requirements of your present trade or business, or
- Is part of a program of study that will qualify you for a new trade or business.

You can deduct the expenses for qualifying work-related education even if the education could lead to a degree.

**Example 1.** Lieutenant Colonel Mason has a degree in financial management and is in charge of base finances at her post of duty. She took an advanced finance course. She already meets the minimum qualifications for her job. By taking the course, she is improving skills in her current position. The course does not qualify her for a new trade or business. She can deduct educational expenses that are more than the educational allowance she received.

**Example 2.** Major Williams worked in the military base legal office as a legal intern. He was placed in excess leave status by his employer to attend law school. He paid all his educational expenses and was not reimbursed. After obtaining his law degree, he passed the state bar exam and worked as a judge advocate. His educational expenses are not deductible because the law degree qualified him for a new trade or business, even though the education maintained and improved his skills in his work.

**Travel to obtain education.** If your work-related education qualifies, you can deduct the costs of travel, including meals (subject to the 50% limit), and lodging, if the main purpose of the trip is to obtain the education.

You cannot deduct the cost of travel that is itself a form of education, even if it is directly related to your duties in your work or business.

**Transportation for education.** If your work-related education qualifies, you can deduct the costs of transportation to obtain that education. However, you cannot deduct the cost of services provided in kind, such as base-provided transportation to or from class. Transportation expenses include the actual costs of bus, subway, cab, or other fares, as well as the costs of using your car.

If you need more information on educational expenses, see Publication 970.

## Repayments

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.

**Repayment of \$3,000 or less.** If the amount you repaid was \$3,000 or less, deduct it from your income in the year you repaid it. If you reported it as wages, deduct it as a miscellaneous itemized deduction on Schedule A (Form 1040), line 23.

**Repayment over \$3,000.** If the amount you repaid was more than \$3,000, see *Repayments* in Publication 525.

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## Credits

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

### Child Tax Credit

The child tax credit is a credit that may reduce your tax by as much as \$1,000 for each of your qualifying children.

The additional child tax credit is a credit you may be able to take if you are not able to claim the full amount of the child tax credit.



*The child tax credit is not the same as the credit for child and dependent care expenses. See Publication 503 for information on the credit for child and dependent care expenses.*

### Qualifying Child

A qualifying child for purposes of the child tax credit is a child who:

1. Is your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, your grandchild),
2. Was under age 17 at the end of 2008,

3. Did not provide over half of his or her own support for 2008,
4. Lived with you for more than half of 2008 (see [Exceptions to time lived with you](#) below), and
5. Was a U.S. citizen, a U.S. national, or a resident of the United States. If the child was adopted, see [Adopted child](#) later.

For each qualifying child you must either check the box on Form 1040 or Form 1040A, line 6c, column (4), or complete Form 8901, Information on Qualifying Children Who Are Not Dependents (if the child is not your dependent).

**Exceptions to time lived with you.** A child is considered to have lived with you for all of 2008 if the child was born or died in 2008 and your home was this child's home for the entire time he or she was alive. Temporary absences for special circumstances, such as for school, vacation, medical care, military service, or detention in a juvenile facility, count as time lived at home.

There are also exceptions for kidnapped children and children of divorced or separated parents. For details, see Publication 501.

**Qualifying child of more than one person.** A special rule applies if your qualifying child is the qualifying child of more than one person. For details, see Publication 501.

**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.

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 (5) above to be a qualifying child for the child tax credit.

### Amount of Credit

The maximum amount you can claim for the credit is \$1,000 for each qualifying child.

**Limits on the credit.** You must reduce your child tax credit if either (1) or (2), below, applies.

1. The amount on Form 1040, line 46, or Form 1040A, line 28, is less than the credit. If the amount is zero, you cannot take this credit because there is no tax to reduce. However, you may be able to take the additional child tax credit. See [Additional Child Tax Credit](#), later.
2. Your modified adjusted gross income (AGI) is more than the amount shown below for your filing status.
  - Married filing jointly — \$110,000.
  - Single, head of household, or qualifying widow(er) — \$75,000.
  - Married filing separately — \$55,000.

**Modified AGI.** For purposes of the child tax credit, your modified AGI is the amount on Form 1040, line 38, or Form

1040A, line 22, 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, Foreign Earned Income.
- Any amount on line 18 of Form 2555-EZ, Foreign Earned Income Exclusion.
- Any amount on line 15 of Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa.

If you do not have any of the above, your modified AGI is the same as your AGI.

## Claiming the Credit

To claim the child tax credit, you must file Form 1040 or Form 1040A. For more information on the child tax credit, see the instructions for Form 1040 or Form 1040A.

## Additional Child Tax Credit

This credit is for certain individuals who get less than the full amount of the child tax credit. The additional child tax credit may give you a refund even if you do not owe any tax.

For more information, see the instructions for Form 1040 or Form 1040A, and Form 8812, Additional Child Tax Credit.

## Earned Income Credit

The earned income credit (EIC) is a credit for certain persons who work. The credit reduces the amount of tax you owe (if any). It may also give you a refund.



*If you claim the EIC and it is later disallowed, you may have to complete an additional form if you want to claim the credit in a following year. See chapter 5 in Publication 596 for more information, including how to claim the EIC after disallowance.*

## Persons With a Qualifying Child

If you have a qualifying child ([defined later](#)), you must meet all the following rules to claim the earned income credit.

1. You must have earned income ([defined later](#)).
2. Your earned income and adjusted gross income (AGI) must each be less than:
  - a. \$38,646 (\$41,646 for married filing jointly) if you have two or more qualifying children, or
  - b. \$33,995 (\$36,995 for married filing jointly) if you have one qualifying child.

3. Your filing status cannot be married filing separately.
4. You cannot be a qualifying child of another person. If filing a joint return, your spouse also cannot be a qualifying child of another person.
5. Your qualifying child cannot 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. For details, see *Rule 9* in Publication 596.
6. You cannot file Form 2555, Foreign Earned Income, or Form 2555-EZ, Foreign Earned Income Exclusion, to exclude income earned in foreign countries, or to deduct or exclude a foreign housing amount. See Publication 54 for more information about these forms.
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, and
  - b. 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](#), earlier.
8. Your investment income must be \$2,950 or less during the year. For most people, investment income is taxable interest and dividends, tax-exempt interest, and capital gain net income.
9. You must have a valid social security number for yourself, your spouse (if filing a joint return), and any qualifying child.

**How to report.** If you meet all these rules, fill out Schedule EIC and attach it to either Form 1040 or Form 1040A.

**Qualifying child.** Your child is a qualifying child if your child meets three tests. The three tests are:

1. Relationship,
2. Age, and
3. Residency.

**Relationship test.** To be your qualifying child, a child must be your:

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

For the EIC, a person is your eligible foster child if the child is placed with you by an authorized placement agency or by judgement, 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.

If your child was married at the end of the year, he or she does not meet the relationship test unless either of these two situations applies to you:

1. You can claim the child's exemption, or
2. The reason you cannot claim the child's exemption is that you gave that right to your child's other parent under the *Special rule for divorced or separated parents*, described in chapter 2 of Publication 596.

**Age test.** Your child must be:

1. Under age 19 at the end of 2008,
2. Under age 24 at the end of 2008 and a full-time student, or
3. Permanently and totally disabled at any time during 2008, regardless of age.

A full-time student is a student who is enrolled for the number of hours or courses the school considers to be full-time attendance.

To qualify as a student, your child must be, during some part of each of any 5 calendar months during the calendar year:

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 do not 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.

Your child is permanently and totally disabled if both of the following apply.

1. He or she cannot engage in any substantial gainful activity because of a physical or mental condition.
2. A doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

**Residency test.** Your child must have lived with you in the United States for more than half of 2008.

The United States includes the 50 states and the District of Columbia. It does not include Puerto Rico or U.S. possessions such as Guam.

U.S. military 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 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 do not serve more than 90 days.

A child who was born or died in 2008 is treated as having lived with you for all of 2008 if your home was the child's home the entire time he or she was alive in 2008.

Count time that you or your child is away from home on a temporary absence due to a special circumstance as time lived with you.

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. The child must be presumed by law enforcement authorities to have been kidnapped by someone who is not 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.

**Social security number.** Your qualifying child must have a valid social security number (SSN) unless the child was born and died in 2008. You cannot claim the EIC 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 individual taxpayer identification number (ITIN), which is issued to a noncitizen who cannot get an SSN, or
  - b. An adoption taxpayer identification number (ATIN), which is issued to adopting parents who cannot get an SSN for the child being adopted until the adoption is final.

If you have two qualifying children and only one has a valid SSN, you can claim the EIC only on the basis of that one child.



**More information.** For more information, see Publication 596.

## Persons Without a Qualifying Child

If you do not have a qualifying child, you can take the credit if you meet all the following rules.

1. You must have earned income ([defined later](#)).
2. Your earned income and adjusted gross income must each be less than \$12,880 (\$15,880 for married filing jointly).
3. Your filing status cannot be married filing separately.
4. You cannot be a qualifying child of another person. If filing a joint return, your spouse also cannot be a qualifying child of another person.
5. You must be at least age 25 but under age 65 at the end of the year. If filing a joint return, either you or your spouse must be at least age 25 but under age 65 at the end of the year.
6. You cannot be claimed as a dependent by anyone else on that person's return. If filing a joint return, your spouse also cannot be claimed as a dependent by anyone else on that person's return.
7. Your main home must be in the United States for more than half the year. (U.S. military personnel stationed outside the United States on extended active duty are considered to live in the United States.)
8. You cannot file Form 2555, Foreign Earned Income, or Form 2555-EZ, Foreign Earned Income Exclusion.
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, and
  - b. You choose to be treated as a resident alien for the entire year.
10. Your investment income must be \$2,950 or less during the year. For most people, investment income is taxable interest and dividends, tax-exempt interest, and capital gain net income.
11. You (and your spouse, if filing a joint return) must have a valid social security number.

**How to report.** If you meet all 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 Publication 596.

## Earned Income

For purposes of the earned income credit, earned income 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 pay if you elect to include it in earned income. See [Nontaxable combat pay election](#), later.

For purposes of the earned income credit, earned income does not include:

- Basic pay or special, bonus, or other incentive pay that is subject to the combat zone exclusion (unless you make the [nontaxable combat pay election described later](#)),
- Basic Allowance for Housing (BAH),
- Basic Allowance for Subsistence (BAS),
- Any other nontaxable employee compensation,
- Interest and dividends,
- Social security and railroad retirement payments,
- Certain workfare payments,
- Pensions or annuities,
- Veterans' benefits (including VA rehabilitation payments),
- Workers' compensation,
- Unemployment compensation, or
- Alimony and child support.

**Nontaxable combat pay election.** You can elect to have your nontaxable combat pay included in earned income for the earned income credit. If you make the election, you must include in earned income all nontaxable combat pay you received. If you are filing a joint return and both you and your spouse received nontaxable combat pay, you can each make your own election. The amount of your nontaxable combat pay should be shown on your Form W-2 in box 12 with code Q. Electing to include nontaxable combat pay in earned income may increase or decrease your EIC.

Figure the credit with and without your nontaxable combat 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 pay is less than the amount shown below for your number of children, you may benefit from electing to include your nontaxable combat pay in earned income and you should figure the credit both ways. If your earned income without your combat pay is equal to or more than these amounts, you will not benefit from including your combat pay in your earned income.

- \$5,700 if you have no qualifying children.
- \$8,550 if you have one qualifying child.
- \$12,050 if you have two qualifying children.

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

**Example 1—election increases the EIC.** George and Janice are married and will file a joint return. They have one qualifying child. George was in the Army and earned \$11,000 (\$5,000 taxable wages + \$6,000 nontaxable combat pay). Janice worked part of the year and earned \$2,000. Their taxable earned income and AGI are both \$7,000. George and Janice qualify for the earned income credit and fill out the Earned Income Credit (EIC) Worksheet in the Form 1040A instructions and Schedule EIC.

When they complete the worksheet without adding the nontaxable combat pay to their earned income, they find their credit to be \$2,389. When they complete the EIC worksheet with the nontaxable combat pay added to their earned income, they find their credit to be \$2,917. Because making the election will increase their EIC, they elect to add the nontaxable combat pay to their earned income for the EIC. They enter \$2,917 on line 40a of their Form 1040A and enter the amount of their nontaxable combat pay on line 40b.

**Example 2—election does not increase the EIC.** The facts are the same as in Example 1 except George had nontaxable combat pay of \$16,000. When George and Janice add their nontaxable combat pay to their earned income, they find their credit to be \$2,232. Because the credit they can get if they do not 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 40a of their Form 1040A.

## IRS Will 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 Publication 596.

## Advance Earned Income Credit

If you expect to qualify for the earned income credit for 2009, you can choose to get part of the credit in advance by giving a completed 2009 Form W-5 to your appropriate finance office. The credit will be included regularly in your pay. To get this advance payment, you must have a qualifying child. For details, see Form W-5 and its instructions.

If you received advance earned income credit payments in 2008, you must file either Form 1040 or Form 1040A for 2008 to report the payments.

## 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 2008 and you earned more than \$102,000, you may have had too much social security tax withheld. The maximum

amount of social security tax that should have been withheld for 2008 is \$6,324.00. You can claim the excess social security tax as a credit against your income tax.



*All wages are subject to Medicare tax withholding.*

**Railroad employer.** If you work for a railroad employer, that employer must withhold tier 1 railroad retirement (RRTA) tax and tier 2 RRTA tax. See *Excess Social Security or Railroad Retirement Tax Withholding* in chapter 3 of Publication 505 for more information.

**Employer's error.** If any one employer withheld too much social security tax, you cannot take the excess as a credit against your income tax. The employer should adjust the tax for you. If the employer does not 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 cannot add the social security tax withheld from your spouse's wages to the amount withheld from your wages. Figure the withholding separately for you and your spouse to determine if either of you has excess withholding.

**How to figure the credit.** Figure the credit as follows:

1. Add all social security tax withheld (but not more than \$6,324.00 for each employer). Enter the total here . . . \_\_\_\_\_
2. Enter any uncollected social security tax on wages, tips, or group-term life insurance included in the total on Form 1040, line 61 . . . . . \_\_\_\_\_
3. Add lines 1 and 2. If \$6,324.00 or less, stop here. You cannot take the credit . . . . . \_\_\_\_\_
4. Social security tax limit . . . . . 6,324.00
5. Credit. Subtract line 4 from line 3. Enter the result here and on Form 1040, line 65 (or Form 1040A, line 43) . . . \_\_\_\_\_

**How to take the credit.** Enter the credit on Form 1040, line 65, or include it in the total for Form 1040A, line 43.

## Recovery Rebate Credit

If you did not receive the maximum economic stimulus payment in 2008, you may be able to take this credit. Use the worksheet in the instructions for your tax return to determine if you can take the credit.

**Nontaxable combat pay election.** You can elect to have your nontaxable combat pay included in your qualifying income when figuring the recovery rebate credit. Enter the amount you elect to include on the appropriate line of the Recovery Rebate Credit Worksheet in the instructions for your tax return. If you are filing a joint return and both you and your spouse received nontaxable combat pay, you can each make your own election. The amount of your nontaxable combat pay should be shown on your Form W-2 in box 12 with code Q. Electing to include nontaxable combat pay in earned income may increase or decrease your recovery rebate credit.

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# Forgiveness of Decedent's Tax Liability

Tax liability can be forgiven, or if already paid, refunded, if a member of the U.S. Armed Forces dies:

- While in active service in a combat zone,
- From wounds, disease, or other injury received in a combat zone, or
- From wounds or injury incurred in a terrorist or military action.

Tax for the year of death and possibly for earlier years can be forgiven.

In addition, any unpaid tax liability at the date of death may be forgiven. Any tax liability that is forgiven does not have to be paid.

If a member of the Armed Forces dies, a surviving spouse or personal representative handles duties such as filing any tax returns and claims for refund of withheld or estimated tax. A personal representative can be an executor, administrator, or anyone who is in charge of the decedent's assets.

**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).

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.

**Residents of community property states.** 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 also would apply to the half owed by the spouse for the years involved.

## Combat Zone Related Forgiveness

Tax liability is forgiven for an individual who:

- Is a member of the U.S. Armed Forces at death, and

- 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.

The forgiveness applies to:

- The tax year death occurred, and
- Any earlier tax year ending on or after the first day the member served in a 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 service member does not have to pay tax on any amount received that would have been included (had the service member 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](#), 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

Tax liability is forgiven for an individual who:

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

The 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.

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 service member does not have to pay tax on any amount received that would have been included (had the service member not died) in the deceased member's gross income for the year of death.

**Example.** Army Private John Kane died in 2008 of wounds incurred in a terrorist attack in 2007. His income tax liability is forgiven for all tax years from 2006 through 2008.

## Claims for Tax Forgiveness

Returns reflecting forgiven tax and claims for refund of forgiven tax that has already been paid must be identified. Usually, Form 1040X is used to claim the refund.

### How to Claim Forgiveness or Refund

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

- File Form 1040 if a tax return has not been filed for the tax year. Form W-2 must accompany the return.
- File Form 1040X if a tax return has been filed. A separate Form 1040X must be filed for each year in question.
- Properly identify the return as explained next.

All returns and claims must be identified by writing "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 and 1040X, the phrase "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.

An attachment that includes a computation of the decedent's tax liability before any amount is forgiven and the amount that is to be forgiven should accompany any return or claim. For joint returns, see [Joint returns](#), earlier.

**Necessary documents.** The following documents must accompany all returns and claims for refund.

- Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, and
- A certification from the Department of Defense or the Department of State.

For military and civilian employees of the Department of Defense, certification must be made by the Department on Form DoD 1300, Report Of Casualty. For civilian employees of all other agencies, certification must be a letter signed by the Director General of the Foreign Service, Department of State, or his or her delegate. The certification must include the deceased individual's name and social security number, the date of injury, the date of death,

and a statement that the individual died as the result of a terrorist or military action. If the individual died as a result of a terrorist or military action outside the United States, the statement also must include the fact that the individual was a U.S. employee at the date of injury and at the date of death.

If the certification has been received but there is not enough tax information to file a timely claim for refund, file Form 1040X with Form 1310. Include a statement saying that an amended claim will be filed as soon as the necessary tax information is available.

### Deadline for Filing Claim

If the tax-forgiveness rules apply to a prior year's tax that has been paid and the period for filing a refund claim has not ended, the tax will be refunded. If any tax is still due, it will be canceled. Generally, the period for filing a refund claim is 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later. Returns filed before they are due are considered filed on the due date, usually April 15.

If death occurred in a combat zone or from wounds, disease, or injury incurred in a combat zone, the deadline for filing a claim for credit or refund is extended using the rules discussed later under [Extension of Deadlines](#).

### Where to File Return or Claim for Refund

These returns and claims must be filed at one of the following addresses.

**U.S. Postal Service.** If you use the U.S. Postal Service, file these returns and claims at the following address.

Internal Revenue Service  
P.O. Box 4053  
Woburn, MA 01888

**Designated private delivery service.** Private delivery services cannot deliver items to P.O. boxes. If you use a private delivery service, file these returns and claims at the following address.

Internal Revenue Service  
Stop 661  
Andover, MA 05501

Designated private delivery services include only the following.

- DHL Express (DHL): DHL Same Day Service, DHL Next Day 10:30 am, DHL Next Day 12:00 pm, DHL Next Day 3:00 pm, and DHL 2nd Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

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## Filing Returns

This section discusses the special procedures for military personnel when filing federal tax returns. For information on filing returns for those involved in a combat zone, see [Extension of Deadlines](#), later.

### Where To File

Send your federal tax return to the Internal Revenue Service Center for the place where you live. The instructions for Forms 1040, 1040A, and 1040EZ give the addresses for the service centers. If you are overseas and have an APO or FPO address, file your return with the Internal Revenue Service Center in Austin, TX.

**Example.** Sgt. Kane, who is stationed in Maine but whose permanent home address is in California, should send her federal return to the service center for Maine.

### When To File

Most individuals must file their tax returns by the regular due date. If you are serving in a combat zone or outside the U.S., you may be eligible for an extension. See [Extension of Deadlines](#), later.

### Regular Due Date

The regular due date for these tax returns is April 15 of the following year (June 15 if you are stationed outside the United States and Puerto Rico on April 15). If April 15 falls on a Saturday, Sunday, or legal holiday, your tax return is considered timely filed if it is filed by the next business day that is not a Saturday, Sunday, or legal holiday. For 2008 tax returns, the due date is April 15, 2009.

### Extensions

You can receive an extension of time to file your return. Different rules apply depending on whether you live inside or outside the United States.

**Inside the United States.** You can receive an automatic 6-month extension to file your return if you either file Form 4868 by the regular due date of your return or pay any part of your expected tax due by credit card. You can file Form 4868 electronically or on paper. See Form 4868 for details.

The extension of time to file is automatic, and you will not receive any notice of approval. However, your request for an extension will be denied if it is not made timely. The IRS will inform you of the denial.



*You cannot use the automatic extension if you choose to have IRS figure the tax or you are under a court order to file your return by the regular due date.*

**When you file your return.** Enter the amount you paid with your request for extension on Form 1040, line 67. On Form 1040A, include the amount in the total on line 44. On Form 1040EZ, include the amount in the total on line 10. To the left of line 44 or line 10, enter "Form 4868" and show the amount paid.

**Outside the United States and Puerto Rico.** If you are a U.S. citizen or resident alien, you qualify for an automatic 2-month extension of time without filing Form 4868 if either of the following situations applies to you.

1. You live outside the United States and Puerto Rico and your main place of business or post of duty is outside the United States and Puerto Rico, or
2. You are in military or naval service on an assigned tour of duty outside the United States and Puerto Rico for a period that includes the entire due date of the return.

You will be charged interest on any amount not paid by the regular due date until the date the tax is paid.

If you use this automatic extension, you must attach a statement to the return showing that you met the requirement.

You can request an additional 4-month extension by filing Form 4868 by June 15, 2009, for a 2008 calendar year tax return. Check the box on line 8.

**Joint returns.** For married persons filing a joint return, only one spouse needs to meet the requirements to take advantage of the automatic 2-month extension.

**Separate returns.** For married persons filing separate returns, only the spouse who meets the requirements qualifies for the automatic 2-month extension.

**Payment of tax.** An extension of time to file does not mean you have an extension of time to pay any tax due. You must estimate your tax due. You do not have to send in any payment of tax due when you file Form 4868. However, if you pay the tax after the regular due date, you will be charged interest from the regular due date to the date the tax is paid. You also may be charged a penalty for paying the tax late unless you have reasonable cause for not paying your tax when due.

You can file Form 4868 electronically and make your tax payment by authorizing an electronic funds withdrawal from your checking or savings account. You can get an extension by paying part or all of your estimate of tax due using a credit card.

For more details on how to pay the tax due, see the Form 4868 instructions.

**Exception.** If you are a member of the Armed Forces, you may qualify to defer (delay) payment of income tax that becomes due before or during your military service. You must notify the Internal Revenue Service that your ability to pay the income tax has been materially affected by your military service.

Your income tax will be deferred for a period not to exceed 180 days after termination or release from military service. If you pay the income tax in full by the end of the

deferral period, you will not be charged interest or penalty for that period.

This exception does not apply to the employee's share of social security and Medicare taxes you may owe.



*If you are unable to pay the tax owed by the end of the extension period, you may want to file Form 9465 to arrange an installment payment agreement with the IRS that reflects your ability to pay the tax owed.*

## Signing Returns

Generally, you must sign your return. However, if you are overseas or incapacitated, you can grant a power of attorney to an agent to file and sign your return.

If you are acting on behalf of someone serving in a combat zone, see [Spouse in combat zone](#), later.

A power of attorney also can be granted by filing Form 2848. These forms are available at your nearest legal assistance office. While other power of attorney forms can be used, they must contain the information required by Form 2848.

In Part I of the form, you must indicate that you are granting the power to sign the return, the tax form number, and the tax year for which the form is being filed. Attach the power of attorney to the tax return.

**Joint returns.** Generally, joint returns must be signed by both spouses. However, when a spouse is overseas, in a combat zone, in a missing status, incapacitated, or deceased, a power of attorney may be needed to file a joint return.

**Spouse overseas.** If one spouse is overseas on military duty, there are two options when filing a joint return.

- One spouse can prepare the return, sign it, and send it to the other spouse to sign early enough so that it can be filed by the due date, or
- The spouse who expects to be overseas on the due date of the return can file Form 2848 specifically designating that the spouse who remains in the United States can sign the return for the absent spouse.

**Spouse in combat zone.** If your spouse is unable to sign the return because he or she is serving in a combat zone or is performing qualifying service outside of a combat zone, and you do not have a power of attorney or other statement, you can sign for your spouse. Attach a signed statement to your return that explains that your spouse is serving in a combat zone.

**Spouse in missing status.** The spouse of a member of the Armed Forces who is in a missing status in a combat zone can still file a joint return. A joint return can be filed for any year beginning not more than 2 years after the end of the combat zone activities. A joint return filed under these conditions is valid even if it is later determined that the missing spouse died before the year covered by the return.

**Spouse incapacitated.** If your spouse cannot sign because of disease or injury and he or she tells you to sign, you can sign your spouse's name in the proper space on the return, followed by the words "by [your name], Husband (or Wife)." Be sure to sign your name in the space provided for your signature. Attach a dated statement, signed by you, to your return. The statement should include the form number of the return you are filing, the tax year, the reason your spouse could not sign, and that your spouse has agreed to your signing for him or her.

**Spouse died during the year.** If one spouse died during the year and the surviving spouse did not remarry before the end of the year, the surviving spouse can file a joint return for that year writing in the signature area "Filing as surviving spouse." If an executor or administrator has been appointed, both he or she and the surviving spouse must sign the return filed for the decedent.

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## Extension of Deadlines

The time for taking care of certain tax matters can be postponed. These postponements are referred to as "extensions of deadlines."

The deadline for IRS to take certain actions, such as collection and examination actions, may also be extended.

### Service That Qualifies for an Extension of Deadline

The deadline for filing tax returns, paying taxes, filing claims for refund, and taking other actions with the IRS is automatically extended if either of the following statements is true.

- You serve in the Armed Forces in a combat zone or you have qualifying service outside of a combat zone.
- You serve in the Armed Forces on deployment outside the United States away from your permanent duty station while participating in a contingency operation. A contingency operation is a military operation that is designated by the Secretary of Defense or results in calling members of the uniformed services to active duty (or retains them on active duty) during a war or a national emergency declared by the President or Congress.

See [Combat Zone](#), earlier, under [Combat Zone Exclusion](#), for the beginning dates for the Afghanistan area combat zone, the Kosovo area combat zone, and the Persian Gulf area combat zone.

**Missing status.** Time in a missing status (missing in action or prisoner of war) counts as time in a combat zone or a contingency operation.

**Support personnel.** Deadlines are also extended if you are serving in a combat zone or a contingency operation in support of the Armed Forces. This applies to Red Cross

personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those forces.

**Spouses.** Spouses of individuals who served in a combat zone or contingency operation are entitled to the same deadline extensions with two exceptions.

- The extension does not apply to a spouse for any tax year beginning more than 2 years after the date the area ceases to be a combat zone or the operation ceases to be a contingency operation.
- The extension does not apply to a spouse for any period the qualifying individual is hospitalized in the United States for injuries incurred in a combat zone or contingency operation.

## Length of Extension

Your deadline for taking actions with the IRS is extended for 180 days after the later of:

- The last day you are in a combat zone, have qualifying service outside of the combat zone, or serve in a contingency operation (or the last day the area qualifies as a combat zone or the operation qualifies as a contingency operation), or
- The last day of any continuous qualified hospitalization ([defined later](#)) for injury from service in the combat zone or contingency operation or while performing qualifying service outside of the combat zone.

In addition to the 180 days, your deadline is extended by the number of days that were left for you to take the action with the IRS when you entered a combat zone (or began performing qualifying service outside the combat zone) or began serving in a contingency operation. If you entered the combat zone or began serving in the contingency operation before the period of time to take the action began, your deadline is extended by the entire period of time you have to take the action. For example, you had 3½ months (January 1 – April 15, 2008) to file your 2007 tax return. Any days of this 3½ month period that were left when you entered the combat zone (or the entire 3½ months if you entered the combat zone by January 1, 2008) are added to the 180 days when determining the last day allowed for filing your 2007 tax return.

**Example 1.** Captain Margaret Jones entered Saudi Arabia on December 1, 2006. She remained there through March 31, 2008, when she departed for the United States. She was not injured and did not return to the combat zone. The deadlines for filing Captain Jones' 2006, 2007, and 2008 returns are figured as follows.

**The 2006 tax return.** The deadline is January 10, 2009. This deadline is 285 days (180 plus 105) after Captain Jones' last day in the combat zone (March 31, 2008). The 105 additional days are the number of

days in the 3½ month filing period that were left when she entered the combat zone (January 1 – April 15, 2007).

**The 2007 tax return.** The deadline is January 11, 2009. The deadline is 286 days (180 plus 106) after Captain Jones' last day in the combat zone (March 31, 2008). The 106 additional days are the number of days in the 3½ month filing period that were left when she entered the combat zone (January 1 – April 15, 2008).

**The 2008 tax return.** The deadline is not extended because the 180-day extension period after March 31, 2008, plus the number of days left in the filing period when she entered the combat zone (105) ends on January 10, 2009, which is before the due date for her 2008 return (April 15, 2009).

**Example 2.** You generally have 3 years from April 15, 2005, to file a claim for refund against your timely filed 2004 tax return. This means that your claim normally must be filed by April 15, 2008. However, if you served in a combat zone from November 1, 2007, through March 23, 2008, and were not injured, your deadline for filing that claim is extended 347 days (180 plus 167) after you leave the combat zone. This extends your deadline to March 6, 2009. The 167 additional days are the number of days in the 3-year period for filing the refund claim that were left when you entered the combat zone on November 1 (November 1, 2007 – April 15, 2008).

**Qualified hospitalization.** The hospitalization must be the result of an injury received while serving in a combat zone or a contingency operation. Qualified hospitalization means:

- Any hospitalization outside the United States, and
- Up to 5 years of hospitalization in the United States.

**Example.** Petty Officer Leonard Brown's ship entered the Persian Gulf on January 5, 2007. On February 15, 2007, Petty Officer Brown was injured and was flown to a U.S. hospital. He remained in the hospital through April 21, 2008. The deadlines for filing Petty Officer Brown's 2006, 2007, and 2008 returns are figured as follows.

**The 2006 tax return.** The deadline is January 27, 2009. Petty Officer Brown has 281 days (180 plus 101) after his last day in the hospital (April 21, 2008) to file his 2006 return. The 101 additional days are the number of days in the 3½ month filing period that were left when he entered the combat zone (January 5 – April 15, 2007).

**The 2007 tax return.** The deadline is February 1, 2009. Petty Officer Brown has 286 days (180 plus 106) after April 21, 2008, to file his 2007 tax return. The 106 additional days are the number of days in the 2008 filing period that were left when he entered the combat zone (January 1 – April 15, 2008). Because

February 1, 2009, is a Sunday, Petty Officer Brown's return is considered timely filed if he files it no later than February 2, 2009.

**The 2008 tax return.** The deadline is not extended because the 180-day extension period after April 21, 2008, plus the number of days left in the filing period when he entered the combat zone (105) ends on January 31, 2009, which is before the due date for his 2008 return (April 15, 2009).

## Actions for Which Deadlines Are Extended

The actions to which the deadline extension provision applies include:

- Filing any return of income, estate, or gift tax,
- Paying any income, estate, or gift tax,
- Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a Tax Court decision,
- Filing a claim for credit or refund of any tax,
- Bringing suit for any claim for credit or refund,
- Making a qualified retirement contribution to an IRA,
- Allowing a credit or refund of any tax by the IRS,
- Assessment of any tax by the IRS,
- Giving or making any notice or demand by the IRS for the payment of any tax, or for any liability for any tax,
- Collection by the IRS of any tax due, and
- Bringing suit by the United States for any tax due.

If the IRS takes any actions covered by these provisions or sends you a notice of examination before learning that you are entitled to an extension of the deadline, contact your legal assistance office. No penalties or interest will be imposed for failure to file a return or pay taxes during the extension period.

Other actions to which the deadline extension provision applies are listed in Revenue Procedure 2005-27, 2005-20 I.R.B. 1050, available at [http://www.irs.gov/irb/2005-20\\_IRB/ar09.html](http://www.irs.gov/irb/2005-20_IRB/ar09.html).



*Even though the deadline is extended, you may want to file a return earlier to receive any refund due. See [Filing Returns](#), earlier.*

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## Deferral of Payment

If you are a member of the Armed Forces, you may qualify to defer (delay) payment of income tax that becomes due before or during your military service. To qualify, you must:

- Be performing military service, and

- Notify the Internal Revenue Service that your ability to pay the income tax has been materially affected by your military service ([defined later](#)).

You will then be allowed up to 180 days after termination or release from military service to pay the tax. If you pay the tax in full by the end of the deferral period, you will not be charged interest or penalty for that period.

This exception does not apply to the employee's share of social security and Medicare taxes.

**Military service.** The term military service means the period beginning on the date on which you enter military service and ending on the date on which you are released from military service or die while in military service. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by federal funds.

**Request for deferment.** If you have a current payment agreement (such as an installment agreement), you must make a written request for deferment to the IRS office where you have the agreement.

If you do not have a current payment agreement, you must wait until you receive a notice asking for payment before you request a deferral.

Once you have received a notice, you must make a written request for deferment to the IRS office that issued the notice.

Your request must include your name, social security number, monthly income and source of income before military service, current monthly income, military rank, date you entered military service, and date you are eligible for discharge. If possible, enclosing a copy of your orders would be helpful.

The IRS will review your request and advise you in writing of its decision. Should you need further assistance, you can call the IRS at 1-800-829-1040 to discuss your situation.

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## Maximum Rate of Interest

Section 207 of the "Servicemembers Civil Relief Act" limits the maximum interest rate you can be charged to 6% per year for obligations or liabilities incurred before your entry into military service. The reduced rate applies only if your service materially affects your ability to pay. This rate applies only to that interest charged during the period of your military service.

To substantiate your claim for this reduced interest rate, you must furnish the IRS a copy of your orders or reporting instructions that detail the call to military service. You must do so no later than 180 days after the date of your termination or release from military service.



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## How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

**Contacting your Taxpayer Advocate.** The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should.

You can contact the TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059 to see if you are eligible for assistance. You can also call or write your local taxpayer advocate, whose phone number and address are listed in your local telephone directory and in Publication 1546, Taxpayer Advocate Service—Your Voice at the IRS. You can file Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), or ask an IRS employee to complete it on your behalf. For more information, go to [www.irs.gov/advocate](http://www.irs.gov/advocate).

**Low Income Taxpayer Clinics (LITCs).** LITCs are independent organizations that provide low income taxpayers with representation in federal tax controversies with the IRS for free or for a nominal charge. The clinics also provide tax education and outreach for taxpayers who speak English as a second language. Publication 4134, Low Income Taxpayer Clinic List, provides information on clinics in your area. It is available at [www.irs.gov](http://www.irs.gov) or your local IRS office.

**Free tax services.** To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains lists of free tax information sources, including publications, services, and free tax education and assistance programs. It also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on your telephone.

Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.

**Free help with your return.** Free help in preparing your return is available nationwide from IRS-trained volunteers. The Volunteer Income Tax Assistance (VITA) program is designed to help low-income taxpayers and the Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 and older with their tax returns. Many VITA sites offer free electronic filing and all volunteers will let you know about credits and deductions you may be entitled to claim. To find the nearest VITA or TCE site, call 1-800-829-1040.

As part of the TCE program, AARP offers the Tax-Aide counseling program. To find the nearest AARP Tax-Aide site, call 1-888-227-7669 or visit AARP's website at [www.aarp.org/money/taxaide](http://www.aarp.org/money/taxaide).

For more information on these programs, go to [www.irs.gov](http://www.irs.gov) and enter keyword "VITA" in the upper right-hand corner.



**Internet.** You can access the IRS website at [www.irs.gov](http://www.irs.gov) 24 hours a day, 7 days a week to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2008 refund. Go to [www.irs.gov](http://www.irs.gov) and click on *Where's My Refund*. Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2008 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using the withholding calculator online at [www.irs.gov/individuals](http://www.irs.gov/individuals).
- Determine if Form 6251 must be filed by using our Alternative Minimum Tax (AMT) Assistant.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.



**Phone.** Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-829-3676 to order current-year forms, instructions, and publications, and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to [www.irs.gov/localcontacts](http://www.irs.gov/localcontacts) or

look in the phone book under *United States Government, Internal Revenue Service*.

- **TTY/TDD equipment.** If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.
- **TeleTax topics.** Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- **Refund information.** To check the status of your 2008 refund, call 1-800-829-1954 during business hours or 1-800-829-4477 (automated refund information 24 hours a day, 7 days a week). Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2008 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund. Refunds are sent out weekly on Fridays. If you check the status of your refund and are not given the date it will be issued, please wait until the next week before checking back.
- **Other refund information.** To check the status of a prior year refund or amended return refund, call 1-800-829-1954.

**Evaluating the quality of our telephone services.** To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.



**Walk-in.** Many products and services are available on a walk-in basis.

- **Products.** You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- **Services.** You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you are more comfortable talking with someone in person, visit your local Taxpayer Assistance Center

where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary—just walk in. If you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. If you have an ongoing, complex tax account problem or a special need, such as a disability, an appointment can be requested. All other issues will be handled without an appointment. To find the number of your local office, go to [www.irs.gov/localcontacts](http://www.irs.gov/localcontacts) or look in the phone book under *United States Government, Internal Revenue Service*.



**Mail.** You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 days after your request is received.

Internal Revenue Service  
1201 N. Mitsubishi Motorway  
Bloomington, IL 61705-6613



**DVD for tax products.** You can order Publication 1796, IRS Tax Products DVD, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions.
- Tax Topics from the IRS telephone response system.
- Internal Revenue Code—Title 26 of the U.S. Code.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.
- Two releases during the year.
  - The first release will ship the beginning of January 2009.
  - The final release will ship the beginning of March 2009.

Purchase the DVD from National Technical Information Service (NTIS) at [www.irs.gov/cdorders](http://www.irs.gov/cdorders) for \$30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for \$30 (plus a \$6 handling fee). The price is discounted to \$25 for orders placed prior to December 1, 2008.



**Small Business Resource Guide 2009.** This online guide is a must for every small business owner or any taxpayer about to start a business. This year's guide includes:



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