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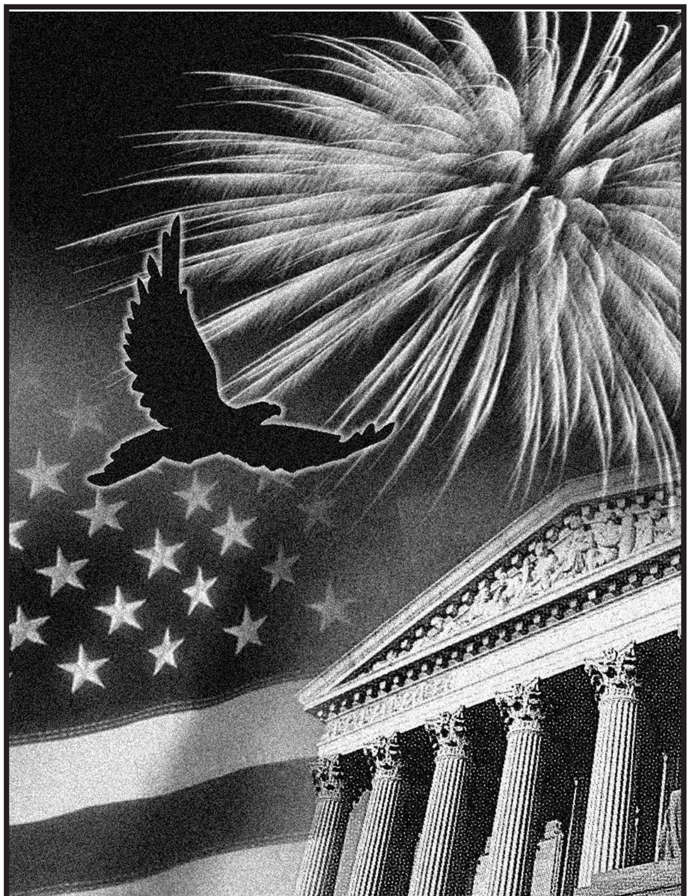
Divorced or Separated Individuals

For use in preparing

2020 Returns



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Future Developments

For the latest information about developments related to Pub. 504, such as legislation enacted after this publication was published, go to *IRS.gov/Pub504*.

Reminders

Change of withholding. The Form W-4 no longer uses personal allowances to calculate your income tax withholding. If you have been claiming a personal allowance for your spouse, and you divorce or legally separate, you must give your employer a new Form W-4, Employee's Withholding Certificate, within 10 days after the divorce or separation. For more information on withholding and when you must furnish a new Form W-4, see Pub. 505, Tax Withholding and Estimated Tax.

Divorce or separation instruments after 2018. Amounts paid as alimony or separate maintenance payments under a divorce or separation instrument executed after 2018 won't be deductible by the payer. Such amounts also won't be includible in the income of the recipient. The same is true of alimony paid under a divorce or separation instrument executed before 2019 and modified after 2018, if the modification expressly states that the alimony isn't deductible to the payer or includible in the income of the recipient.

Relief from joint liability. In some cases, one spouse may be relieved of joint liability for tax, interest, and penalties on a joint tax return. For more information, see *Relief from joint liability* under *Married Filing Jointly*.

Social security numbers for dependents. You must include on your tax return the taxpayer identification number (generally, the social security number (SSN)) of every dependent you claim. See *Dependents*, later.

Using and getting an ITIN. The ITIN is entered wherever an SSN is requested on a tax return. If you're required to include another person's SSN on your return and that person doesn't have and can't get an SSN, enter that person's ITIN. The IRS will issue an ITIN to a nonresident or resident alien who doesn't have and isn't eligible to get an SSN. To apply for an ITIN, file Form W-7, Application for IRS Individual Taxpayer Identification Number, with the IRS. Allow 7 weeks for the IRS to notify you of your ITIN application status (9 to 11 weeks if you submit the application during peak processing periods (January 15 through April 30) or if you're filing from overseas). If you haven't received your ITIN at the end of that time, you can call the IRS to check the status of your application. For more information, go to *IRS.gov/FormW7*.

Change of address. If you change your mailing address, be sure to notify the IRS. You can use Form 8822, Change of Address.

Change of name. If you change your name, be sure to notify the Social Security Administration using Form SS-5, Application for a Social Security Card.

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

Introduction

This publication explains tax rules that apply if you are divorced or separated from your spouse. It covers general filing information and can help you choose your filing status. It can also help you decide which benefits you are entitled to claim.

The publication also discusses payments and transfers of property that often occur as a result of divorce and how you must treat them on your tax return. Examples include alimony, child support, other court-ordered payments, property settlements, and transfers of individual retirement arrangements. In addition, this publication also explains deductions allowed for some of the costs of obtaining a divorce and how to handle tax withholding and estimated tax payments.

The last part of the publication explains special rules that may apply to persons who live in community property states.

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

You can send us comments through *IRS.gov/FormComments*. Or, you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

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

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

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Useful Items

You may want to see:

Publications

- ❏ **501** Dependents, Standard Deduction, and Filing Information
- ❏ **544** Sales and Other Dispositions of Assets
- ❏ **555** Community Property
- ❏ **590-A** Contributions to Individual Retirement Arrangements (IRAs)

- ❑ **590-B** Distributions from Individual Retirement Arrangements (IRAs)
- ❑ **971** Innocent Spouse Relief
- ❑ **974** Premium Tax Credit

Forms (and Instructions)

- ❑ **8332** Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent
- ❑ **8379** Injured Spouse Allocation
- ❑ **8857** Request for Innocent Spouse Relief

See How To Get Tax Help near the end of this publication for information about getting publications and forms.

Filing Status

Your filing status is used in determining whether you must file a return, your standard deduction, and the correct tax. It may also be used in determining whether you can claim certain other deductions and credits. The filing status you can choose depends partly on your marital status on the last day of your tax year.

Marital status. If you are unmarried, your filing status is single or, if you meet certain requirements, head of household or qualifying widow(er). If you are married, your filing status is either married filing a joint return or married filing a separate return. For information about the single and qualifying widow(er) filing statuses, see Pub. 501, Dependents, Standard Deduction, and Filing Information.

Unmarried persons. You are unmarried for the whole year if either of the following applies.

- You have obtained a final decree of divorce or separate maintenance by the last day of your tax year. You must follow your state law to determine if you are divorced or legally separated.

  Exception. If you and your spouse obtain a divorce in one year for the sole purpose of filing tax returns as unmarried individuals, and at the time of divorce you intend to remarry each other and do so in the next tax year, you and your spouse must file as married individuals.
- You have obtained a decree of annulment, which holds that no valid marriage ever existed. You must file amended returns (Form 1040-X, Amended U.S. Individual Income Tax Return) for all tax years affected by the annulment that aren't closed by the statute of limitations. The statute of limitations generally doesn't end until 3 years (including extensions) after the date you file your original return or within 2 years after the date you pay the tax. On the amended return, you will change your filing status to single or, if you meet certain requirements, head of household.

Married persons. You are married for the whole year if you are separated but you haven't obtained a final decree of divorce or separate maintenance by the last day of your tax year. An interlocutory decree isn't a final decree. However, individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that isn't called a marriage under state (or foreign) law aren't married for federal tax purposes. For more information, see Pub. 501.

Exception. If you live apart from your spouse, under certain circumstances, you may be considered unmarried and can file as head of household. See Head of Household, later.

Health care law considerations. Under the health care law, you must have qualifying health care coverage.

Qualifying health care coverage (also called minimum essential coverage) includes:

- Most coverage through government-sponsored programs (including Medicaid coverage, Medicare parts A or C, the Children's Health Insurance Program (CHIP), certain benefits for veterans and their families, TRICARE, and health coverage for Peace Corps volunteers);
- Most types of employer-sponsored coverage;
- Grandfathered health plans; and
- Other health coverage the Department of Health and Human Services designates as minimum essential coverage.

Your divorce or separation may impact your responsibilities under the health care law in the following ways.

- **Special Marketplace Enrollment Period.** If you lose your health insurance coverage due to divorce, you are still required to have coverage for every month of the year for yourself and the dependents you can claim on your tax return. Losing coverage through a divorce is considered a qualifying life event that allows you to enroll in health coverage through the Health Insurance Marketplace during a Special Enrollment Period.
- **Changes in Circumstances.** If you purchase health insurance coverage through the Health Insurance Marketplace, you may get advance payments of the premium tax credit in 2020. If you do, you should report changes in circumstances to your Marketplace throughout the year. Changes to report include a change in marital status, a name change, and a change in your income or family size. By reporting changes, you will help make sure that you get the proper type and amount of financial assistance. This will also help you avoid getting too much or too little credit in advance.
- **Shared Policy Allocation.** If you divorced or are legally separated during the tax year and are enrolled in the same qualified health plan, you and your former spouse must allocate policy amounts on your separate tax returns to figure your premium tax credit and reconcile any advance payments made on your behalf. The Instructions for Form 8962, Premium Tax Credit, has more information about the Shared Policy Allocation.

Married Filing Jointly

If you are married, you and your spouse can choose to file a joint return. If you file jointly, you both must include all your income, deductions, and credits on that return. You can file a joint return even if one of you had no income or deductions.

TIP *If both you and your spouse have income, you usually should figure your tax on both a joint return and separate returns (using the filing status of married filing separately) to see which gives the two of you the lower combined tax.*

Nonresident alien. To file a joint return, at least one of you must be a U.S. citizen or resident alien at the end of the tax year. If either of you was a nonresident alien at any time during the tax year, you can file a joint return only if you agree to treat the nonresident spouse as a resident of the United States. This means that your combined worldwide incomes are subject to U.S. income tax. These rules are explained in Pub. 519, U.S. Tax Guide for Aliens.

Signing a joint return. Both you and your spouse must generally sign the return, or it won't be considered a joint return.

Joint and individual liability. Both you and your spouse may be held responsible, jointly and individually, for the tax and any interest or penalty due on your joint return. This means that one spouse may be held liable for all the tax due even if all the income was earned by the other spouse.

Divorced taxpayers. If you are divorced, you are jointly and individually responsible for any tax, interest, and penalties due on a joint return for a tax year ending before your divorce. This responsibility applies even if your divorce decree states that your former spouse will be responsible for any amounts due on previously filed joint returns.

Relief from joint liability. In some cases, a spouse may be relieved of the tax, interest, and penalties on a joint return. You can ask for relief no matter how small the liability.

There are three types of relief available.

- Innocent spouse relief.
- Separation of liability, which applies to joint filers who are divorced, widowed, legally separated, or who haven't lived together for the 12 months ending on the date election of this relief is filed.
- Equitable relief.

Married persons who live in community property states, but who didn't file joint returns, may also qualify for relief from liability for tax attributable to an item of community income or for equitable relief. See *Relief from liability for tax attributable to an item of community income*, later, under *Community Property*.

Each kind of relief has different requirements. You must file Form 8857 to request relief under any of these categories. Pub. 971 explains these kinds of relief and who may qualify for them. You can also find information on our website at IRS.gov.

Tax refund applied to spouse's debts. The overpayment shown on your joint return may be used to pay the past-due amount of your spouse's debts. This includes your spouse's federal tax, state income tax, child or spousal support payments, or a federal nontax debt, such as a student loan. You can get a refund of your share of the overpayment if you qualify as an injured spouse.

Injured spouse. You are an injured spouse if you file a joint return and all or part of your share of the overpayment was, or is expected to be, applied against your spouse's past-due debts. An injured spouse can get a refund for his or her share of the overpayment that would otherwise be used to pay the past-due amount.

To be considered an injured spouse, you must:

1. Have made and reported tax payments (such as federal income tax withheld from wages or estimated tax payments), or claimed a refundable tax credit, such as the earned income credit or additional child tax credit on the joint return and
2. Not be legally obligated to pay the past-due amount.

If the injured spouse's permanent home is in a community property state, then the injured spouse must only meet (2). For more information, see Pub. 555.

If you are an injured spouse, you must file Form 8379 to have your portion of the overpayment refunded to you. Follow the instructions for the form.

If you haven't filed your joint return and you know that your joint refund will be offset, file Form 8379 with your return. You should receive your refund within 14 weeks from the date the paper return is filed or within 11 weeks from the date the return is filed electronically.

If you filed your joint return and your joint refund was offset, file Form 8379 by itself. When filed after offset, it can take up to 8 weeks to receive your refund. Don't attach the previously filed tax return, but do include copies of all Forms W-2, Wage and Tax Statement, and W-2G, Certain Gambling Winnings, for both spouses and any Forms 1099 that show income tax withheld.

CAUTION *An injured spouse claim is different from an innocent spouse relief request. An injured spouse uses Form 8379 to request an allocation of the tax overpayment attributed to each spouse. An innocent spouse uses Form 8857 to request relief from joint liability for tax, interest, and penalties on a joint return for items of the other spouse (or former spouse) that were incorrectly reported on or omitted from the joint return. For information on innocent spouses, see* Relief from joint liability, *earlier.*

Table 1. **Itemized Deductions on Separate Returns**

This table shows itemized deductions you can claim on your married filing separate return whether you paid the expenses separately with your own funds or jointly with your spouse.
Caution: *If you live in a community property state, these rules don't apply. See Community Property.*

IF you paid ...	AND you ...	THEN you can deduct on your separate federal return ...
medical expenses	paid with funds deposited in a joint checking account in which you and your spouse have an equal interest	half of the total medical expenses, subject to certain limits, unless you can show that you alone paid the expenses.
state income tax	file a separate state income tax return	the state income tax you alone paid during the year.
	file a joint state income tax return and you and your spouse are jointly and individually liable for the full amount of the state income tax	the state income tax you alone paid during the year.
	file a joint state income tax return and you are liable for only your own share of state income tax	the smaller of: • the state income tax you alone paid during the year or • the total state income tax you and your spouse paid during the year multiplied by the following fraction. The numerator is your gross income and the denominator is your combined gross income.
property tax	paid the tax on property held as tenants by the entirety	the property tax you alone paid.
mortgage interest	paid the interest on a qualified home[1] held as tenants by the entirety	the mortgage interest you alone paid.
casualty loss	have a casualty loss[2] resulting from a federally declared disaster on a home you own as tenants by the entirety	half of the loss, subject to the deduction limits. Neither spouse may report the total casualty loss.

[1] For more information on a qualified home and deductible mortgage interest, see Pub. 936, Home Mortgage Interest Deduction.

[2] For more information on casualty losses, see Pub. 547, Casualties, Disasters and Thefts.

Married Filing Separately

If you and your spouse file separate returns, you should each report only your own income, deductions, and credits on your individual return. You can file a separate return even if only one of you had income.

Community or separate income. If you live in a community property state and file a separate return, your income may be separate income or community income for income tax purposes. For more information, see *Community Income* under *Community Property*, later.

Separate liability. If you and your spouse file separately, you each are responsible only for the tax due on your own return.

Itemized deductions. If you and your spouse file separate returns and one of you itemizes deductions, the other spouse can't use the standard deduction and should also itemize deductions.

Dividing itemized deductions. You may be able to claim itemized deductions on a separate return for certain expenses that you paid separately or jointly with your spouse. See Table 1.

Separate returns may give you a higher tax. Some married couples file separate returns because each wants to be responsible only for his or her own tax. There is no joint liability. But in almost all instances, if you file separate returns, you will pay more combined federal tax than you would with a joint return. This is because the following special rules apply if you file a separate return.

1. Your tax rate is generally higher than it would be on a joint return.
2. Your exemption amount for figuring the alternative minimum tax is half of that allowed on a joint return.
3. You can't take the credit for child and dependent care expenses in most cases, and the amount you can exclude from income under an employer's dependent care assistance program is limited to $2,500 (instead of $5,000 on a joint return). If you are legally separated or living apart from your spouse, you may be able to file a separate return and still take the credit. See Pub. 503 for more information.

4. You can't take the earned income credit.
5. You can't take the exclusion or credit for adoption expenses in most cases.
6. You can't exclude the interest from qualified savings bonds that you used for higher education expenses.
7. If you lived with your spouse at any time during the tax year:
   a. You can't claim the credit for the elderly or the disabled, and
   b. You will have to include in income a higher percentage (up to 85%) of any social security or equivalent railroad retirement benefits you received.
8. The following credits and deductions are reduced at income levels that are half those for a joint return.
   a. The child tax credit.
   b. The retirement savings contributions credit.
9. Your capital loss deduction limit is $1,500 (instead of $3,000 on a joint return).
10. If your spouse itemizes deductions, you can't claim the standard deduction. If you can claim the standard deduction, your basic standard deduction is half the amount allowed on a joint return.
11. You can't take the credit for higher education expenses (American opportunity and lifetime learning credits), the deduction for student loan interest, or the tuition and fees deduction.

Joint return after separate returns. If either you or your spouse (or both of you) file a separate return, you can generally change to a joint return within 3 years from the due date (not including extensions) of the separate return or returns. This applies to a return either of you filed claiming married filing separately, single, or head of household filing status. Use Form 1040-X to change your filing status.

Separate returns after joint return. After the due date of your return, you and your spouse can't file separate returns if you previously filed a joint return.

Exception. A personal representative for a decedent can change from a joint return elected by the surviving spouse to a separate return for the decedent. The personal representative has 1 year from the due date (including extensions) of the joint return to make the change.

Head of Household

Filing as head of household has the following advantages.

- You can claim the standard deduction even if your spouse files a separate return and itemizes deductions.
- Your standard deduction is higher than is allowed if you claim a filing status of single or married filing separately.
- Your tax rate will ususallybe lower than it is if you claim a filing status of single or married filing separately.
- You may be able to claim certain credits (such as the dependent care credit and the earned income credit) you can't claim if your filing status is married filing separately.
- Income limits that reduce your child tax credit and your retirement savings contributions credit, for example, are higher than the income limits if you claim a filing status of married filing separately.

Requirements. You may be able to file as head of household if you meet all of the following requirements.

- You are unmarried or "considered unmarried" on the last day of the year.
- You paid more than half the cost of keeping up a home for the year.
- A "qualifying person" lived with you in the home for more than half the year (except for temporary absences, such as school). However, if the "qualifying person" is your dependent parent, he or she doesn't have to live with you. See *Special rule for parent*, later, under *Qualifying person*.

Considered unmarried. You are considered unmarried on the last day of the tax year if you meet all of the following tests.

- You file a separate return. A separate return includes a return claiming married filing separately, single, or head of household filing status.
- You paid more than half the cost of keeping up your home for the tax year.
- Your spouse didn't live in your home during the last 6 months of the tax year. Your spouse is considered to live in your home even if he or she is temporarily absent due to special circumstances. See *Temporary absences*, later.
- Your home was the main home of your child, stepchild, or foster child for more than half the year. (See *Qualifying person*, later, for rules applying to a child's birth, death, or temporary absence during the year.)
- You must be able to claim the child as a dependent. However, you meet this test if you can't claim the child as a dependent only because the noncustodial parent can claim the child. The general rules for claiming a dependent are shown in Table 3.

CAUTION *If you were considered married for part of the year and lived in a community property state (one of the states listed later under* Community Property*), special rules may apply in determining your income and expenses. See Pub. 555 for more information.*

Nonresident alien spouse. If your spouse was a nonresident alien at any time during the tax year, and you haven't chosen to treat your spouse as a resident alien, you are considered unmarried for head of household

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

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

IF the person is your ...	AND ...	THEN that person is ...
qualifying child (such as a son, daughter, or grandchild who lived with you more than half the year and meets certain other tests)[2]	he or she is single	a qualifying person, whether or not the child meets the *Citizen or Resident Test*, described in Pub. 501.
	he or she is married and you can claim him or her as a dependent	a qualifying person.
	he or she is married and you can't claim him or her as a dependent	not a qualifying person.[3]
qualifying relative[4] who is your father or mother	you can claim him or her as a dependent[5]	a qualifying person.[6]
	you can't claim him or her as a dependent	not a qualifying person.
qualifying relative[4] other than your father or mother (such as a grandparent, brother, or sister who meets certain tests)	he or she lived with you more than half the year, and he or she is related to you in one of the ways listed under *Relatives who don't have to live with you* in Pub. 501 and you can claim him or her as a dependent[5]	a qualifying person.
	he or she didn't live with you more than half the year	not a qualifying person.
	he or she isn't related to you in one of the ways listed under *Relatives who don't have to live with you* in Pub. 501 and is your qualifying relative only because he or she lived with you all year as a member of your household	not a qualifying person.
	you can't claim him or her as a dependent	not a qualifying person.

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

[2] See Table 3 for the tests that must be met to be a qualifying child. **Note.** If you are a noncustodial parent, the term "qualifying child" for head of household filing status doesn't include a child who is your qualifying child only because of the rules described under *Children of Divorced or Separated Parents (or Parents Who Live Apart)* under *Qualifying Child*, later. If you are the custodial parent and those rules apply, the child is generally your qualifying child for head of household filing status even though you can't claim the child as a dependent.

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

[4] See Table 3 for the tests that must be met to be a qualifying relative.

[5] If you can claim a person as a dependent only because of a multiple support agreement, that person isn't a qualifying person. See *Multiple Support Agreement* in Pub. 501.

[6] See *Special rule for parent*.

purposes. However, your spouse isn't a qualifying person for head of household purposes. You must have another qualifying person and meet the other requirements to file as head of household.

Keeping up a home. You are keeping up a home only if you pay more than half the cost of its upkeep for the year. This includes rent, mortgage interest, real estate taxes, insurance on the home, repairs, utilities, and food eaten in the home. This doesn't include the cost of clothing, education, medical treatment, vacations, life insurance, or transportation for any member of the household.

Qualifying person. Table 2 shows who can be a qualifying person. Any person not described in Table 2 isn't a qualifying person.

Generally, the qualifying person must live with you for more than half of the year.

Special rule for parent. If your qualifying person is your father or mother, you may be eligible to file as head of household even if your father or mother doesn't live with you. However, you must be able to claim your father or mother as a dependent. Also, you must pay more than half the cost of keeping up a home that was the main home for the entire year for your father or mother.

You are keeping up a main home for your father or mother if you pay more than half the cost of keeping your parent in a rest home or home for the elderly.

Death or birth. If the person for whom you kept up a home was born or died in 2020, you may still be able to file as head of household. If the person is your qualifying child, the child must have lived with you for more than half the part of the year he or she was alive. If the person is anyone else, see Pub. 501.

Temporary absences. You and your qualifying person are considered to live together even if one or both of you are temporarily absent from your home due to special circumstances such as illness, education, business, vacation, military service, or detention in a juvenile facility. It must be reasonable to assume that the absent person will return to the home after the temporary absence. You must continue to keep up the home during the absence.

Kidnapped child. You may be eligible to file as head of household even if the child who is your qualifying person has been kidnapped. You can claim head of household filing status if all of the following statements are true.

- The child is presumed by law enforcement authorities to have been kidnapped by someone who isn't a member of your family or the child's family.
- In the year of the kidnapping, the child lived with you for more than half the part of the year before the kidnapping.
- In the year of the child's return, the child lived with you for more than half the part of the year following the date of the child's return.
- You would have qualified for head of household filing status if the child hadn't been kidnapped.

This treatment applies for all years until the earliest of:

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

For more information on filing as head of household, see Pub. 501.

Dependents

Qualifying Child or Qualifying Relative

The term "dependent" means:

- A qualifying child, or
- A qualifying relative.

Table 3 shows the tests that must be met to be either a qualifying child or qualifying relative, plus the additional requirements for claiming a dependent. For detailed information, see Pub. 501.

TIP *You may be entitled to a child tax credit for each qualifying child who was under age 17 at the end of the year if you claimed that child as a dependent. If you can't claim the child tax credit for a child who is an eligible dependent, you may be able to claim the credit for other dependents instead. See the Instructions for Forms 1040 and 1040-SR for details.*

Children of Divorced or Separated Parents (or Parents Who Live Apart)

In most cases, because of the residency test (see item 3 under *Tests To Be a Qualifying Child* in Table 3), a child of divorced or separated parents is the qualifying child of the custodial parent. However, the child will be treated as the qualifying child of the noncustodial parent if the rule for children of divorced or separated parents (or parents who live apart) applies.

Children of divorced or separated parents (or parents who live apart). A child will be treated as the qualifying child of his or her noncustodial parent if all four of the following statements are true.

1. The parents:
   a. Are divorced or legally separated under a decree of divorce or separate maintenance,
   b. Are separated under a written separation agreement, or
   c. Lived apart at all times during the last 6 months of the year, whether or not they are or were married.
2. The child received over half of his or her support for the year from the parents.
3. The child is in the custody of one or both parents for more than half of the year.
4. Either of the following applies.
   a. The custodial parent signs a written declaration, discussed later, that he or she won't claim the child as a dependent for the year, and the noncustodial parent attaches this written declaration to his or her return. (If the decree or agreement went into effect after 1984, see *Divorce decree or separation agreement that went into effect after 1984 and before 2009*, or *Post-2008 divorce decree or separation agreement*, later).
   b. A pre-1985 decree of divorce or separate maintenance or written separation agreement that applies to 2020 states that the noncustodial parent can claim the child as a dependent, the decree or agreement wasn't changed after 1984 to say the noncustodial parent can't claim the child as a dependent, and the noncustodial parent provides at least $600 for the child's support during the year. See *Child support under pre-1985 agreement*, later.

Custodial parent and noncustodial parent. The custodial parent is the parent with whom the child lived for

Table 3. **Overview of the Rules for Claiming a Dependent**

Caution. *This table is only an overview of the rules. For details, see Pub. 501.*

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

Tests To Be a Qualifying Child	Tests To Be a Qualifying Relative
1. The child must be your son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them. 2. The child must be (a) under age 19 at the end of the year and younger than you (or your spouse if filing jointly), (b) under age 24 at the end of the year, a student, and younger than you (or your spouse if filing jointly), or (c) any age if permanently and totally disabled. 3. The child must have lived with you for more than half of the year.[2] 4. The child must not have provided more than half of his or her own support for the year. 5. The child must not be filing a joint return for the year (unless that joint return is filed only to claim a refund of withheld income tax or estimated tax paid). A child isn't a qualifying child unless he or she meets items (1) through (5). If the child meets the rules to be a qualifying child of more than one person, only one person can actually treat the child as a qualifying child. See *Qualifying Child of More Than One Person*, later, to find out which person is the person entitled to claim the child as a qualifying child.	1. The person can't be your qualifying child or the qualifying child of anyone else. 2. The person either (a) must be related to you in one of the ways listed under *Relatives who don't have to live with you* in Pub. 501, or (b) must live with you all year as a member of your household [2] (and your relationship must not violate local law). 3. The person's gross income for the year must be less than $4,300.[3] 4. You must provide more than half of the person's total support for the year.[4] A person isn't a qualifying relative unless he or she meets items (1) through (4).

[1] An exception exists for certain adopted children.

[2] Exceptions exist for temporary absences, children who were born or died during the year, children of divorced or separated parents (or parents who live apart), and kidnapped children.

[3] An exception exists for persons who are disabled and have income from a sheltered workshop.

[4] Exceptions exist for multiple support agreements, children of divorced or separated parents (or parents who live apart), and kidnapped children. See Pub. 501.

the greater number of nights during the year. The other parent is the noncustodial parent.

If the parents divorced or separated during the year and the child lived with both parents before the separation, the custodial parent is the one with whom the child lived for the greater number of nights during the rest of the year.

A child is treated as living with a parent for a night if the child sleeps:

- At that parent's home, whether or not the parent is present, or
- In the company of the parent, when the child doesn't sleep at a parent's home (for example, the parent and child are on vacation together).

Equal number of nights. If the child lived with each parent for an equal number of nights during the year, the custodial parent is the parent with the higher adjusted gross income.

December 31. The night of December 31 is treated as part of the year in which it begins. For example, the night of December 31, 2020, is treated as part of 2020.

Emancipated child. If a child is emancipated under state law, the child is treated as not living with either parent. See *Examples* 5 and 6.

Absences. If a child wasn't with either parent on a particular night (because, for example, the child was staying at a friend's house), the child is treated as living with the parent with whom the child normally would have lived for that night, except for the absence. But if it can't be determined with which parent the child normally would have lived or if the child wouldn't have lived with either parent that night, the child is treated as not living with either parent that night.

Parent works at night. If, due to a parent's nighttime work schedule, a child lives for a greater number of days but not nights with the parent who works at night, that parent is treated as the custodial parent. On a school day, the child is treated as living at the primary residence registered with the school.

Example 1—child lived with one parent for a greater number of nights. You and your child's other parent are divorced. In 2020, your child lived with you 210 nights and with the other parent 156 nights. You are the custodial parent.

Example 2—child is away at camp. In 2020, your daughter lives with each parent for alternate weeks. In the summer, she spends 6 weeks at summer camp. During the time she is at camp, she is treated as living with you for 3 weeks and with her other parent, your ex-spouse, for 3 weeks because this is how long she would have lived with each parent if she hadn't attended summer camp.

Example 3—child lived same number of days with each parent. Your son lived with you 180 nights during the year and lived the same number of nights with his other parent, your ex-spouse. Your adjusted gross income is $40,000. Your ex-spouse's adjusted gross income is $25,000. You are treated as your son's custodial parent because you have the higher adjusted gross income.

Example 4—child is at parent's home but with other parent. Your son normally lives with you during the week and with his other parent, your ex-spouse, every other weekend. You become ill and are hospitalized. The other parent lives in your home with your son for 10 consecutive days while you are in the hospital. Your son is treated as living with you during this 10-day period because he was living in your home.

Example 5—child emancipated in May. When your son turned age 18 in May 2020, he became emancipated under the law of the state where he lives. As a result, he isn't considered in the custody of his parents for more than half of the year. The special rule for children of divorced or separated parents (or parents who live apart) doesn't apply.

Example 6—child emancipated in August. Your daughter lives with you from January 1, 2020, until May 31, 2020, and lives with her other parent, your ex-spouse, from June 1, 2020, through the end of the year. She turns 18 and is emancipated under state law on August 1, 2020. Because she is treated as not living with either parent beginning on August 1, she is treated as living with you the greater number of nights in 2020. You are the custodial parent.

Written declaration. The custodial parent must use either Form 8332 or a similar statement (containing the same information required by the form) to make a written declaration to release a claim to an exemption for a child to the noncustodial parent. Although the exemption amount is zero for tax year 2020, this release allows the noncustodial parent to claim the child tax credit, additional child tax credit, and credit for other dependents, if applicable, for the child. The noncustodial parent must attach a copy of the form or statement to his or her tax return each year the custodial parent releases his or her claims.

The release can be for 1 year, for a number of specified years (for example, alternate years), or for all future years, as specified in the declaration.

CAUTION *Form 8332 doesn't apply to other tax benefits, such as the earned income credit, dependent care credit, or head of household filing status. See Pub. 501.*

Divorce decree or separation agreement that went into effect after 1984 and before 2009. If the divorce decree or separation agreement went into effect after 1984 and before 2009, the noncustodial parent may be able to attach certain pages from the decree or agreement instead of Form 8332. The decree or agreement must state all three of the following.

1. The noncustodial parent can claim the child as a dependent without regard to any condition, such as payment of support.
2. The custodial parent won't claim the child as a dependent for the year.
3. The years for which the noncustodial parent, rather than the custodial parent, can claim the child as a dependent.

The noncustodial parent must attach all of the following pages of the decree or agreement to his or her return.

- The cover page (write the other parent's SSN on this page).
- The pages that include all of the information identified in items (1) through (3) above.
- The signature page with the other parent's signature and the date of the agreement.

Post-2008 divorce decree or separation agreement. If the decree or agreement went into effect after 2008, a noncustodial parent claiming a child as a dependent can't attach pages from a divorce decree or separation agreement instead of Form 8332. The custodial parent must sign either a Form 8332 or a similar statement. The only purpose of this statement must be to release the custodial parent's claim to an exemption. The noncustodial parent must attach a copy to his or her return. The form or statement must release the custodial parent's claim to the child without any conditions. For example, the release must not depend on the noncustodial parent paying support.

CAUTION *The noncustodial parent must attach the required information even if it was filed with a return in an earlier year.*

Revocation of release of claim to an exemption. The custodial parent can revoke a release of claim to an exemption that he or she previously released to the noncustodial parent. For the revocation to be effective for 2020, the custodial parent must have given (or made reasonable efforts to give) written notice of the revocation to the noncustodial parent in 2019 or earlier. The custodial parent can use Part III of Form 8332 for this purpose and must attach a copy of the revocation to his or her return for each tax year he or she claims the child as a dependent as a result of the revocation.

Remarried parent. If you remarry, the support provided by your new spouse is treated as provided by you.

Child support under pre-1985 agreement. All child support payments actually received from the noncustodial parent under a pre-1985 agreement are considered used for the support of the child.

Example. Under a pre-1985 agreement, the noncustodial parent provides $1,200 for the child's support. This amount is considered support provided by the noncustodial parent even if the $1,200 was actually spent on things other than support.

Parents who never married. This rule for divorced or separated parents also applies to parents who never married and lived apart at all times during the last 6 months of the year.

Alimony. Payments to your spouse that are includible in his or her gross income as either alimony, separate maintenance payments, or similar payments from an estate or trust aren't treated as a payment for the support of a dependent.

Qualifying Child of More Than One Person

TIP *If your qualifying child isn't a qualifying child of anyone else, this topic doesn't apply to you and you don't need to read about it. This also is true if your qualifying child isn't a qualifying child of anyone else except your spouse with whom you plan to file a joint return.*

CAUTION *If a child is treated as the qualifying child of the noncustodial parent under the rules for Children of divorced or separated parents (or parents who live apart), earlier, see Applying the tiebreaker rules to divorced or separated parents (or parents who live apart), later.*

Sometimes, a child meets the relationship, age, residency, support, and joint return tests to be a qualifying child of more than one person. (For a description of these tests, see list items 1 through 5 under *Tests To Be a Qualifying Child* in Table 3). Although the child meets the conditions to be a qualifying child of each of these persons, only one person can actually claim the child as a qualifying child to take the following tax benefits (provided the person is eligible).

1. The child tax credit, the credit for other dependents, and the additional child tax credit.
2. Head of household filing status.
3. The credit for child and dependent care expenses.
4. The exclusion from income for dependent care benefits.
5. The earned income credit.

In other words, you and the other person can't agree to divide these tax benefits between you.

Tiebreaker rules. To determine which person can treat the child as a qualifying child to claim these tax benefits, the following tiebreaker rules apply.

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
- If the parents file a joint return together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
- If the parents don't file a joint return together but both parents claim the child as a qualifying child, the IRS will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time during the year. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year.
- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the year.
- If a parent can claim the child as a qualifying child but no parent claims the child, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who can claim the child. See Pub. 501 for details.

Subject to these tiebreaker rules, you and the other person may be able to choose which of you claims the child as a qualifying child.

You may be able to qualify for the earned income credit under the rules for taxpayers without a qualifying child if you have a qualifying child for the earned income credit who is claimed as a qualifying child by another taxpayer. For more information, see Pub. 596.

Example 1—separated parents. You, your husband, and your 10-year-old son lived together until August 1, 2020, when your husband moved out of the household. In

August and September, your son lived with you. For the rest of the year, your son lived with your husband, the boy's father. Your son is a qualifying child of both you and your husband because your son lived with each of you for more than half the year and because he met the relationship, age, support, and joint return tests for both of you. At the end of the year, you and your husband still weren't divorced, legally separated, or separated under a written separation agreement, so the rule for children of divorced or separated parents (or parents who live apart) doesn't apply.

You and your husband will file separate returns. Your husband agrees to let you treat your son as a qualifying child. This means, if your husband doesn't claim your son as a qualifying child, you can claim your son as a dependent and treat him as a qualifying child for the child tax credit and exclusion for dependent care benefits, if you qualify for each of those tax benefits. However, you can't claim head of household filing status because you and your husband didn't live apart the last 6 months of the year. And, as a result of your filing status being married filing separately, you can't claim the earned income credit or the credit for child and dependent care expenses.

Example 2—separated parents claim same child. The facts are the same as in *Example 1* except that you and your husband both claim your son as a qualifying child. In this case, only your husband will be allowed to treat your son as a qualifying child. This is because, during 2020, the boy lived with him longer than with you. If you claimed the child tax credit for your son, the IRS will disallow your claim to the child tax credit. If you don't have another qualifying child or dependent, the IRS will also disallow your claim to the exclusion for dependent care benefits. In addition, because you and your husband didn't live apart the last 6 months of the year, your husband can't claim head of household filing status. And, as a result of his filing status being married filing separately, he can't claim the earned income credit or the credit for child and dependent care expenses.

Applying the tiebreaker rules to divorced or separated parents (or parents who live apart). If a child is treated as the qualifying child of the noncustodial parent under the rules for children of divorced or separated parents (or parents who live apart) described earlier, only the noncustodial parent can claim the child tax credit or the credit for other dependents for the child. However, the custodial parent, if eligible, or other eligible person can claim the child as a qualifying child for head of household filing status, the credit for child and dependent care expenses, the exclusion for dependent care benefits, and the earned income credit. If the child is the qualifying child of more than one person for those tax benefits, the tiebreaker rules determine which person can treat the child as a qualifying child.

Example 1. You and your 5-year-old son lived all year with your mother, who paid the entire cost of keeping up the home. Your AGI is $10,000. Your mother's AGI is $25,000. Your son's father doesn't live with you or your son.

Under the rules for children of divorced or separated parents (or parents who live apart), your son is treated as the qualifying child of his father, who can claim the child tax credit for the child if he meets all the requirements to do so. Because of this, you can't claim the child tax credit for your son. However, your son's father can't claim your son as a qualifying child for head of household filing status, the credit for child and dependent care expenses, the exclusion for dependent care benefits, or the earned income credit.

You and your mother didn't have any childcare expenses or dependent care benefits, but the boy is a qualifying child of both you and your mother for head of household filing status and the earned income credit because he meets the relationship, age, residency, support, and joint return tests for both you and your mother. (Note: The support test doesn't apply for the earned income credit.) However, you agree to let your mother claim your son. This means she can claim him for head of household filing status and the earned income credit if she qualifies for each and if you don't claim him as a qualifying child for the earned income credit. (You can't claim head of household filing status because your mother paid the entire cost of keeping up the home.)

Example 2. The facts are the same as in *Example 1* except that your AGI is $25,000 and your mother's AGI is $21,000. Your mother can't claim your son as a qualifying child for any purpose because her AGI isn't higher than yours.

Example 3. The facts are the same as in *Example 1* except that you and your mother both claim your son as a qualifying child for the earned income credit. Your mother also claims him as a qualifying child for head of household filing status. You, as the child's parent, will be the only one allowed to claim your son as a qualifying child for the earned income credit. The IRS will disallow your mother's claim to the earned income credit and head of household filing status unless she has another qualifying child.

Alimony

CAUTION *Amounts paid as alimony or separate maintenance payments under a divorce or separation instrument executed after 2018 won't be deductible by the payer. Such amounts also won't be includible in the income of the recipient. The same is true of alimony paid under a divorce or separation instrument executed before 2019 and modified after 2018, if the modification expressly states that the alimony isn't deductible to the payer or includible in the income of the recipient. See* Certain Rules for Instruments Executed or Modified After 2018 *,later.*

Alimony is a payment to or for a spouse or former spouse under a divorce or separation instrument. It doesn't include voluntary payments that aren't made under a divorce or separation instrument.

Alimony is deductible by the payer, and the recipient must include it in income. Although this discussion is generally written for the payer of the alimony, the recipient can also use the information to determine whether an amount received is alimony.

To be alimony, a payment must meet certain requirements. There are some differences between the requirements that apply to payments under instruments executed after 1984 and to payments under instruments executed before 1985. General alimony requirements and specific requirements that apply to post-1984 instruments (and, in certain cases, some pre-1985 instruments) are discussed in this publication. See Instruments Executed Before 1985, later, if you are looking for information on where to find the specific requirements that apply to pre-1985 instruments.

Spouse or former spouse. Unless otherwise stated, the term "spouse" includes former spouse.

Divorce or separation instrument. The term "divorce or separation instrument" means:

- A decree of divorce or separate maintenance or a written instrument incident to that decree,
- A written separation agreement, or
- A decree or any type of court order requiring a spouse to make payments for the support or maintenance of the other spouse. This includes a temporary decree, an interlocutory (not final) decree, and a decree of alimony pendente lite (while awaiting action on the final decree or agreement).

Invalid decree. Payments under a divorce decree can be alimony even if the decree's validity is in question. A divorce decree is valid for tax purposes until a court having proper jurisdiction holds it invalid.

Amended instrument. An amendment to a divorce decree may change the nature of your payments. Amendments aren't ordinarily retroactive for federal tax purposes. However, a retroactive amendment to a divorce decree correcting a clerical error to reflect the original intent of the court will generally be effective retroactively for federal tax purposes.

Example 1. A court order retroactively corrected a mathematical error under your divorce decree to express the original intent to spread the payments over more than 10 years. This change also is effective retroactively for federal tax purposes.

Example 2. Your original divorce decree didn't fix any part of the payment as child support. To reflect the true intention of the court, a court order retroactively corrected the error by designating a part of the payment as child support. The amended order is effective retroactively for federal tax purposes.

Deducting alimony paid. Generally, you can deduct alimony you paid, whether or not you itemized deductions on your return.

You must use Form 1040 or 1040-SR to deduct alimony you paid. You can't use Form 1040-NR. Enter the amount of alimony you paid on Schedule 1 (Form 1040), line 18a. In the space provided on line 18b, enter your recipient's SSN or ITIN.

If you paid alimony to more than one person, enter the SSN or ITIN of one of the recipients. Show the SSN or ITIN and amount paid to each other recipient on an attached statement. Enter your total payments on line 18a.

CAUTION *If you don't provide your spouse's SSN or ITIN, you may have to pay a $50 penalty and your deduction may be disallowed.*

Reporting alimony received. Report alimony you received as income on Schedule 1 (Form 1040), line 2a. You can't use Form 1040-NR-EZ.

CAUTION *You must give the person who paid the alimony your SSN or ITIN. If you don't, you may have to pay a $50 penalty.*

Withholding on nonresident aliens. If you are a U.S. citizen or resident alien and you pay alimony to a nonresident alien spouse, you may have to withhold income tax at a rate of 30% on each payment. However, many tax treaties provide for an exemption from withholding for alimony payments. For more information, see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

General Rules

The following rules apply to alimony.

Payments not alimony. Not all payments under a divorce or separation instrument are alimony. Alimony doesn't include:

- Child support,
- Noncash property settlements,
- Payments that are your spouse's part of community income, as explained later under Community Property,
- Payments to keep up the payer's property, or
- Use of the payer's property.

Example. Under your written separation agreement, your spouse lives rent-free in a home you own and you must pay the mortgage, real estate taxes, insurance, repairs, and utilities for the home. Because you own the home and the debts are yours, your payments for the mortgage, real estate taxes, insurance, and repairs aren't alimony. Neither is the value of your spouse's use of the home.

If they qualify, you may be able to deduct the payments for utilities as alimony. Your spouse must report them as income. If you itemize deductions, you can deduct the real estate taxes and, if the home is a qualified home, you can also include the interest on the mortgage in figuring your deductible interest. However, if your spouse owned the home, see Example 2 under *Payments to a third party*,

Table 4. **Expenses for a Jointly Owned Home**

Use the table below to find how much of your payment is alimony and how much you can claim as an itemized deduction.

IF you must pay all of the ...	AND your home is ...	THEN you can deduct and your spouse (or former spouse) must include as alimony ...	AND you can claim as an itemized deduction ...
mortgage payments (principal and interest)	jointly owned	half of the total payments	half of the interest as interest expense (if the home is a qualified home).[1]
real estate taxes and home insurance	held as tenants in common	half of the total payments	half of the real estate taxes[2] and none of the home insurance.
	held as tenants by the entirety or in joint tenancy	none of the payments	all of the real estate taxes and none of the home insurance.

[1] Your spouse (or former spouse) can deduct the other half of the interest if the home is a qualified home.
[2] Your spouse (or former spouse) can deduct the other half of the real estate taxes.

later. If you owned the home jointly with your spouse, see Table 4. For more information, see Pub. 936, Home Mortgage Interest Deduction.

Child support. To determine whether a payment is child support, see the discussion under *Certain Rules for Instruments Executed After 1984*, later. If your divorce or separation agreement was executed before 1985, see the 2004 revision of Pub. 504, available at *IRS.gov/FormsPubs*.

Underpayment. If both alimony and child support payments are called for by your divorce or separation instrument, and you pay less than the total required, the payments apply first to child support and then to alimony.

Example. Your divorce decree calls for you to pay your former spouse $200 a month ($2,400 ($200 x 12) a year) as child support and $150 a month ($1,800 ($150 x 12) a year) as alimony. If you pay the full amount of $4,200 ($2,400 + $1,800) during the year, you can deduct $1,800 as alimony and your former spouse must report $1,800 as alimony received. If you pay only $3,600 during the year, $2,400 is child support. You can deduct only $1,200 ($3,600 − $2,400) as alimony and your former spouse must report $1,200 as alimony received.

Payments to a third party. Cash payments, checks, or money orders to a third party on behalf of your spouse under the terms of your divorce or separation instrument can be alimony, if they otherwise qualify. These include payments for your spouse's medical expenses, housing costs (rent, utilities, etc.), taxes, tuition, etc. The payments are treated as received by your spouse and then paid to the third party.

Example 1. Under your divorce decree, you must pay your former spouse's medical and dental expenses. If the payments otherwise qualify, you can deduct them as alimony on your return. Your former spouse must report them as alimony received and can include them in figuring deductible medical expenses.

Example 2. Under your separation agreement, you must pay the real estate taxes, mortgage payments, and insurance premiums on a home owned by your spouse. If they otherwise qualify, you can deduct the payments as alimony on your return, and your spouse must report them as alimony received. Your spouse may be able to deduct the real estate taxes and home mortgage interest, subject to the limitations on those deductions. See the Instructions for Schedule A (Form 1040). However, if you owned the home, see the example under *Payments not alimony*, earlier. If you owned the home jointly with your spouse, see Table 4.

Life insurance premiums. Alimony includes premiums you must pay under your divorce or separation instrument for insurance on your life to the extent your spouse owns the policy.

Payments for jointly owned home. If your divorce or separation instrument states that you must pay expenses for a home owned by you and your spouse or former spouse, some of your payments may be alimony. See Table 4.

However, if your spouse owned the home, see *Example 2* under *Payments to a third party*, earlier. If you owned the home, see the example under *Payments not alimony*, earlier.

Certain Rules for Instruments Executed After 1984

The following rules for alimony apply to payments under divorce or separation instruments executed after 1984.

Alimony Requirements

A payment to or for a spouse under a divorce or separation instrument is alimony if the spouses don't file a joint return with each other and all of the following requirements are met.

- The payment is in cash.
- The instrument doesn't designate the payment as not alimony.
- The spouses aren't members of the same household at the time the payments are made. This requirement applies only if the spouses are legally separated under a decree of divorce or separate maintenance.
- There is no liability to make any payment (in cash or property) after the death of the recipient spouse.
- The payment isn't treated as child support.

Each of these requirements is discussed next.

Cash payment requirement. Only cash payments, including checks and money orders, qualify as alimony. The following don't qualify as alimony.

- Transfers of services or property (including a debt instrument of a third party or an annuity contract).
- Execution of a debt instrument by the payer.
- The use of the payer's property.

Payments to a third party. Cash payments to a third party under the terms of your divorce or separation instrument can qualify as cash payments to your spouse. See *Payments to a third party* under *General Rules*, earlier.

Also, cash payments made to a third party at the written request of your spouse may qualify as alimony if all the following requirements are met.

- The payments are in lieu of payments of alimony directly to your spouse.
- The written request states that both spouses intend the payments to be treated as alimony.
- You receive the written request from your spouse before you file your return for the year you made the payments.

Payments designated as not alimony. You and your spouse can designate that otherwise qualifying payments aren't alimony. You do this by including a provision in your divorce or separation instrument that states the payments aren't deductible as alimony by you and are excludable from your spouse's income. For this purpose, any instrument (written statement) signed by both of you that makes this designation and that refers to a previous written separation agreement is treated as a written separation agreement (and therefore a divorce or separation instrument). If you are subject to temporary support orders, the designation must be made in the original or a later temporary support order.

Your spouse can exclude the payments from income only if he or she attaches a copy of the instrument designating them as not alimony to his or her return. The copy must be attached each year the designation applies.

Spouses can't be members of the same household. Payments to your spouse while you are members of the same household aren't alimony if you are legally separated under a decree of divorce or separate maintenance. A home you formerly shared is considered one household, even if you physically separate yourselves in the home.

You aren't treated as members of the same household if one of you is preparing to leave the household and does leave no later than 1 month after the date of the payment.

Exception. If you aren't legally separated under a decree of divorce or separate maintenance, a payment under a written separation agreement, support decree, or other court order may qualify as alimony even if you are members of the same household when the payment is made.

Liability for payments after death of recipient spouse. If any part of payments you make must continue to be made for any period after your spouse's death, that part of your payments isn't alimony whether made before or after the death. If all of the payments would continue, then none of the payments made before or after the death are alimony.

The divorce or separation instrument doesn't have to expressly state that the payments cease upon the death of your spouse if, for example, the liability for continued payments would end under state law.

Example. You must pay your former spouse $10,000 in cash each year for 10 years. Your divorce decree states that the payments will end upon your former spouse's death. You must also pay your former spouse or your former spouse's estate $20,000 in cash each year for 10 years. The death of your spouse wouldn't end these payments under state law.

The $10,000 annual payments may qualify as alimony. The $20,000 annual payments that don't end upon your former spouse's death aren't alimony.

Substitute payments. If you must make any payments in cash or property after your spouse's death as a substitute for continuing otherwise qualifying payments before the death, the otherwise qualifying payments aren't alimony. To the extent that your payments begin, accelerate, or increase because of the death of your spouse, otherwise qualifying payments you made may be treated as payments that weren't alimony. Whether or not such payments will be treated as not alimony depends on all the facts and circumstances.

Example 1. Under your divorce decree, you must pay your former spouse $30,000 annually. The payments will stop at the end of 6 years or upon your former spouse's death, if earlier.

Your former spouse has custody of your minor children. The decree provides that if any child is still a minor at your spouse's death, you must pay $10,000 annually to a trust until the youngest child reaches the age of majority. The trust income and corpus (principal) are to be used for your children's benefit.

These facts indicate that the payments to be made after your former spouse's death are a substitute for $10,000 of the $30,000 annual payments. Of each of the $30,000 annual payments, $10,000 isn't alimony.

Example 2. Under your divorce decree, you must pay your former spouse $30,000 annually. The payments will stop at the end of 15 years or upon your former spouse's death, if earlier. The decree provides that if your former spouse dies before the end of the 15-year period, you must pay the estate the difference between $450,000 ($30,000 × 15) and the total amount paid up to that time. For example, if your spouse dies at the end of the 10th year, you must pay the estate $150,000 ($450,000 − $300,000).

These facts indicate that the lump-sum payment to be made after your former spouse's death is a substitute for the full amount of the $30,000 annual payments. None of the annual payments are alimony. The result would be the same if the payment required at death were to be discounted by an appropriate interest factor to account for the prepayment.

Child support. A payment that is specifically designated as child support or treated as specifically designated as child support under your divorce or separation instrument isn't alimony. The amount of child support may vary over time. Child support payments aren't deductible by the payer and aren't taxable to the payee.

Specifically designated as child support. A payment will be treated as specifically designated as child support to the extent that the payment is reduced either:

- On the happening of a contingency relating to your child, or
- At a time that can be clearly associated with the contingency.

A payment may be treated as specifically designated as child support even if other separate payments are specifically designated as child support.

Contingency relating to your child. A contingency relates to your child if it depends on any event relating to that child. It doesn't matter whether the event is certain or likely to occur. Events relating to your child include the child's:

- Becoming employed,
- Dying,
- Leaving the household,
- Leaving school,
- Marrying, or
- Reaching a specified age or income level.

Clearly associated with a contingency. Payments that would otherwise qualify as alimony are presumed to be reduced at a time clearly associated with the happening of a contingency relating to your child only in the following situations.

1. The payments are to be reduced not more than 6 months before or after the date the child will reach 18, 21, or local age of majority.
2. The payments are to be reduced on two or more occasions that occur not more than 1 year before or after a different one of your children reaches a certain age from 18 to 24. This certain age must be the same for each child, but need not be a whole number of years.

In all other situations, reductions in payments aren't treated as clearly associated with the happening of a contingency relating to your child.

Either you or the IRS can overcome the presumption in the two situations above. This is done by showing that the time at which the payments are to be reduced was determined independently of any contingencies relating to your children. For example, if you can show that the period of alimony payments is customary in the local jurisdiction, such as a period equal to one-half of the duration of the marriage, you can overcome the presumption and may be able to treat the amount as alimony.

Recapture of Alimony

If your alimony payments decrease or end during the first 3 calendar years, you may be subject to the recapture rule. If you are subject to this rule, you have to include in income (in the third year) part of the alimony payments you previously deducted. Your spouse can deduct (in the third year) part of the alimony payments he or she previously included in income.

The 3-year period starts with the first calendar year you make a payment qualifying as alimony under a decree of divorce or separate maintenance or a written separation agreement. Don't include any time in which payments were being made under temporary support orders. The second and third years are the next 2 calendar years, whether or not payments are made during those years.

The reasons for a reduction or end of alimony payments that can require a recapture include:

- A change in your divorce or separation instrument,
- A failure to make timely payments,
- A reduction in your ability to provide support, or
- A reduction in your spouse's support needs.

When to apply the recapture rule. You are subject to the recapture rule in the third year if the alimony you pay in the third year decreases by more than $15,000 from the second year or the alimony you pay in the second and third years decreases significantly from the alimony you pay in the first year.

When you figure a decrease in alimony, don't include the following amounts.

- Payments made under a temporary support order.

Worksheet 1. **Recapture of Alimony** *Keep for Your Records*

Note. ***Don't enter less than -0- on any line.***

1. Alimony paid in **2nd year**		1. ______	
2. Alimony paid in **3rd year**	2. ______		
3. Floor	3. **$15,000**		
4. Add lines 2 and 3		4. ______	
5. Subtract line 4 from line 1. If zero or less, enter -0-			5. ______
6. Alimony paid in **1st year**		6. ______	
7. Adjusted alimony paid in **2nd year** (line 1 minus line 5)	7. ______		
8. Alimony paid in **3rd year**	8. ______		
9. Add lines 7 and 8	9. ______		
10. Divide line 9 by 2.0	10. ______		
11. Floor	11. **$15,000**		
12. Add lines 10 and 11		12. ______	
13. Subtract line 12 from line 6			13. ______
14. **Recaptured alimony**. Add lines 5 and 13			*14. ______

* If you deducted alimony paid, report this amount as income on Schedule 1 (Form 1040), line 2a.
If you reported alimony received, deduct this amount on Schedule 1 (Form 1040), line 18a.

- Payments required over a period of at least 3 calendar years that vary because they are a fixed part of your income from a business or property, or from compensation for employment or self-employment.
- Payments that decrease because of the death of either spouse or the remarriage of the spouse receiving the payments before the end of the third year.

How to figure and report the recapture. Both you and your spouse can use Worksheet 1 to figure recaptured alimony.

Including the recapture in income. If you must include a recapture amount in income, show it on Schedule 1 (Form 1040), line 2a ("Alimony received"). Cross out "received" and enter "recapture." On the dotted line next to the amount, enter your spouse's last name and SSN or ITIN.

Deducting the recapture. If you can deduct a recapture amount, show it on Schedule 1 (Form 1040), line 18a ("Alimony paid"). Cross out "paid" and enter "recapture." In the space provided, enter your spouse's SSN or ITIN.

Example. You pay your former spouse $50,000 alimony the first year, $39,000 the second year, and $28,000 the third year. In the third year, you report $1,500 as income on Schedule 1 (Form 1040), line 2a, and your former spouse reports $1,500 as a deduction on Schedule 1 (Form 1040), line 18a. (See the worksheet that was completed for this example.)

Instruments Executed Before 1985

Information on pre-1985 instruments was included in this publication through 2004. If you need the 2004 revision, please visit *IRS.gov/FormsPubs*.

Certain Rules for Instruments Executed or Modified After 2018

Amounts paid as alimony or separate maintenance payments under a divorce or separation instrument executed after 2018 won't be deductible by the payer. Such amounts also won't be includible in the income of the recipient. The same is true of alimony paid under a divorce or separation instrument executed before 2019 and modified after 2018, if the modification expressly states that the alimony isn't deductible to the payer or includible in the income of the recipient. The examples below illustrate the tax treatment of alimony payments under the post-2018 alimony rules. In each of the examples, assume the payments qualify as alimony under the Internal Revenue Code of 1986.

Example 1. On December 2, 2013, a court executed a divorce decree providing for monthly alimony payments beginning January 1, 2014, for a period of 8 years. On May 15, 2020, the court modified the divorce decree to increase the amount of monthly alimony payments. The first increased alimony payment was due on June 1, 2020. The modification didn't expressly provide that the post-

Worksheet 1. **Recapture of Alimony—Illustrated**

Note. ***Don't enter less than -0- on any line.***

1.	Alimony paid in **2nd year**		1. *$39,000*	
2.	Alimony paid in **3rd year**	2. *28,000*		
3.	Floor	3. **$15,000**		
4.	Add lines 2 and 3		4. *43,000*	
5.	Subtract line 4 from line 1. If zero or less, enter -0-			5. *-0-*
6.	Alimony paid in **1st year**		6. *50,000*	
7.	Adjusted alimony paid in **2nd year** (line 1 minus line 5)	7. *39,000*		
8.	Alimony paid in **3rd year**	8. *28,000*		
9.	Add lines 7 and 8	9. *67,000*		
10.	Divide line 9 by 2.0	10. *33,500*		
11.	Floor	11. **$15,000**		
12.	Add lines 10 and 11		12. *48,500*	
13.	Subtract line 12 from line 6			13. *1,500*
14.	**Recaptured alimony**. Add lines 5 and 13			*14. *1,500*

* If you deducted alimony paid, report this amount as income on Schedule 1 (Form 1040), line 2a.
If you reported alimony received, deduct this amount on Schedule 1 (Form 1040), line 18a.

2018 alimony rules apply to alimony payments made after the date of the modification. Therefore, all alimony payments made in 2020 are includible in the recipient's income and deductible from the payer's income.

Example 2. Assume the same facts as in *Example 1* above except the modification expressly provided that the post-2018 alimony rules apply. The alimony payments made in January 2020 through May 2020 are includible in the recipient's income and deductible from the payer's income. The alimony payments made in June 2020 through December 2020 are neither includible in the recipient's income nor deductible from the payer's income.

Example 3. On December 2, 2013, a couple executed a written separation agreement providing for monthly alimony payments on the first day of each month, beginning January 1, 2014, for a period of 8 years. The written separation agreement set forth that it expires upon the execution of a divorce decree dissolving the couple's marriage. On May 27, 2020, a court executed the divorce decree awarding alimony under the same terms as described in the couple's separation agreement. The alimony payments made in January 2020 through May 2020 under the written separation agreement are includible in the recipient's income and deductible from the payer's income. The court executed the divorce decree after December 31, 2018; therefore, alimony payments made in June 2020 through December 2020 under the divorce decree are neither includible in the recipient's income nor deductible from the payer's income.

Example 4. On October 1, 2018, a couple executed a written separation agreement subject to the laws of State X. The written separation agreement requires a $1,000 monthly alimony payment on the last business day of a month for a period of 3 years. Under the laws of State X, at the time of divorce, a written separation agreement may survive as an independent contract. In the process of obtaining their divorce, the couple decided their separation agreement will remain an independent contract and won't be incorporated or merged into their divorce decree. The court, after acknowledging the separation agreement as fair and equitable, executed a divorce decree on April 1, 2020, dissolving the couple's marriage. The divorce decree did not mention alimony. All alimony payments made in 2020 are includible in the recipient's income and deductible from the payer's income because the alimony payments were made under the written separation agreement that was executed on or before December 31, 2018.

Qualified Domestic Relations Order

A qualified domestic relations order (QDRO) is a judgment, decree, or court order (including an approved property settlement agreement) issued under a state's domestic relations law that:

- Recognizes someone other than a participant as having a right to receive benefits from a qualified retirement plan (such as most pension and profit-sharing plans) or a tax-sheltered annuity;
- Relates to payment of child support, alimony, or marital property rights to a spouse, former spouse, child, or other dependent of the participant; and
- Specifies certain information, including the amount or part of the participant's benefits to be paid to the participant's spouse, former spouse, child, or other dependent.

Benefits paid to a child or other dependent. Benefits paid under a QDRO to the plan participant's child or other dependent are treated as paid to the participant. For information about the tax treatment of benefits from retirement plans, see Pub. 575, Pension and Annuity Income.

Benefits paid to a spouse or former spouse. Benefits paid under a QDRO to the plan participant's spouse or former spouse must generally be included in the spouse's or former spouse's income. If the participant contributed to the retirement plan, a prorated share of the participant's cost (investment in the contract) is used to figure the taxable amount.

The spouse or former spouse can use the special rules for lump-sum distributions if the benefits would have been treated as a lump-sum distribution had the participant received them. For this purpose, consider only the balance to the spouse's or former spouse's credit in determining whether the distribution is a total distribution. See *Lump-Sum Distributions* in Pub. 575 for information about the special rules.

Rollovers. If you receive an eligible rollover distribution under a QDRO as the plan participant's spouse or former spouse, you may be able to roll it over tax free into a traditional individual retirement arrangement (IRA) or another qualified retirement plan.

For more information on the tax treatment of eligible rollover distributions, see Pub. 575.

Individual Retirement Arrangements

The following discussions explain some of the effects of divorce or separation on traditional individual retirement arrangements (IRAs). Traditional IRAs are IRAs other than Roth or SIMPLE IRAs.

Spousal IRA. If you get a final decree of divorce or separate maintenance by the end of your tax year, you can't deduct contributions you make to your former spouse's traditional IRA. You can deduct only contributions to your own traditional IRA.

IRA transferred as a result of divorce. The transfer of all or part of your interest in a traditional IRA to your spouse or former spouse, under a decree of divorce or separate maintenance or a written instrument incident to the decree, isn't considered a taxable transfer. Starting from the date of the transfer, the traditional IRA interest transferred is treated as your spouse's or former spouse's traditional IRA.

IRA contribution and deduction limits. All taxable alimony you receive under a decree of divorce or separate maintenance is treated as compensation for the contribution and deduction limits for traditional IRAs.

For more information about IRAs, including Roth IRAs, see Pub. 590-A and Pub. 590-B.

Property Settlements

Generally, there is no recognized gain or loss on the transfer of property between spouses, or between former spouses if the transfer is because of a divorce. You may, however, have to report the transaction on a gift tax return. See *Gift Tax on Property Settlements*, later. If you sell property that you own jointly to split the proceeds as part of your property settlement, see *Sale of Jointly-Owned Property*, later.

Transfer Between Spouses

Generally, no gain or loss is recognized on a transfer of property from you to (or in trust for the benefit of):

- Your spouse, or
- Your former spouse, but only if the transfer is incident to your divorce.

This rule applies even if the transfer was in exchange for cash, the release of marital rights, the assumption of liabilities, or other consideration.

Exceptions to nonrecognition rule. This rule doesn't apply in the following situations.

- Your spouse or former spouse is a nonresident alien.
- Certain transfers in trust, discussed later.
- Certain stock redemptions under a divorce or separation instrument or a valid written agreement that are taxable under applicable tax law, as discussed in Regulations section 1.1041-2.

Property subject to nonrecognition rule. The term "property" includes all property whether real or personal, tangible or intangible, or separate or community. It includes property acquired after the end of your marriage and transferred to your former spouse. It doesn't include services.

Health savings account (HSA). If you transfer your interest in an HSA to your spouse or former spouse under a divorce or separation instrument, it isn't considered a taxable transfer. After the transfer, the interest is treated as your spouse's HSA.

Archer medical savings account (MSA). If you transfer your interest in an Archer MSA to your spouse or former spouse under a divorce or separation instrument, it isn't considered a taxable transfer. After the transfer, the interest is treated as your spouse's Archer MSA.

Individual retirement arrangement (IRA). The treatment of the transfer of an interest in an IRA as a result of divorce is similar to that just described for the transfer of an interest in an HSA and an Archer MSA. See IRA transferred as a result of divorce, earlier, under *Individual Retirement Arrangements*.

Incident to divorce. A property transfer is incident to your divorce if the transfer:

- Occurs within 1 year after the date your marriage ends, or
- Is related to the end of your marriage.

A divorce, for this purpose, includes the end of your marriage by annulment or due to violations of state laws.

Related to end of marriage. A property transfer is related to the end of your marriage if both of the following conditions apply.

- The transfer is made under your original or modified divorce or separation instrument.
- The transfer occurs within 6 years after the date your marriage ends.

Unless these conditions are met, the transfer is presumed not to be related to the end of your marriage. However, this presumption won't apply if you can show that the transfer was made to carry out the division of property owned by you and your spouse at the time your marriage ended. For example, the presumption won't apply if you can show that the transfer was made more than 6 years after the end of your marriage because of business or legal factors that prevented earlier transfer of the property and the transfer was made promptly after those factors were taken care of.

Transfers to third parties. If you transfer property to a third party on behalf of your spouse (or former spouse, if incident to your divorce), the transfer is treated as two transfers.

- A transfer of the property from you to your spouse or former spouse.
- An immediate transfer of the property from your spouse or former spouse to the third party.

You don't recognize gain or loss on the first transfer. Instead, your spouse or former spouse may have to recognize gain or loss on the second transfer.

For this treatment to apply, the transfer from you to the third party must be one of the following.

- Required by your divorce or separation instrument.
- Requested in writing by your spouse or former spouse.
- Consented to in writing by your spouse or former spouse. The consent must state that both you and your spouse or former spouse intend the transfer to be treated as a transfer from you to your spouse or former spouse subject to the rules of Internal Revenue Code section 1041. You must receive the consent before filing your tax return for the year you transfer the property.

CAUTION

This treatment doesn't apply to transfers to which Regulations section 1.1041-2 (certain stock redemptions) applies.

Transfers in trust. If you make a transfer of property in trust for the benefit of your spouse (or former spouse, if incident to your divorce), you generally don't recognize any gain or loss.

However, you must recognize gain or loss if, incident to your divorce, you transfer an installment obligation in trust for the benefit of your former spouse. For information on the disposition of an installment obligation, see Pub. 537, Installment Sales.

You must also recognize as gain on the transfer of property in trust the amount by which the liabilities assumed by the trust, plus the liabilities to which the property is subject, exceed the total of your adjusted basis in the transferred property.

Example. You own property with a fair market value of $12,000 and an adjusted basis of $1,000. You transfer the property in trust for the benefit of your spouse. The trust didn't assume any liabilities. The property is subject to a $5,000 liability. Your recognized gain is $4,000 ($5,000 – $1,000).

Reporting income from property. You should report income from property transferred to your spouse or former spouse as shown in Table 5.

For information on the treatment of interest on transferred U.S. savings bonds, see chapter 1 of Pub. 550, Investment Income and Expenses.

RECORDS

When you transfer property to your spouse (or former spouse, if incident to your divorce), you must give your spouse sufficient records to determine the adjusted basis and holding period of the property on the date of the transfer. If you transfer investment credit property with recapture potential, you must also provide sufficient records to determine the amount and period of the recapture.

Tax treatment of property received. Property you receive from your spouse (or former spouse, if the transfer is

Table 5. **Property Transferred Pursuant to Divorce**

The tax treatment of items of property transferred from you to your spouse or former spouse pursuant to your divorce is shown below.

IF you transfer ...	**THEN you ...**	**AND your spouse or former spouse ...**	**FOR more information, see ...**
income-producing property (such as an interest in a business, rental property, stocks, or bonds)	include on your tax return any profit or loss, rental income or loss, dividends, or interest generated or derived from the property during the year until the property is transferred	reports any income or loss generated or derived after the property is transferred.	Pub. 550, Investment Income and Expenses. (See *Ownership transferred* under *U.S. Savings Bonds* in chapter 1.)
interest in a passive activity with unused passive activity losses	can't deduct your accumulated unused passive activity losses allocable to the interest	increases the adjusted basis of the transferred interest by the amount of the unused losses.	Pub. 925, Passive Activity and At-Risk Rules.
investment credit property with recapture potential	don't have to recapture any part of the credit	may have to recapture part of the credit if he or she disposes of the property or changes its use before the end of the recapture period.	Form 4255, Recapture of Investment Credit.
interests in nonstatutory stock options and nonqualified deferred compensation	don't include any amount in gross income upon the transfer	includes an amount in gross income when he or she exercises the stock options or when the deferred compensation is paid or made available to him or her.	

incident to your divorce) is treated as acquired by gift for income tax purposes. Its value isn't taxable to you.

Basis of property received. Your basis in property received from your spouse (or former spouse, if incident to your divorce) is the same as your spouse's adjusted basis. This applies for determining either gain or loss when you later dispose of the property. It applies whether the property's adjusted basis is less than, equal to, or greater than either its value at the time of the transfer or any consideration you paid. It also applies even if the property's liabilities are more than its adjusted basis.

This rule generally applies to all property received after July 18, 1984, under a divorce or separation instrument in effect after that date. It also applies to all other property received after 1983 for which you and your spouse (or former spouse) made a "section 1041 election" to apply this rule. For information about how to make that election, see Temporary Regulations section 1.1041-1T(g).

Example. Karen and Don owned their home jointly. Karen transferred her interest in the home to Don as part of their property settlement when they divorced last year. Don's basis in the interest received from Karen is her adjusted basis in the home. His total basis in the home is their joint adjusted basis.

Property received before July 19, 1984. Your basis in property received in settlement of marital support rights before July 19, 1984, or under an instrument in effect before that date (other than property for which you and your spouse (or former spouse) made a "section 1041 election") is its fair market value when you received it.

Example. Larry and Gina owned their home jointly before their divorce in 1983. That year, Gina received Larry's interest in the home in settlement of her marital support rights. Gina's basis in the interest received from Larry is the part of the home's fair market value proportionate to that interest. Her total basis in the home is that part of the fair market value plus her adjusted basis in her own interest.

Property transferred in trust. If the transferor recognizes gain on property transferred in trust, as described earlier under Transfers in trust, the trust's basis in the property is increased by the recognized gain.

Example. Your spouse transfers property in trust, recognizing a $4,000 gain. Your spouse's adjusted basis in the property was $1,000. The trust's basis in the property is $5,000 ($1,000 + $4,000).

Gift Tax on Property Settlements

Generally, a transfer to a spouse who is a citizen of the United States isn't subject to federal gift tax, because there is an unlimited deduction for transfers to a U.S. citizen spouse. However, a transfer to a former spouse isn't generally eligible for a martial deduction, and may be subject to federal gift tax unless the transfer qualifies for one or more of the exceptions explained in this discussion. If your transfer of property doesn't qualify for an exception, or qualifies only in part, you must report it on a gift tax return. See *Gift Tax Return*, later.

For more information about the federal gift tax, see *Estate and Gift Taxes* in Pub. 559, Survivors, Executors, and Administrators, and Form 709 and its instructions.

Exceptions

Your transfer of property to your spouse or former spouse isn't subject to gift tax if it meets any of the following exceptions.

- It is made in settlement of marital support rights.
- It qualifies for the marital deduction.
- It is made under a divorce decree.
- It is made under a written agreement, and you are divorced within a specified period.
- It qualifies for the annual exclusion.
- It qualifies for the unlimited exclusion for direct payments of tuition or medical care.

Settlement of marital support rights. A transfer in settlement of marital support rights isn't subject to gift tax to the extent the value of the property transferred isn't more than the value of those rights. This exception doesn't apply to a transfer in settlement of dower, curtesy, or other marital property rights.

Marital deduction. A transfer of property to your spouse before receiving a final decree of divorce or separate maintenance isn't subject to gift tax. However, this exception doesn't apply to:

- Transfers of certain terminable interests (for example, certain interests in trust), or
- Transfers to your spouse if your spouse isn't a U.S. citizen.

Transfer under divorce decree. A transfer of property under the decree of a divorce court having the power to prescribe a property settlement isn't subject to gift tax. This exception also applies to a property settlement agreed on before the divorce if it was made part of or approved by the decree.

Transfer under written agreement. A transfer of property under a written agreement in settlement of marital rights or to provide a reasonable child support allowance isn't subject to gift tax if you are divorced within the 3-year period beginning 1 year before and ending 2 years after the date of the agreement. This exception applies whether or not the agreement is part of or approved by the divorce decree.

Annual exclusion. The first $15,000 of gifts of present interests to each person during 2020 isn't subject to gift tax. This includes transfers to a former spouse or transfers to a current spouse that don't qualify for the marital deduction. The annual exclusion is $157,000 for transfers to a spouse who isn't a U.S. citizen provided the gift would otherwise qualify for the gift tax marital deduction if the donee were a U.S. citizen.

Present interest. A gift is considered a present interest if the donee has unrestricted rights to the immediate use, possession, and enjoyment of the property or income from the property.

Direct payments of tuition or medical care. Direct payments of tuition to an educational organization or to any person or organization that provides medical care (including direct payments to a health insurer) aren't subject to federal gift tax. Therefore, such payments made for the benefit of a spouse or former spouse won't be subject to federal gift tax.

Gift Tax Return

Report a transfer of property subject to gift tax on Form 709. Generally, Form 709 is due April 15 following the year of the transfer.

Transfer under written agreement. If a property transfer would be subject to gift tax except that it is made under a written agreement, and you don't receive a final decree of divorce by the due date for filing the gift tax return, you must report the transfer on Form 709 and attach a copy of your written agreement. The transfer will be treated as not subject to the gift tax until the final decree of divorce is granted, but no longer than 2 years after the effective date of the written agreement.

Within 60 days after you receive a final decree of divorce, send a certified copy of the decree to the IRS office where you filed Form 709.

Sale of Jointly Owned Property

If you sell property that you and your spouse own jointly, you must report your share of the recognized gain or loss on your income tax return for the year of the sale. Your share of the gain or loss is determined by your state law governing ownership of property. For information on reporting gain or loss, see Pub. 544.

Sale of home. If you sold your main home, you may be able to exclude up to $250,000 (up to $500,000 if you and your spouse file a joint return) of gain on the sale. For more information, including special rules that apply to separated and divorced individuals selling a main home, see Pub. 523, Selling Your Home.

Costs of Getting a Divorce

You can't deduct legal fees and court costs for getting a divorce. In addition, you can't deduct legal fees paid for tax advice in connection with a divorce and legal fees to get alimony or fees you pay to appraisers, actuaries, and accountants for services in determining your correct tax or in helping to get alimony.

Other Nondeductible expenses. You can't deduct the costs of personal advice, counseling, or legal action in a divorce. These costs aren't deductible, even if they are paid, in part, to arrive at a financial settlement or to protect income-producing property.

You also can't deduct legal fees you pay for a property settlement. However, you can add it to the basis of the property you receive. For example, you can add the cost of preparing and filing a deed to put title to your house in your name alone to the basis of the house.

Finally, you can't deduct fees you pay for your spouse or former spouse, unless your payments qualify as alimony. (See *Payments to a third party* under *Alimony*, earlier.) If you have no legal responsibility arising from the divorce settlement or decree to pay your spouse's legal fees, your payments are gifts and may be subject to the gift tax.

Tax Withholding and Estimated Tax

When you become divorced or separated, you will ususallyhave to file a new Form W-4 with your employer to claim your proper withholding. If you receive alimony, you may have to make estimated tax payments.

CAUTION *If you don't pay enough tax either through withholding or by making estimated tax payments, you will have an underpayment of estimated tax and you may have to pay a penalty. If you don't pay enough tax by the due date of each payment, you may have to pay a penalty even if you are due a refund when you file your tax return.*

For more information, see Pub. 505, Tax Withholding and Estimated Tax.

Joint estimated tax payments. If you and your spouse made joint estimated tax payments for 2020 but file separate returns, either of you can claim all of your payments, or you can divide them in any way on which you both agree. If you can't agree, the estimated tax you can claim equals the total estimated tax paid times the tax shown on your separate return for 2020, divided by the total of the tax shown on your 2020 return and your spouse's 2020 return. You may want to attach an explanation of how you and your spouse divided the payments.

If you claim any of the payments on your tax return, enter your spouse's or former spouse's SSN in the space provided on Form 1040 or 1040-SR. If you were divorced and remarried in 2020, enter your present spouse's SSN in that space and enter your former spouse's SSN, followed by "DIV" to the left of Form 1040, line 26.

Community Property

If you are married and your domicile (permanent legal home) is in a community property state, special rules determine your income. Some of these rules are explained in the following discussions. For more information, see Pub. 555.

Community property states. Community property states include:

- Arizona,
- California,
- Idaho,
- Louisiana,
- Nevada,
- New Mexico,
- Texas,
- Washington, and
- Wisconsin.

Community Income

If your domicile is in a community property state during any part of your tax year, you may have community income. Your state law determines whether your income is separate or community income. If you and your spouse file separate returns, you must report half of any income described by state law as community income and all of your separate income, and your spouse must report the other half of any community income plus all of his or her separate income. Each of you can claim credit for half the income tax withheld from community income.

Community Property Laws Disregarded

The following discussions are situations where special rules apply to community property.

Certain community income not treated as community income by one spouse. Community property laws may not apply to an item of community income that you received but didn't treat as community income. You will be responsible for reporting all of it if:

- You treat the item as if only you are entitled to the income, and
- You don't notify your spouse of the nature and amount of the income by the due date for filing the return (including extensions).

Relief from liability for tax attributable to an item of community income. You aren't responsible for the tax on an item of community income if all five of the following conditions exist.

1. You didn't file a joint return for the tax year.
2. You didn't include an item of community income in gross income on your separate return.
3. The item of community income you didn't include is one of the following.
   a. Wages, salaries, and other compensation your spouse (or former spouse) received for services he or she performed as an employee.
   b. Income your spouse (or former spouse) derived from a trade or business he or she operated as a sole proprietor.
   c. Your spouse's (or former spouse's) distributive share of partnership income.
   d. Income from your spouse's (or former spouse's) separate property (other than income described in (a), (b), or (c)). Use the appropriate community property law to determine what is separate property.
   e. Any other income that belongs to your spouse (or former spouse) under community property law.
4. You establish that you didn't know of, and had no reason to know of, that community income.
5. Under all facts and circumstances, it wouldn't be fair to include the item of community income in your gross income.

Equitable relief from liability for tax attributable to an item of community income. To be considered for equitable relief from liability for tax attributable to an item of community income, you must meet all of the following conditions.

1. You timely filed your claim for relief.
2. You and your spouse (or former spouse) didn't transfer assets to one another as a part of a fraudulent scheme. A fraudulent scheme includes a scheme to defraud the IRS or another third party, such as a creditor, former spouse, or business partner.
3. Your spouse (or former spouse) didn't transfer property to you for the main purpose of avoiding tax or the payment of tax.
4. You didn't knowingly participate in the filing of a fraudulent joint return.
5. The income tax liability from which you seek relief is attributable (either in full or in part) to an item of your spouse (or former spouse) or an unpaid tax resulting from your spouse's (or former spouse's) income. If the liability is partially attributable to you, then relief can only be considered for the part of the liability attributable to your spouse (or former spouse). The IRS will consider granting relief regardless of whether the understated tax, deficiency, or unpaid tax is attributable (in full or in part) to you if any of the following exceptions apply.
   a. The item is attributable or partially attributable to you solely due to the operation of community property law. If you meet this exception, that item will be considered attributable to your spouse (or former spouse) for purposes of equitable relief.
   b. If the item is titled in your name, the item is presumed to be attributable to you. However, you can rebut this presumption based on the facts and circumstances.
   c. You didn't know, and had no reason to know, that funds intended for the payment of tax were misappropriated by your spouse (or former spouse) for his or her benefit. If you meet this exception, the IRS will consider granting equitable relief although the unpaid tax may be attributable in part or in full to your item, and only to the extent the funds intended for payment were taken by your spouse (or former spouse).
   d. You establish that you were the victim of spousal abuse or domestic violence before the return was filed, and that, as a result of the prior abuse, you didn't challenge the treatment of any items on the return for fear of your spouse's (or former spouse's) retaliation. If you meet this exception, relief will be considered even though the understated tax or unpaid tax may be attributable in part or in full to your item.
   e. The item giving rise to the understated tax or deficiency is attributable to you, but you establish that your spouse's (or former spouse's) fraud is the reason for the erroneous item.

Requesting relief. For information on how and when to request relief from liabilities arising from community property laws, see *Community Property Laws* in Pub. 971.

Spousal agreements. In some states, spouses may enter into an agreement that affects the status of property or income as community or separate property. Check your state law to determine how it affects you.

Spouses living apart all year. If you are married at any time during the calendar year, special rules apply for reporting certain community income. You must meet **all** the following conditions for these special rules to apply.

1. You and your spouse lived apart all year.
2. You and your spouse didn't file a joint return for a tax year beginning or ending in the calendar year.
3. You and/or your spouse had earned income for the calendar year that is community income.
4. You and your spouse haven't transferred, directly or indirectly, any of the earned income in (3) between yourselves before the end of the year. Don't take into account transfers satisfying child support obligations or transfers of very small amounts or value.

If all these conditions exist, you and your spouse must report your community income as explained in the following discussions. See also Certain community income not treated as community income by one spouse, earlier.

Earned income. Treat earned income that isn't trade or business or partnership income as the income of the spouse who performed the services to earn the income. Earned income is wages, salaries, professional fees, and other pay for personal services.

Earned income doesn't include amounts paid by a corporation that are a distribution of earnings and profits rather than a reasonable allowance for personal services rendered.

Trade or business income. Treat income and related deductions from a trade or business that isn't a partnership as those of the spouse carrying on the trade or business.

Partnership income or loss. Treat income or loss from a trade or business carried on by a partnership as the income or loss of the spouse who is the partner.

Separate property income. Treat income from the separate property of one spouse as the income of that spouse.

Social security benefits. Treat social security and equivalent railroad retirement benefits as the income of the spouse who receives the benefits.

Other income. Treat all other community income, such as dividends, interest, rents, royalties, or gains, as provided under your state's community property law.

Example. George and Sharon were married throughout the year but didn't live together at any time during the year. Both domiciles were in a community property state. They didn't file a joint return or transfer any of their earned income between themselves. During the year, their incomes were as follows:

	George	Sharon
Wages	$20,000	$22,000
Consulting business	5,000	
Partnership		10,000
Dividends from separate property	1,000	2,000
Interest from community property	500	500
Totals	$26,500	$34,500

Under the community property law of their state, all the income is considered community income. (Some states treat income from separate property as separate income—check your state law.) Sharon didn't take part in George's consulting business.

Ordinarily, on their separate returns they would each report $30,500, half the total community income of $61,000 ($26,500 + $34,500). But because they meet the four conditions listed earlier under Spouses living apart all year, they must disregard community property law in reporting all their income (except the interest income) from community property. They each report on their returns only their own earnings and other income, and their share of the interest income from community property. George reports $26,500 and Sharon reports $34,500.

Other separated spouses. If you and your spouse are separated but don't meet the four conditions discussed earlier under Spouses living apart all year, you must treat your income according to the laws of your state. In some states, income earned after separation but before a decree of divorce continues to be community income. In other states, it is separate income.

Ending the Marital Community

When the marital community ends as a result of divorce or separation, the community assets (money and property) are divided between the spouses. Each spouse is taxed on half the community income for the part of the year before the community ends. However, see Spouses living apart all year, earlier. Income received after the community ended is separate income, taxable only to the spouse to whom it belongs.

An absolute decree of divorce or annulment ends the marital community in all community property states. A decree of annulment, even though it holds that no valid marriage ever existed, usually doesn't nullify community property rights arising during the "marriage." However, you should check your state law for exceptions.

A decree of legal separation or of separate maintenance may or may not end the marital community. The court issuing the decree may terminate the marital community and divide the property between the spouses.

A separation agreement may divide the community property between you and your spouse. It may provide that this property, along with future earnings and property acquired, will be separate property. This agreement may end the community.

In some states, the marital community ends when the spouses permanently separate, even if there is no formal agreement. Check your state law.

Alimony (Community Income)

Payments that may otherwise qualify as alimony aren't deductible by the payer if they are the recipient spouse's part of community income. They are deductible by the payer as alimony and taxable to the recipient spouse only to the extent they are more than that spouse's part of community income.

Example. You live in a community property state. You are separated but the special rules explained earlier under Spouses living apart all year don't apply. Under a written agreement, you pay your spouse $12,000 of your $20,000 total yearly community income. Your spouse receives no other community income. Under your state law, earnings of a spouse living separately and apart from the other spouse continue as community property.

On your separate returns, each of you must report $10,000 of the total community income. In addition, your spouse must report $2,000 as alimony received. You can deduct $2,000 as alimony paid.

CAUTION *Amounts paid as alimony or separate maintenance payments under a divorce or separation instrument executed after 2018 won't be deductible by the payer. Such amounts also won't be includible in the income of the recipient. The same is true of alimony paid under a divorce or separation instrument executed before 2019 and modified after 2018 if the modification expressly states that the alimony isn't deductible to the payer or includible in the income of the recipient.*

How To Get Tax Help

If you have questions about a tax issue, need help preparing your tax return, or want to download free publications, forms, or instructions, go to IRS.gov and find resources that can help you right away.

Preparing and filing your tax return. After receiving all your wage and earnings statements (Form W-2, W-2G, 1099-R, 1099-MISC, 1099-NEC, etc.); unemployment compensation statements (by mail or in a digital format) or other government payment statements (Form 1099-G); and interest, dividend, and retirement statements from banks and investment firms (Forms 1099), you have several options to choose from to prepare and file your tax return. You can prepare the tax return yourself, see if you qualify for free tax preparation, or hire a tax professional to prepare your return.

Free options for tax preparation. Go to IRS.gov to see your options for preparing and filing your return online or in your local community, if you qualify, which include the following.

- **Free File.** This program lets you prepare and file your federal individual income tax return for free using brand-name tax-preparation-and-filing software or Free File fillable forms. However, state tax preparation may not be available through Free File. Go to IRS.gov/FreeFile to see if you qualify for free online federal tax preparation, e-filing, and direct deposit or payment options.
- **VITA.** The Volunteer Income Tax Assistance (VITA) program offers free tax help to people with low-to-moderate incomes, persons with disabilities, and limited-English-speaking taxpayers who need help preparing their own tax returns. Go to IRS.gov/VITA, download the free IRS2Go app, or call 800-906-9887 for information on free tax return preparation.
- **TCE.** The Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 years of age and older. TCE volunteers specialize in answering questions about pensions and retirement-related issues unique to seniors. Go to IRS.gov/TCE, download the free IRS2Go app, or call 888-227-7669 for information on free tax return preparation.
- **MilTax.** Members of the U.S. Armed Forces and qualified veterans may use MilTax, a free tax service offered by the Department of Defense through Military OneSource.

  Also, the IRS offers Free Fillable Forms, which can be completed online and then filed electronically regardless of income.

Using online tools to help prepare your return. Go to IRS.gov/Tools for the following.

- The *Earned Income Tax Credit Assistant* (*IRS.gov/EITCAssistant*) determines if you're eligible for the earned income credit (EIC).
- The *Online EIN Application* (*IRS.gov/EIN*) helps you get an employer identification number (EIN).
- The *Tax Withholding Estimator* (*IRS.gov/W4app*) makes it easier for everyone to pay the correct amount of tax during the year. The tool is a convenient, online way to check and tailor your withholding. It's more user-friendly for taxpayers, including retirees and self-employed individuals. The features include the following.
  - Easy to understand language.
  - The ability to switch between screens, correct previous entries, and skip screens that don't apply.
  - Tips and links to help you determine if you qualify for tax credits and deductions.
  - A progress tracker.
  - A self-employment tax feature.
  - Automatic calculation of taxable social security benefits.
- The *First Time Homebuyer Credit Account Look-up* (*IRS.gov/HomeBuyer*) tool provides information on your repayments and account balance.
- The *Sales Tax Deduction Calculator* (*IRS.gov/SalesTax*) figures the amount you can claim if you itemize deductions on Schedule A (Form 1040).

Getting answers to your tax questions. On IRS.gov, you can get up-to-date information on current events and changes in tax law.

- *IRS.gov/Help*: A variety of tools to help you get answers to some of the most common tax questions.
- *IRS.gov/ITA*: The Interactive Tax Assistant, a tool that will ask you questions on a number of tax law topics and provide answers.
- *IRS.gov/Forms*: Find forms, instructions, and publications. You will find details on 2020 tax changes and hundreds of interactive links to help you find answers to your questions.

- You may also be able to access tax law information in your electronic filing software.

Need someone to prepare your tax return? There are various types of tax return preparers, including tax preparers, enrolled agents, certified public accountants (CPAs), attorneys, and many others who don't have professional credentials. If you choose to have someone prepare your tax return, choose that preparer wisely. A paid tax preparer is:

- Primarily responsible for the overall substantive accuracy of your return,
- Required to sign the return, and
- Required to include their preparer tax identification number (PTIN).

Although the tax preparer always signs the return, you're ultimately responsible for providing all the information required for the preparer to accurately prepare your return. Anyone paid to prepare tax returns for others should have a thorough understanding of tax matters. For more information on how to choose a tax preparer, go to *Tips for Choosing a Tax Preparer* on IRS.gov.

Coronavirus. Go to *IRS.gov/Coronavirus* for links to information on the impact of the coronavirus, as well as tax relief available for individuals and families, small and large businesses, and tax-exempt organizations.

Tax reform. Tax reform legislation affects individuals, businesses, and tax-exempt and government entities. Go to *IRS.gov/TaxReform* for information and updates on how this legislation affects your taxes.

Employers can register to use Business Services Online. The Social Security Administration (SSA) offers online service at *SSA.gov/employer* for fast, free, and secure online W-2 filing options to CPAs, accountants, enrolled agents, and individuals who process Form W-2, Wage and Tax Statement, and Form W-2c, Corrected Wage and Tax Statement.

IRS social media. Go to *IRS.gov/SocialMedia* to see the various social media tools the IRS uses to share the latest information on tax changes, scam alerts, initiatives, products, and services. At the IRS, privacy and security are paramount. We use these tools to share public information with you. **Don't** post your SSN or other confidential information on social media sites. Always protect your identity when using any social networking site.

The following IRS YouTube channels provide short, informative videos on various tax-related topics in English, Spanish, and ASL.

- *Youtube.com/irsvideos*.
- *Youtube.com/irsvideosmultilingua*.
- *Youtube.com/irsvideosASL*.

Watching IRS videos. The IRS Video portal (*IRSVideos.gov*) contains video and audio presentations for individuals, small businesses, and tax professionals.

Online tax information in other languages. You can find information on *IRS.gov/MyLanguage* if English isn't your native language.

Free interpreter service. Multilingual assistance, provided by the IRS, is available at Taxpayer Assistance Centers (TACs) and other IRS offices. Over-the-phone interpreter service is accessible in more than 350 languages.

Getting tax forms and publications. Go to *IRS.gov/Forms* to view, download, or print all of the forms, instructions, and publications you may need. You can also download and view popular tax publications and instructions (including the Instructions for Forms 1040 and 1040-SR) on mobile devices as an eBook at *IRS.gov/eBooks*. Or you can go to *IRS.gov/OrderForms* to place an order.

Access your online account (individual taxpayers only). Go to *IRS.gov/Account* to securely access information about your federal tax account.

- View the amount you owe, pay online, or set up an online payment agreement.
- Access your tax records online.
- Review your payment history.
- Go to *IRS.gov/SecureAccess* to review the required identity authentication process.

Using direct deposit. The fastest way to receive a tax refund is to file electronically and choose direct deposit, which securely and electronically transfers your refund directly into your financial account. Direct deposit also avoids the possibility that your check could be lost, stolen, or returned undeliverable to the IRS. Eight in 10 taxpayers use direct deposit to receive their refunds. The IRS issues more than 90% of refunds in less than 21 days.

Getting a transcript of your return. The quickest way to get a copy of your tax transcript is to go to *IRS.gov/Transcripts*. Click on either "Get Transcript Online" or "Get Transcript by Mail" to order a free copy of your transcript. If you prefer, you can order your transcript by calling 800-908-9946.

Reporting and resolving your tax-related identity theft issues.

- Tax-related identity theft happens when someone steals your personal information to commit tax fraud. Your taxes can be affected if your SSN is used to file a fraudulent return or to claim a refund or credit.
- The IRS doesn't initiate contact with taxpayers by email, text messages, telephone calls, or social media channels to request personal or financial information. This includes requests for personal identification numbers (PINs), passwords, or similar information for credit cards, banks, or other financial accounts.
- Go to *IRS.gov/IdentityTheft*, the IRS Identity Theft Central webpage, for information on identity theft and data security protection for taxpayers, tax professionals, and businesses. If your SSN has been lost or stolen or you suspect you're a victim of tax-related

identity theft, you can learn what steps you should take.

- Get an Identity Protection PIN (IP PIN). IP PINs are six-digit numbers assigned to eligible taxpayers to help prevent the misuse of their SSNs on fraudulent federal income tax returns. When you have an IP PIN, it prevents someone else from filing a tax return with your SSN. To learn more, go to *IRS.gov/IPPIN*.

Checking on the status of your refund.

- Go to *IRS.gov/Refunds*.
- The IRS can't issue refunds before mid-February 2021 for returns that claimed the EIC or the additional child tax credit (ACTC). This applies to the entire refund, not just the portion associated with these credits.
- Download the official IRS2Go app to your mobile device to check your refund status.
- Call the automated refund hotline at 800-829-1954.

Making a tax payment. The IRS uses the latest encryption technology to ensure your electronic payments are safe and secure. You can make electronic payments online, by phone, and from a mobile device using the IRS2Go app. Paying electronically is quick, easy, and faster than mailing in a check or money order. Go to *IRS.gov/Payments* for information on how to make a payment using any of the following options.

- *IRS Direct Pay*: Pay your individual tax bill or estimated tax payment directly from your checking or savings account at no cost to you.
- *Debit or Credit Card*: Choose an approved payment processor to pay online, by phone, or by mobile device.
- *Electronic Funds Withdrawal*: Offered only when filing your federal taxes using tax return preparation software or through a tax professional.
- *Electronic Federal Tax Payment System*: Best option for businesses. Enrollment is required.
- *Check or Money Order*: Mail your payment to the address listed on the notice or instructions.
- *Cash*: You may be able to pay your taxes with cash at a participating retail store.
- *Same-Day Wire*: You may be able to do same-day wire from your financial institution. Contact your financial institution for availability, cost, and cut-off times.

What if I can't pay now? Go to *IRS.gov/Payments* for more information about your options.

- Apply for an *online payment agreement* (*IRS.gov/OPA*) to meet your tax obligation in monthly installments if you can't pay your taxes in full today. Once you complete the online process, you will receive immediate notification of whether your agreement has been approved.
- Use the *Offer in Compromise Pre-Qualifier* to see if you can settle your tax debt for less than the full amount you owe. For more information on the Offer in Compromise program, go to *IRS.gov/OIC*.

Filing an amended return. You can now file Form 1040-X electronically with tax filing software to amend 2019 Forms 1040 and 1040-SR. To do so, you must have e-filed your original 2019 return. Amended returns for all prior years must be mailed. See *Tips for taxpayers who need to file an amended tax return* and go to *IRS.gov/Form1040X* for information and updates.

Checking the status of your amended return. Go to *IRS.gov/WMAR* to track the status of Form 1040-X amended returns. Please note that it can take up to 3 weeks from the date you filed your amended return for it to show up in our system, and processing it can take up to 16 weeks.

Understanding an IRS notice or letter you've received. Go to *IRS.gov/Notices* to find additional information about responding to an IRS notice or letter.

Contacting your local IRS office. Keep in mind, many questions can be answered on IRS.gov without visiting an IRS Taxpayer Assistance Center (TAC). Go to *IRS.gov/LetUsHelp* for the topics people ask about most. If you still need help, IRS TACs provide tax help when a tax issue can't be handled online or by phone. All TACs now provide service by appointment, so you'll know in advance that you can get the service you need without long wait times. Before you visit, go to *IRS.gov/TACLocator* to find the nearest TAC and to check hours, available services, and appointment options. Or, on the IRS2Go app, under the Stay Connected tab, choose the Contact Us option and click on "Local Offices."

The Taxpayer Advocate Service (TAS) Is Here To Help You

What Is TAS?

TAS is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. Their job is to ensure that every taxpayer is treated fairly and that you know and understand your rights under the *Taxpayer Bill of Rights*.

How Can You Learn About Your Taxpayer Rights?

The Taxpayer Bill of Rights describes 10 basic rights that all taxpayers have when dealing with the IRS. Go to *TaxpayerAdvocate.IRS.gov* to help you understand what these rights mean to you and how they apply. These are ***your*** rights. Know them. Use them.

What Can TAS Do For You?

TAS can help you resolve problems that you can't resolve with the IRS. And their service is free. If you qualify for their assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue. TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business;
- You face (or your business is facing) an immediate threat of adverse action; or
- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

How Can You Reach TAS?

TAS has offices *in every state, the District of Columbia, and Puerto Rico*. Your local advocate's number is in your local directory and at *TaxpayerAdvocate.IRS.gov/Contact-Us*. You can also call them at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, please report it to them at *IRS.gov/SAMS*.

TAS for Tax Professionals

TAS can provide a variety of information for tax professionals, including tax law updates and guidance, TAS programs, and ways to let TAS know about systemic problems you've seen in your practice.

Low Income Taxpayer Clinics (LITCs)

LITCs are independent from the IRS. LITCs represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. In addition, clinics can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. Services are offered for free or a small fee for eligible taxpayers. To find a clinic near you, visit *TaxpayerAdvocate.IRS.gov/about-us/Low-Income-Taxpayer-Clinics-LITC/* or see IRS Pub. 4134, *Low Income Taxpayer Clinic List*.

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To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

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