Child and Dependent Care Tax Credit FAQs

The child and dependent care tax credit is a credit allowed for a percentage of work-related expenses that a taxpayer incurs for the care of qualifying persons to enable the taxpayer to work or look for work. Section 9631(a) of the American Rescue Plan Act of 2021, enacted March 11, 2021, amended section 21 of the Internal Revenue Code to expand the credit in 2021 by increasing (i) the amount of work-related expenses taken into account, (ii) the percentage of allowed work-related expenses, and (iii) the income limitations. Section 9631(a) also amended section 21 to make the credit refundable for a taxpayer (or in the case of a joint return, either spouse) who lives in one of the 50 states or the District of Columbia for more than half the year in 2021. This means that more taxpayers will be eligible for the credit and that, for many taxpayers, the amount of the credit will be larger. Further information is found below and in IRS Publication No. 503, Child and Dependent Care Expenses. For information regarding changes to the credit for 2021 only, see Q4, Q5, Q6, Q7, Q8, Q11, and Q14.

Claiming the credit

Q1: Am I eligible to claim the credit?

A1: You are eligible to claim this credit if you (or your spouse in the case of a joint return) pay someone to care for one or more qualifying persons in order for you to work or look for work, and your income level is within the income limits set for the credit. If you are married, you must file a joint return to claim the credit. However, if you are legally separated or living apart from your spouse, you may be able to file a separate return and still claim the credit.

Earned Income Requirement: You (and your spouse in the case of a joint return) must have earned income during the year to claim the credit. See Q9 and Q10 for more information, including special rules that may apply if you are a student or are unable to care for yourself.

Q2: Who is a qualifying person?

A2: A qualifying person is:

1) Your dependent who is under age 13 when the care is provided;

2) Your spouse, if your spouse isn't mentally or physically able to care for himself or herself and lives with you for more than half the year; and

3) A person who isn't mentally or physically able to care for himself or herself, lives with you for more than half the year, and either:

a. Is your dependent, OR

b. Would have been your dependent except that (i) he or she receives more than a certain gross income amount ($4,300 in 2021), (ii) he or she files a joint return, or (iii) you (or your spouse in the case of a joint return) can be claimed as a dependent on someone else's return.

Q3: What does "physically or mentally not able to care for oneself" mean?

A3: Persons who can't dress, clean, or feed themselves because of physical or mental problems are considered not able to care for themselves. Persons who must have constant attention to prevent them from injuring themselves or others also are considered not able to care for themselves.

Q4: For 2021, what percentage of my work-related expenses are allowed as a credit?

A4: The percentage of your work-related expenses allowed as a credit depends on your income (and your spouse's income in the case of a joint return). The maximum percentage of your work-related expenses allowed as a credit is 50 percent.

Q5: Can this 50-percent amount of work-related expenses be reduced?

A5: Yes. The amount of your adjusted gross income determines the percentage of your work-related expenses that you are allowed as a credit. For this purpose, your income is your "adjusted gross income" shown on your Form 1040, 1040-SR, or 1040-NR.

For 2021, the 50-percent amount begins to phase out if your adjusted gross income is more than $125,000, and completely phases out if your adjusted gross income is more than $438,000.

Q6: For 2021, is there a limit on the amount of work-related expenses I can take into account in calculating the credit?

A6: Yes. The maximum amount of work-related expenses you can take into account for purposes of the credit is $8,000 if you have one qualifying person, and $16,000 if you have two <u>or more</u> qualifying persons. This means that the maximum total amount of the credit is $4,000 (50 percent of $8,000) if you have one qualifying person, and $8,000 (50 percent of $16,000) if you have two or more qualifying persons.

<u>Earned Income Limitation</u>: The amount of work-related expenses that can be taken into account in calculating the credit cannot exceed your earned income. If you are married and filing a joint return, the work-related expenses you can take into account are limited to the lesser of your or your spouse's earned income. See Q9 and Q10 for more information.

Q7: For 2021, can I take the full credit even if my credit exceeds the amount of taxes I owe?

A7: Yes. For 2021, the credit is refundable for eligible taxpayers. This means that even if your credit exceeds the amount of Federal income tax that you owe, you can still claim the full amount of your credit, and the amount of the credit in excess of your tax liability can be refunded to you.

Q8: Are there special residency requirements for the refundable portion of the credit?

A8: Yes. To be eligible for the refundable portion of the credit for 2021, you must have your main home in one of the 50 states or the District of Columbia for more than half of the tax year. Your main home can be any location where you regularly live. Your main home may be your house, apartment, mobile home, shelter, temporary lodging, or other location and doesn't need to be the same physical location throughout the taxable year. If you are temporarily away from your main home because of illness, education, business, vacation, or military service, you are generally treated as living in your main home during that time.

Special Exception for Military Personnel: For U.S. military personnel stationed outside of the United States, see A15.

Q9: My spouse was out of work during the year. Can we still claim this credit?

A9: Maybe. You (and your spouse in the case of a joint return) must have earned income to claim the credit. Earned income includes wages, salaries, tips, other taxable employee compensation, and net earnings from self-employment. A net loss from self-employment reduces earned income. Earned income also includes any strike benefits and disability pay you report as wages. Unemployment compensation is not included in earned income.

The amount of work-related expenses that can be taken into account in calculating the credit cannot exceed your earned income. If you are married and filing a joint return, your work-related expenses on your joint return are limited to the lesser of your or your spouse's earned income. See Q10 for special rules that may apply if you are a student or unable to care for yourself.

Q10: My spouse was a student or unable to care for herself during the year and did not work. Can we still claim this credit?

A10: Maybe. There are special earned income rules for students and those mentally or physically incapable of caring for themselves. If you (or your spouse in the case of a joint return) are a full-time student or are mentally or physically incapable of caring for yourself, you will be treated as having earned income of $250 if you have one qualifying person (or $500 for two or more qualifying persons) for any month you are a full-time student or not able to care for yourself.

Important: If in the same month you and your spouse both did not work and were either full-time students or not physically or mentally capable of caring for yourselves, only one of you can be treated as having earned income in that month.

Q11: How do I claim the credit for 2021?

A11: To claim the credit for 2021, you will need to complete Form 2441, *Child and Dependent Care Expenses*, and include the form when you file your tax return. In completing the form to claim the 2021 credit, you will need to provide a valid taxpayer identification number (TIN) for each qualifying person. Generally, this is the social security number for the qualifying person. For more information about completing the form and claiming the credit, see the instructions to Form 2441.

Q12: What information do I need from my care provider to claim the credit?

A12: You must identify all persons or organizations that provided care for your child, dependent, or spouse. To identify the care provider, you must give the provider's name, address, and taxpayer identification number (TIN). You can use Form W-10, *Dependent Care Provider's Identification and Certification*, to request this information. If the care provider information you give is incorrect or incomplete, your credit may not be allowed. However, if you can show that you used due diligence in trying to supply the information, you can still claim the credit. For guidance on showing due diligence, see IRS Publication No. 503, Child and Dependent Care Expenses.

Q13: If I live in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands, can I claim the credit if I'm otherwise eligible?

A13: In many cases, the answer is yes. However, the credit must be claimed from your local territory tax agency and not from the IRS. Furthermore, special rules apply to these five U.S. territories. Please contact your local territory tax agency for information about availability and your eligibility for the credit.

Q14: For more than half of 2021, I will live overseas, but not in one of the five U.S. territories. Can I claim the refundable credit on my 2021 tax return?

A14: Generally, no. While you can claim the credit to offset your tax liability , the credit is refundable only if you have your main home in one of the 50 states or the District of Columbia for more than half of the tax year. Your main home can be any location where you regularly live. Your main home may be your house, apartment, mobile home, shelter, temporary lodging, or other location and doesn't need to be the same physical location or in the same state throughout the taxable year. If you are temporarily away from your main home because of illness, education, business, vacation, or military service, you are generally treated as living in your main home.

Special Exception for Military Personnel: For an exception to this answer regarding U.S. military personnel stationed outside of the United States, see Q15.

Q15: My main home is in one of the 50 states or the District of Columbia, and I am in the U.S. military and stationed outside the United States for an extended period of time. Am I treated as living in my main home during that time for purposes of the credit?

A15: Yes. U.S. military personnel who are stationed outside the United States on extended active duty are considered to have their main home in one of the 50 states or the District of

Columbia for purposes of qualifying for the refundable portion of the credit. For this purpose, "extended active duty" means any period of active duty pursuant to a call or order to active duty for a period in excess of 90 days or for an indefinite period.

Work-related expenses

Q16: What qualifies as a work-related expense?

A16: A work-related expense is an amount you (or your spouse in the case of a joint return) pay for the care of a qualifying person, or for household services if at least part of the services is for the care of a qualifying person, in order for you to work or look for work. Your work can be for others or in your own business or partnership. It can be full or part-time. It also includes actively looking for work. However, if you don't find a job and have no earned income for the year, you can't take this credit. See A9 and A10 for more information about the earned income requirement.

Q17: I pay my mother to watch my children during the day. Does this count as a work-related expense?

A17: Yes, unless you can claim your mother as a dependent.

You can also count some work-related payments you make to other relatives, even if they live in your house. However, don't count any amounts you pay to:

1) A person you (or your spouse in the case of a joint return) can claim as a dependent;

2) Your child who was under age 19 at the end of the year, even if the child isn't your dependent;

3) A person who was your spouse at any time during the year; or

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

Q18: My child receives care outside my home so that I can work. Does this count as a work-related expense?

A18: Maybe. To count as a work-related expense, the care must be for your dependent under the age of 13 or any other qualifying person who regularly spends at least 8 hours each day in your home. If the care is provided by a dependent care center, the center must comply with all state and local regulations that apply to centers. A dependent care center is a place that provides care for more than 6 persons (other than persons who live there) and receives a fee, payment, or grant for providing services for any of those persons, even if the center is not run for profit. For an exception to this rule, see Q19.

Q19: My child will be attending a week of overnight camp. Does that camp count as a work-related expense?

A19: No. The cost of overnight camp does not count as a work-related expense.

Q20: My child is enrolled in private kindergarten. Are the expenses to attend the private kindergarten work-related expenses?

A20: No. Expenses to attend kindergarten or a higher-grade level are not expenses for care, and therefore are not work-related expenses.

Q21: I send my child to after-school care. Are these expenses work-related expenses?

A21: Maybe. Expenses paid for before- or after-school care of a child in kindergarten or in a higher-grade level are expenses for care, and therefore are work-related expenses, provided all other conditions are satisfied (for example, the expenses allow you to work or to look for work).