

Afghan Placement and Assistance Program

2022 Tax Filing FAQ

Updated: March [●], 2023

Note: Given the unique circumstances of each individual or family's situation, this guidance may not apply in all cases, nor is it meant to be definitive. It is advisable for all Afghans parolees to consult with a trusted and qualified tax advisor when preparing tax filings. Additionally, all newcomers to the United States should be made aware of [tax scams](#).

1. Are Afghan parolees eligible for retroactive COVID-19 stimulus payments from 2021?

General Requirements

Since the IRS has disbursed all stimulus payments (also known as Economic Impact Payments), Afghan parolees are unlikely to be eligible to receive stimulus money retroactively. The **only way** to receive these payments is to file a 2021 tax return by April 18, 2025, if a family or individual over 18 has not already done so, and claiming the Recovery Rebate Credit, which requires that the taxpayer satisfy the following requirements:

- Is a **U.S. citizen** or **U.S. resident alien** (along with his/her spouse, if filing a joint return); and
- Is not a dependent of another taxpayer; and
- Had adjusted gross income (AGI) that is not more than:
 - \$150,000 if married and filing a joint return or if filing as a qualifying widow or widower;
 - \$112,500 if filing as head of household; or
 - \$75,000 for any other filing status; and
- Has a valid Social Security Number—i.e., Individual Taxpayer Identification Number (ITIN) do not count.

To qualify for the Recovery Rebate Credit, they would need to qualify as “resident aliens” for the year 2021. Note that “resident alien” has a different meaning for tax purposes than for immigration purposes. To qualify as a resident alien, an individual needs to either possess a [green card](#) or pass the [substantial presence test](#). *For those Afghan parolees that arrived in the second half of 2021, they likely cannot qualify as “resident aliens” for 2021 (though they may qualify as “resident aliens” for 2022 if they resided in the U.S. from January 1-December 31 of 2021) unless they make the First-Year Choice election described below.* Instead, they will all be either “non-resident aliens” or “[dual-status aliens](#)” for tax year 2021, which likely means filing at least one 1040-NR return. As per IRS Publication 519, Afghan parolees arriving in 2022 cannot receive the Recovery Rebate Credit for 2022 since it is no longer available after 2021.

First-Year Choice Election Requirements

An Afghan parolee intending to make the First-Year Choice election for the 2021 taxable year who did not meet either the green card test or the substantial presence test must satisfy the requirement of having been in

the U.S. for at least 31 consecutive days in 2021. In addition, the Afghan parolee generally must (i) be present in the U.S. for at least 75% of the days beginning on the first day of that 31 day period and ending with the last day of 2021 and (ii) meet the substantial presence test for 2022. To meet the substantial presence test for 2022, an Afghan parolee must be present in the U.S. for at least 183 days, which for these purposes should include all of the days present in the U.S. for the 2022 taxable year, 1/3 of the days in the last taxable year (for these purposes, 2021) and 1/6 of the days in the year before the last taxable year (for these purposes, 2020). See [U.S. Tax Guide for Aliens](#).

For a hypothetical Afghan parolee who arrived on August 12, 2021, if he/she did not leave the U.S. since entry, he/she would have met the 31 days requirement. Now, he/she needs to meet the physical presence test. There are 141 days between August 12 and December 31, 2021, which means that this taxpayer has 46.53 days under the physical presence test for 2021. This number was reached by multiplying 141 days by 33%. Under the physical presence test, the days spent within the U.S. the previous year (2021) to the current one (2022) are only worth 1/3, and the days spent within the year before last (2020) are only worth 1/6. To qualify as a resident alien under the substantial presence test, the taxpayer needs to have 183 days total in the U.S. This means that 137 days (rounding up) remain before this hypothetical Afghan parolee can be considered a resident alien for tax purposes. Therefore, this hypothetical Afghan parolee may be eligible to opt in to the First-Year Choice Tax Rule on or after May 18, 2022.

All Afghans should seek assistance, regardless of what election they choose to make. Substantially similar rules apply to Afghan parolees arriving in 2022 with respect to the 2022 taxable year. If Afghan parolee arriving in 2022 does not follow the procedures discussed in [Publication 519](#) for making the First-Year Choice (and does not otherwise qualify under the green card or substantial presence test), he/she will be treated as a nonresident alien for all of 2022. However, the taxpayer can overcome any deficiencies if he/she can show to the IRS by clear and convincing evidence that 1) they took reasonable actions to 2) become aware of the filing procedures and 3) they took significant steps to comply with the procedures.

2. If an Afghan parolee arriving in 2022 meets the criteria above and chooses to file a tax extension, how can he/she file his/her taxes once the person has been in the U.S. for the required number of days or before the expiration of the extension on October 15, 2023?

If someone arrives in 2022 and makes the First-Year Choice election described above, he/she is likely to be considered as a dual-tax status resident for 2022. This means that the person is a U.S. tax resident for the part of the year he/she lived in the U.S. and a non-resident alien for the other part of the year while he/she lived outside the U.S.

3. Are Afghan parolees, including new arrivals, eligible for Child Tax Credit money from 2022 or the Earned Income Tax Credit (EITC)?

Only those considered to be U.S. citizens or resident aliens (must meet the substantial presence test or possess a green card) for tax purposes may qualify for the EITC, unless they meet the First-Year Choice exception provided that they satisfy other requirements, including earning income and having a social security number.

For those that will not opt into the First-Year Choice and are not already U.S. citizens or resident aliens (including as a result of opting into the First-Year Choice in an earlier tax year), Afghan parolees are unlikely to qualify for the Child Tax Credit for 2022 or the EITC, for lack of the residency requirement.

As per Publication 519, newly arrived Afghans would likely fall under the category of a dual-status tax year. In order for an Afghan with a dual-status tax year to claim a child tax credit, they must receive a SSN on/before the date of his/her 2022 tax return (including any extensions). Additionally, their child must fall under the definition of a “qualifying child” in Publication 519 as a child who:

- Was younger than 17 at the end of 2022;
- Is your child, stepchild, foster child, sibling, stepsibling, or a descendent of any of them;
- Is a U.S. citizen, national, or resident alien;
- Did not provide over half of their own support for 2022;
- Lived with you for more than half of 2022;
- Is claimed as a dependent on your return; and
- Does not file a joint return for the year.

4. What are the requirements/responsibilities for Afghan parolees to complete their taxes?

Anybody who generated income in the U.S. from any source needs to file taxes. There may be different requirements based on income limits between a resident and a nonresident alien.

A resident alien is required to file a tax return if he or she earned more than a certain amount during the previous tax year. This means that not everyone who is a resident alien is required to file a tax return. A resident alien may be exempt from tax filing as discussed in the following table:

IF your filing status is...	AND at the end of 2022 you were*...	THEN file a return if your gross income** was at least...
Single	under 65 65 or older	\$12,950 \$14,700
Married filing jointly***	under 65 (both spouses) 65 or older (one spouse) 65 or older (both spouses)	\$25,900 \$27,300 \$28,700
Married filing separately	any age	\$5
Head of household	under 65 65 or older	\$19,400 \$21,150

Qualifying widow(er)	under 65 65 or older	\$25,900 \$27,300
<p><i>* If you were born before January 2, 1958, you're considered to be 65 or older at the end of 2022. (If your spouse died in 2022 or if you're preparing a return for someone who died in 2022, see Pub. 501)</i></p> <p>** Gross income means all income you receive in the form of money, goods, property, and services that isn't exempt from tax, including any income from sources outside the United States or from the sale of your main home (even if you can exclude part or all of it). Don't include any social security benefits unless (a) you're married filing a separate return and you lived with your spouse at any time during 2022, or (b) one-half of your social security benefits plus your other gross income and any tax-exempt interest is more than \$25,000 (\$32,000 if married filing jointly). If (a) or (b) applies, see the Form 1040 and 1040-SR instructions to figure the taxable part of social security benefits you must include in gross income. Gross income includes gains, but not losses, reported on Form 8949 or Schedule D. Gross income from a business means, for example, the amount on Schedule C, line 7; or Schedule F, line 9. But in figuring gross income, don't reduce your income by any losses, including any loss on Schedule C, line 7; or Schedule F, line 9.</p> <p>*** If you didn't live with your spouse at the end of 2022 (or on the date your spouse died) and your gross income was at least \$5, you must file a return regardless of your age.</p>		

A dual resident alien may be required to file taxes regardless of income limits. An Afghan parolee opting to become a dual resident alien may have to file both a 1040-NR and a 1040. For instance, if the Afghan parolee is choosing to opt into the First-Year Choice, the IRS recommends that an extension request to the tax filing deadline be made. If this extension request is made, “[the taxpayer] should pay with this extension [request] the amount of tax [he or she expects] to owe for 2022 figured as if [he or she] were a nonresident alien the entire year. [He/She] can use Form 1040-NR to figure the tax. Enter the tax on Form 4868. If [he/she does] not pay the tax due, [he/she] will be charged interest on any tax not paid by the regular due date of [the] return, and [he/she] may be charged a penalty on the late payment.” IRS Publication 519, page 8. Please note that, once the First-Year Choice is made, the taxpayer may not revoke it without the approval of the IRS. *Id.*

A nonresident alien is required to file an income tax return, specifically a U.S. Nonresident Alien Income Tax Return (Form 1040-NR), for **all income** subject to U.S. tax (i.e., income generated in the United States) unless the person fits an exemption. See [Instructions for Form 1040-NR \(2022\)](#). The IRS has also created a [tool](#) to assist with determining if someone should file a 1040-NR.

5. Will Volunteer Income Tax Assistance (VITA) be able to help Afghan parolees with tax prep, or will Afghan parolees have to go to commercial tax prep services (especially if they don't have trusted friends or others to help them prepare tax filings)?

The 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 1-800-906-9887 for information on free tax return preparation. However, most free VITA sites cannot currently prepare non-resident or dual-tax status returns. An Afghan parolee can go to a tax professional to prepare their income tax return or they can download software to do it on their own. The parolee is likely to have to mail in their 2022 return with two parts: the U.S. return (1040) and non-resident alien tax return (1040-NR). In addition, people can contact local colleges and universities

that have foreign (F-1, J-1, M-1, etc.) students. These colleges and universities may have a VITA center or other free tax assistance for students that specializes in 1040-NR filings for foreign scholar nationals, and they may be willing to provide assistance to Afghan Parolee community members. *See* IRS Publication 4011, [VITA/TCE Foreign Student and Scholar Resource Guide](#). In addition, some law schools also have free or low-cost tax clinics to assist with tax filings. Some of this funding may be tied to helping members of the college or university community.

6. Can a responsible adult with legal status claim a minor who he/she is supporting, even if the child is not his/hers biologically? If so, does the resettlement agency need to provide a specific letter to confirm the relationship and responsibility?

The IRS has created a [tool](#) to help individuals determine who can be claimed as a dependent.

7. What is deadline for filing 2021 taxes?

Unless the IRS delays it (as it did last year), Tuesday, April 18, is the deadline for filing 2022 taxes. If someone needs more time to file their taxes, he/she can always apply for a filing extension prior to the tax filing deadline.

If an Afghan parolee needs an extension to the filing deadline or if he/she qualifies for the First-Year Choice and would like to make this election, he/she can easily file an extension to file taxes by using this [form](#). Individuals should follow the instructions and send the extension request in before the deadline of April 18, 2023. It can be e-filed for free by visiting this [website](#). If the request is being sent via regular mail, it should be sent at least a week before the deadline of April 18. Please keep in mind if this extension request is made, “[the taxpayer] should pay with this extension [request] the amount of tax [he/she] expect[s] to owe for 2022 figured as if [he/she was] a nonresident alien the entire year. [He/She] can use Form 1040-NR to figure the tax. Enter the tax on Form 4868. If [he/she does] not pay the tax due, [he/she] will be charged interest on any tax not paid by the regular due date of their return, and [he/she] may be charged a penalty on the late payment.” IRS Publication 519, page 8.

8. Should COVID stimulus payments be included in taxable income for the tax year in which they are received? If a COVID stimulus payment was applied for but never received, is it still possible to receive the funds?

According to the IRS (<https://www.irs.gov/newsroom/what-people-really-want-to-know-about-economic-impact-payments>), COVID stimulus payments from 2020 and 2021 are not taxable income. They are considered general welfare or disaster relief instead. The payment is therefore not included in gross income for the filing year in which they were received.

If a stimulus payment was accepted but never received, then, as per Publication 519, a taxpayer would apply for the Recovery Rebate Credit. This credit is not available for years after 2021. However, an Afghan parolee who qualified as a resident or citizen in either 2020 or 2021 can file a tax return for either year

until April 18, 2024 for 2020 and April 18, 2025 for 2021 and claim the Recovery Rebate Credit on that filing as described in more detail above.

9. Does an Afghan who arrived in the second half of 2022 have to file taxes as a non-resident? Or is it possible to be treated as a U.S. resident? For reference, this question relates to arrivals that came with Operation Allied Refuge in the second half of 2022.

An Afghan arriving in the second half of the year in 2022 and not living in the United States more than 183 days generally should file as a non-resident alien (“NRA”). As noted above, however, it may be possible to elect to file taxes as a U.S. resident if the arrival makes the First-Year Choice election described above.

10. In the case of an Afghan male whose wife is still in Afghanistan, should he select "single," "married filing jointly," or "married filing separately"? If he should select one of the "married" options, are there any specific ways he should answer future filing questions, given the unique situation?

If you are a nonresident alien filing [Form 1040-NR](#) with a spouse still in Afghanistan, you would generally file using the status Married Filing Separately (MFS).

Generally, nonresident aliens married to U.S. citizens or residents can choose to be treated as U.S. residents and file joint returns. Filing a joint return may reduce the applicable tax rates, though the amount of the spouse’s income in Afghanistan (if any) would generally be required to be included on the joint return. Alternatively, filing as a head of household may be available if paying more than half of the cost of maintaining a household for certain dependents or relatives. For more information, refer to [Nonresident Alien Spouse](#).

11. In the case of a resettled Afghan that has dependents living outside the United States, is it possible for those dependents to be listed as dependents on the U.S. tax return and, if so, what are the requirements?

In general, you can't claim a person as a dependent unless that person is your qualifying child or qualifying relative. To be your dependent, the qualifying individual must be a U.S. citizen, U.S. national, U.S. resident alien, or a resident of Canada or Mexico for some part of the calendar year in which your tax year begins.

You must include on your return the Social Security Number (SSN) of each dependent.

The IRS has created the following Tool to assist taxpayers in determining whom they may claim as a dependent: [Whom May I Claim as a Dependent](#).

12. If a resettled Afghan accepted a stimulus payment without establishing status as a U.S. resident alien, is that considered to be fraud? If so, how should that be remedied (e.g., should they pay it back)? If not, will they receive a Form 1099 in connection with the payment or otherwise be required to pay taxes on it? Could the IRS ask for the payment to be returned and how long do they have to do so?

It is possible that a resettled Afghan may have received a stimulus payment in error. The IRS has not indicated whether there are any penalties for receiving a stimulus payment that you were not entitled to. However, the IRS requests the immediate return of any stimulus payments that were issued in error. If you received a stimulus payment that you were not entitled to, the IRS requests that you return the payment as described below:

If the payment was a paper check:

1. Write "Void" in the endorsement section on the back of the check.
2. Mail the voided Treasury check immediately to the [appropriate IRS location](#).
3. Don't staple, bend, or paper clip the check.
4. Include a brief explanation stating the reason for returning the check.

If the payment was a paper check and you have cashed it, or if the payment was a direct deposit:

1. Submit a personal check, money order, etc., immediately to the appropriate IRS location listed below.
2. Write on the check/money order made payable to "U.S. Treasury" and write 2020EIP, and the taxpayer identification number (social security number, or individual taxpayer identification number) of the recipient of the check.
3. Include a brief explanation of the reason for returning the stimulus payment.

If the payment was sent in a debit card:

If you received your stimulus payment as a debit card and want to return the money to the IRS and NOT have the payment re-issued, send the card along with a brief explanation stating you don't want the payment and do not want the payment re-issued to the following address:

Money Network Cardholder Services
2900 Westside Parkway
Alpharetta, GA 30004

13. What is the tax treatment of financial assistance payments (including from the Preferred Communities program and the Office of Refugee Resettlement) as well as other grants a resettled Afghan may receive to help with rent and other living expenses (i.e., will those amounts be taxable

income)? Does it impact the analysis if payments are made directly to a landlord or other service provider?

Like the COVID stimulus payments, financial assistance payments generally should be categorized as general welfare or needs-based payments and not taxable. This treatment should apply even if the payments are made directly to a landlord or other service provider.