

Afghan Placement and Assistance Program
2022 Tax Filing FAQ

Updated: March 25, 2022

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?

Afghan parolees are unlikely to be eligible to receive stimulus money retroactively. To receive the stimulus payments (also known as Economic Impact Payments), a family or individual over 18 needs to fulfill several requirements. Per the IRS, here are some of the requirements to receive the [third stimulus payment](#). Most of the requirements for 2021 are similar to those under the CARES Act.

Generally, someone would be eligible for the full amount of the third Economic Impact Payment if he/she:

- 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.

Most Afghan parolees, if not all, will be unable to show that they are U.S. citizens. To qualify for the stimulus payment then, they would need to qualify as “resident aliens.” 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](#). Afghan parolees are unlikely to qualify solely as “resident aliens” for tax purposes. Since Afghan parolees arrived in the second half of 2021, 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.

However, an Afghan parolee who is planning to remain in the United States for the *whole* of 2022 may be able to apply for an exception to the above under the First-Year Choice Tax Rule. Please note that, “[o]nce [he/she makes] the first-year choice, [the taxpayer] may not revoke it without the approval of the IRS.” IRS Publication 519, page 8. Under this rule, Afghan parolees may be able to elect to be a U.S. tax resident for at least part of 2021 and qualify for the recovery rebate credit if they meet the following conditions:

- Were in the U.S. for at least 31 consecutive days in 2021;
- They have a valid Social Security Number; and

- They have been present at the beginning of the year and plan to remain present in the U.S. for all of 2022. Once someone is in the U.S. for a certain number of days in 2022, that person can make the choice to file taxes as a U.S. resident, which is called the First-Year Choice. This is likely to be some time near the Summer of 2022 for most arrivals. 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 33%, and the days spent within the year before last (2020) are only worth 18%. 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.

If an Afghan family is unsure if it will remain in the United States going forward, filers *should not* make the First-Year Choice as they will not qualify. It is a requirement for this election to “plan to remain present in the U.S. for all of 2022.”

If an Afghan parolee meets the criteria above, in order to elect to be a U.S. tax resident for 2021, he/she will need to file a tax extension **before April 18** (the tax filing deadline) to meet the requirement of being in the U.S. a certain number of days in 2022 under the First-Year Choice Tax Rule.

All Afghans should seek assistance, regardless of what election they choose to make. If a nonresident taxpayer does not follow the procedures discussed in Publication 519 for making the First-Year Choice, he/she will be treated as a nonresident alien for all of 2021. 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 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 in mid-October, 2022?

If someone makes the above election, he/she is likely to be considered as a dual-tax status resident for 2021. 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 eligible for Child Tax Credit money from 2021 or the Earned Income Tax Credit (EITC)?

Only those considered to be U.S. citizens or resident aliens for tax purposes may qualify for the EITC. It is likely that if an Afghan parolee and his or her family make the First-Year Choice (*see*

answers to questions 1 and 4) and they are therefore considered U.S. tax resident for at least part of 2021, they may qualify at least for the Recover Rebate Credit for tax year 2021. This is likely only to apply for the adults who make this selection. Afghan parolees should check with their tax preparer to verify whether they can receive this credit for children or other dependents. It is very unlikely that there are other credits that Afghan parolees could qualify for, since they likely lived in the U.S. for less than 6 months in 2021.

For those that will not opt into the First-Year Choice, Afghan parolees are unlikely to qualify for the Child Tax Credit for 2021 or the EITC, for lack of the residency requirement.

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 2021 you were* . . .	THEN file a return if your gross income** was at least . . .
Single	under 65	\$12,550
	65 or older	14,250
Married filing jointly***	under 65 (both spouses)	\$25,100
	65 or older (one spouse)	26,450
	65 or older (both spouses)	27,800
Married filing separately	any age	\$5
Head of household	under 65	\$18,800
	65 or older	20,500
Qualifying widow(er)	under 65	\$25,100
	65 or older	26,450

**If you were born on January 1, 1957, you are considered to be age 65 at the end of 2021. (If your spouse died in 2021 or if you are preparing a return for someone who died in 2021, see Pub. 501.)*

***Gross income means all income you received 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 are married filing a separate return and you lived with your spouse at any time in 2021, 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 instructions for lines 6a and 6b 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.*

****If you didn't live with your spouse at the end of 2021 (or on the date your spouse died) and your gross income was at least \$5, you must file a return regardless of your age.*

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 2021 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 \(2021\)](#). 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 2021 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 by 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), Monday, April 18, is the deadline for filing 2021 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, 2022. 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 2021 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.

Additional Resources

- [Get Free Tax Prep Help \(treasury.gov\)](#)
- [Interactive Tax Assistant \(ITA\) \(irs.gov\)](#)
- [U.S. Tax Guide for Aliens \(irs.gov\)](#)