

2007 Instructions for Form 2441
Child and Dependent Care Expenses

- Purpose:** This is the first circulated draft of the 2007 Instructions for Form 2441, Child and Dependent Care Expenses, for your review and comments. See major changes on next page.
- TPCC Meeting:** None, but may be arranged if requested.
- Prior Revisions:** The 2006 version of the Instructions for Form 2441 can be accessed at: <http://www.irs.gov/pub/irs-pdf/i2441.pdf>
- Form:** The 2007 Form 2441 was circulated earlier at:
<http://www.irs.gov/pub/irs-dft/f2441--dft.pdf>
- Other Products:** Circulations of draft forms, instructions, notices, and publications are posted at: http://taxforms.web.irs.gov/draft_products.html
- Comments:** Please e-mail, fax, call, or mail any comments by July 27, 2007.

Bob Lemonds

Tax Law Specialist
SE:W:CAR:MP:T:I:F
Room: 6423 – Main
Phone: 202-927-9906
Fax: 202-927-6234
Email: Robert.W.Lemonds@irs.gov

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Major Changes for
2007 Instructions for Form 2441
Child and Dependent Care Expenses

New instructions for line 11 have been added and all remaining line instructions have been renumbered as needed to reflect the credit for child and dependent care no longer offsets the regular and alternative minimum tax. IRC 26(a)(1).

Note: If Congress later passes legislation to extend IRC 26(a)(2), the form will be revised to reflect the 2006 version.

On page 1, under “Definitions – Dependent Care Benefits” we changed the format to a bulleted list and added the last bullet. Taxpayer suggestion.

The following changes have been made to comply with Final Regs. 1.21 that are expected to be signed before the year’s end.

Under “Qualified Expenses” a second paragraph has been added to reflect new rules for temporary absences and part-time work.

The last sentence under “Care of the Qualifying Person” on page 1 has been revised to reflect that expenses for summer school or a tutoring program do not qualify for the credit.

The instructions for line 4, item 4 has deleted “Certain nontaxable earned income such as meals and lodging provided for the convenience of your employer and” and the definition of earned income now follows the definition in IRC section 32.

The instructions for lines 4 and 20 have been revised concerning work performed by inmates of penal institutions. IRC 32(c)(2)(B)(iv)



Instructions for Form 2441

Child and Dependent Care Expenses

Purpose of Form

If you paid someone to care for your child or other qualifying person so you (and your spouse if filing a joint return) could work or look for work in 2007, you may be able to take the credit for child and dependent care expenses. You (and your spouse if filing a joint return) must have earned income to take the credit. But see *Spouse Who Was a Student or Disabled* on page 3. If you can take the credit, use Form 2441 to figure the amount of your credit.

If you (or your spouse if filing a joint return) received any dependent care benefits for 2007, you must use Form 2441 to figure the amount, if any, of the benefits you may exclude from your income on Form 1040, line 7, or Form 1040NR, line 8. You must complete Part III of Form 2441 before you can figure the credit, if any, in Part II.

Additional information. See Pub. 503, Child and Dependent Care Expenses, for more details.

Definitions

Dependent Care Benefits

Dependent care benefits include:

- Amounts your employer paid directly to either you or your care provider for the care of your qualifying person(s) while you worked,
- The fair market value of care in a daycare facility provided or sponsored by your employer, and
- Pre-tax contributions you made under a dependent care Flexible Spending Account (FSA).

Your salary may have been reduced to pay for these benefits. If you received dependent care benefits as an employee, they should be shown in box 10 of your 2007 Form(s) W-2. Benefits you received as a partner should be shown in box 13 of your Schedule K-1 (Form 1065) with code N.

Qualifying Person(s)

A qualifying person is:

- A qualifying child under age 13 whom you can claim as a dependent.

If the child turned 13 during the year, the child is a qualifying person for the part of the year he or she was under age 13.

- Your disabled spouse who is not able to care for himself or herself.
- Any disabled person not able to care for himself or herself whom you can claim as a dependent (or could claim as a dependent except that the person had gross income of \$3,400 or more or filed a joint return.)
- Any disabled person not able to care for himself or herself whom you could claim as a dependent except that you (or your spouse if filing a joint return), could be claimed as a dependent on someone else's 2007 return.

If you are divorced or separated, see *Special rule for children of divorced or separated parents* below.

To find out who is a qualifying child and who is a dependent, see Pub. 501, Exemptions, Standard Deduction, and Filing Information.



To be a qualifying person, the person must have lived with you for more than half of 2007.

Special rule for children of divorced or separated parents.

Even if you cannot claim your child as a dependent, he or she is treated as your qualifying person if:

- The child was under age 13 or was physically or mentally not able to care for himself or herself, and
- You were the child's custodial parent (the parent with whom the child lived for the greater part of 2007).

The noncustodial parent cannot treat the child as a qualifying person even if that parent is entitled to claim the child as a dependent under the special rules for a child of divorced or separated parents.

Qualified Expenses

These include amounts paid for household services and care of the qualifying person while you worked or looked for work. Child support payments are not qualified expenses. Also, expenses reimbursed by a state social service agency are not

qualified expenses unless you included the reimbursement in your income.

Generally, if you worked or actively looked for work during only part of the period covered by the expenses, you must figure your expenses for each day. However, there are special rules for temporary absences or if you worked part-time. See Pub. 503 for more details.

Household Services

These are services needed to care for the qualifying person as well as to run the home. They include, for example, the services of a cook, maid, babysitter, housekeeper, or cleaning person if the services were partly for the care of the qualifying person. Do not include services of a chauffeur or gardener.

You can also include your share of the employment taxes paid on wages for qualifying child and dependent care services.

Care of the Qualifying Person

Care includes the cost of services for the qualifying person's well-being and protection. It does not include the cost of clothing or entertainment.

You can include the cost of care provided outside your home for your dependent under age 13 or any other qualifying person who regularly spends at least 8 hours a day in your home. If the care was provided by a dependent care center, the center must meet all applicable state and local regulations. A dependent care center is a place that provides care for more than six 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.

You can include amounts paid for items other than the care of your child (such as food and schooling) only if the items are incidental to the care of the child and cannot be separated from the total cost. But do not include the cost of schooling for a child in kindergarten or above. You can include the cost of a day camp, even if it specializes in a particular activity, such as soccer. But do not include

any expenses for sending your child to an overnight camp, summer school, or a tutoring program.

Medical Expenses

Some disabled spouse and dependent care expenses may qualify as medical expenses if you itemize deductions on Schedule A (Form 1040). However, you cannot claim the same expense as both a dependent care expense and a medical expense. See Pub. 502, Medical and Dental Expenses, and Pub. 503 for details.

Who Can Take the Credit or Exclude Dependent Care Benefits?

You can take the credit or the exclusion if all five of the following apply.

1. Your filing status is single, head of household, qualifying widow(er), or married filing jointly. But see *Married Persons Filing Separate Returns* on this page.

2. The care was provided so you (and your spouse if filing a joint return) could work or look for work. However, if you did not find a job and have no earned income for the year, you cannot take the credit or the exclusion. But if your spouse was a student or disabled, see the instructions for line 5.

3. The care must be for one or more qualifying persons.

4. The person who provided the care was not your spouse, the parent of your qualifying child under age 13, or a person whom you can claim as a dependent. If your child provided the care, he or she must have been age 19 or older by the end of 2007.

5. You report the required information about the care provider on line 1 and, if taking the credit, the information about the qualifying person on line 2.

Married Persons Filing Separate Returns

If your filing status is married filing separately and all of the following apply, you are considered unmarried for purposes of figuring the credit and the exclusion on Form 2441.

- You lived apart from your spouse during the last 6 months of 2007,
- The qualifying person lived in your home more than half of 2007, and
- You provided over half the cost of keeping up your home.

If you meet all the requirements to be treated as unmarried and meet items 2 through 5 listed earlier, you

can take the credit or the exclusion. If you do not meet all the requirements to be treated as unmarried, you cannot take the credit. However, you can take the exclusion if you meet items 2 through 5.

Line Instructions

Line 1

Complete columns (a) through (d) for each person or organization that provided the care. You can use Form W-10, Dependent Care Provider's Identification and Certification, or any other source listed in its instructions to get the information from the care provider. If you do not give correct or complete information, your credit (and exclusion, if applicable) may be disallowed unless you can show you used due diligence in trying to get the required information.

If you have more than two care providers, attach a statement to your return with the required information. Be sure to put your name and social security number (SSN) on the statement. Also, enter "See Attached" right above the *Caution* under line 1.

Due Diligence

You can show a serious and earnest effort (due diligence) to get the information by keeping in your records a Form W-10 completed by the care provider. Or you may keep one of the other sources of information listed in the instructions for Form W-10. If the provider does not give you the information, complete the entries you can on line 1. For example, enter the provider's name and address. Enter "See Attached Statement" in the columns for which you do not have the information. Then, attach a statement to your return explaining that the provider did not give you the information you requested.

Columns (a) and (b)

Enter the care provider's name and address. If you were covered by your employer's dependent care plan and your employer furnished the care (either at your workplace or by hiring a care provider), enter your employer's name in column (a). Next, enter "See W-2" in column (b). Then, leave columns (c) and (d) blank. But if your employer paid a third party (not hired by your employer) on your behalf to provide the care, you must give information on the third party in columns (a) through (d).

Column (c)

If the care provider is an individual, enter his or her social security number (SSN). Otherwise, enter the provider's employer identification number (EIN). If the provider is a tax-exempt organization, enter "Tax-Exempt" in column (c).

Column (d)

Enter the total amount you actually paid in 2007 to the care provider. Also, include amounts your employer paid to a third party on your behalf. It does not matter when the expenses were incurred. Do not reduce this amount by any reimbursement you received.

Line 2

Complete columns (a) through (c) for each qualifying person. If you have more than two qualifying persons, attach a statement to your return with the required information. Be sure to put your name and social security number (SSN) on the statement. Also, enter "See Attached" on the dotted line next to line 3.

Column (a)

Enter each qualifying person's name.

Column (b)

You must enter the qualifying person's SSN. Be sure the name and SSN entered agree with the person's social security card. Otherwise, at the time we process your return, we may reduce or disallow your credit. If the person was born and died in 2007 and did not have an SSN, enter "Died" in column (b) and attach a copy of the person's birth certificate.

To find out how to get an SSN, see *Social Security Number (SSN)* on page 16 of the Form 1040 instructions or *Identifying number* on page 8 of the Form 1040NR instructions. If the name or SSN on the person's social security card is not correct, call the Social Security Administration at 1-800-772-1213.

Column (c)

Enter the qualified expenses you incurred and paid in 2007 for the person listed in column (a). Prepaid expenses are treated as paid in the year the care is provided. Do not include in column (c) qualified expenses:

- You incurred in 2007 but did not pay until 2008. You may be able to use these expenses to increase your 2008 credit.
- You incurred in 2006 but did not pay until 2007. Instead, see the instructions for line 9 on page 3.

- You prepaid in 2007 for care to be provided in 2008. These expenses can only be used to figure your 2008 credit.



If you paid qualified expenses for the care of two or more qualifying persons, the \$6,000 limit does not need to be divided equally. For example, if you paid and incurred \$2,500 of qualified expenses for the care of one qualifying person and \$3,500 for the care of another qualifying person, you can use the total, \$6,000, to figure the credit.

Line 4

If filing a joint return, figure your and your spouse's earned income separately. Enter your earned income on line 4 and your spouse's earned income on line 5. If your spouse was a student or disabled, see the instructions for line 5.

Earned income for figuring the credit includes the following amounts.

1. The amount shown on Form 1040, line 7, or Form 1040NR, line 8, minus (a) any amount included for a scholarship or fellowship grant that was not reported to you on a Form W-2, (b) any amount also reported on Schedule SE (Form 1040) because you were a member of the clergy or you received \$108.28 or more of church employee income, (c) any amount received for work performed while an inmate in a penal institution, and (d) any amount received as a pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457(b) plan. This amount may be reported in box 11 of Form W-2. If you received such an amount but box 11 is blank, contact your employer for the amount received as a pension or annuity.

2. The amount shown on Schedule SE, line 3, minus any deduction you claim on Form 1040, line 27. If you use either optional method to figure self-employment tax, subtract any deduction you claim on Form 1040, line 27, from the total of the amounts shown on Schedule SE, Section B, lines 3 and 4b. If you received church employee income of \$108.28 or more, subtract any deduction you claim on Form 1040, line 27, from the total of the amounts shown on Schedule SE, Section B, lines 3, 4b, and 5a.

3. If you are filing Schedule C or C-EZ (Form 1040) as a statutory employee, the amount shown on line 1 of the schedule.

4. Nontaxable combat pay.



You must reduce your earned income by any loss from self-employment.

Special Situations

If you are filing a joint return, disregard community property laws. If your spouse died in 2007, see Pub. 503. If your spouse was a student or disabled in 2007, see the instructions for line 5.

Line 5

Spouse Who Was a Student or Disabled

Your spouse was a student if he or she was enrolled as a full-time student at a school during any 5 months of 2007. A school does not include an on-the-job training course, correspondence school, or a school offering courses only through the Internet. Your spouse was disabled if he or she was not capable of self-care. Figure your spouse's earned income on a monthly basis.

For each month or part of a month your spouse was a student or was disabled, he or she is considered to have worked and earned income. His or her earned income for each month is considered to be at least \$250 (\$500 if more than one qualifying person was cared for in 2007). If your spouse also worked during that month, use the higher of \$250 (or \$500) or his or her actual earned income for that month. If, in the same month, both you and your spouse were either students or disabled, only one of you can be treated as having earned income in that month.

For any month that your spouse was not a student or disabled, use your spouse's actual earned income if he or she worked during the month.

Line 9

Credit for Prior Year's Expenses

If you had qualified expenses for 2006 that you did not pay until 2007, you may be able to increase the amount of credit you can take in 2007. To figure the credit, see the worksheet under *Amount of Credit* in Pub. 503. If you can take a credit for your 2006 expenses, enter the amount of the credit and "CPYE" on the dotted line next to line 9. Also, enter the name and social security number of the person for whom you paid the prior year's expenses to the right of this amount. Then, add the credit to the amount on line 9 and replace the amount on line 9 with that

total. Also, attach a statement showing how you figured the credit.

Line 11

1. Did you fill in Form 6251 to see if you owe the alternative minimum tax, which is entered on Form 1040, line 45, or Form 1040NR, line 42?

- Yes.** Enter on line 11 the amount from Form 6251, line 31.
- No.** Continue.

2. Are you filing Schedule C, C-EZ, D, E, or F (Form 1040)?

- Yes.** Stop and fill in Form 6251 through line 31. Then, enter that amount on Form 2441, line 11
- No.** Continue.

3. At the end of 2007 did you own stock that you received in 2007 by exercising an incentive stock option?

- Yes.** Stop and fill in Form 6251 through line 31. Then, enter that amount on Form 2441, line 11.
- No.** Continue.

4. Is the amount on Form 1040, line 22, or Form 1040NR, line 23, plus any tax-exempt interest from private activity bonds issued after August 7, 1986, and any net operating loss deduction more than the amount shown below for your filing status?

- Single or head of household — \$33,750
- Married filing jointly or qualifying Widow(er) — \$45,000
- Married filing separately — \$22,500
- Yes.** Stop and fill in Form 6251 through line 31. Then, enter that amount on Form 2441, line 11.
- No.** Enter -0- on Form 2441, line 11.

Line 15

If you had an employer-provided dependent care plan, your employer may have permitted you to carry forward any unused amount from 2006 to use during a grace period in 2007. Enter on line 15 the amount you carried forward and used in 2007 during the grace period.

Line 16

If you had an employer-provided dependent care plan, enter on line 16 the total of the following amounts included on line 14.

- Any amount you forfeited. You forfeited an amount if you did not receive it because you did not incur

the expense. Do not include amounts you expect to receive at a future date.

• Any amount you did not receive but are permitted by your employer to carry forward and use in the following year during a grace period.

Example. Under your employer's dependent care plan, you chose to have your employer set aside \$5,000 to cover your 2007 dependent care expenses. The \$5,000 is shown in box 10 of your Form W-2. In 2007, you incurred and were reimbursed for \$4,950 of qualified expenses. You would enter \$5,000 on line 14 and \$50, the amount forfeited, on line 16. You would also enter \$50 on line 16 if, instead of forfeiting the amount, your employer permitted you to carry the \$50 forward to use during the grace period in 2008.

Line 17

Add the amounts on lines 14 and 15 and subtract from that total, the amount on line 16. Enter the result on line 17.

Line 18

Enter the total of all qualified expenses incurred in 2007 for the care of your qualifying person(s). It does not matter when the expenses were paid.

Example. You received \$2,000 in cash under your employer's dependent care plan for 2007. The \$2,000 is shown in box 10 of your Form W-2. Only \$900 of qualified expenses were incurred in 2007 for the care of your 5-year-old dependent child. You would enter \$2,000 on line 14 and \$900 on line 18.

Line 20

If filing a joint return, figure your and your spouse's earned income separately. Enter your earned income on line 20 and your spouse's earned income on line 21. If your filing status is married filing separately or your spouse was a student or disabled, see the instructions for line 21.

Earned income for figuring the amount of dependent care benefits you are able to exclude or deduct from your income includes the following amounts.

1. The amount shown on Form 1040, line 7, or Form 1040NR, line 8, minus (a) any amount included for a scholarship or fellowship grant that was not reported to you on a Form W-2, (b) any amount also reported on

Schedule SE (Form 1040) because you were a member of the clergy or you received \$108.28 or more of church employee income, (c) any amount received for work while an inmate in a penal institution, and (d) any amount received as a pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457(b) plan. This amount may be reported in box 11 of Form W-2. If you received such an amount but box 11 is blank, contact your employer for the amount received as a pension or annuity.

2. The amount shown on Schedule SE, line 3, minus any deduction you claim on Form 1040, line 27. If you use either optional method to figure self-employment tax, subtract any deduction you claim on Form 1040, line 27, from the total of the amounts shown on Schedule SE, Section B, lines 3 and 4b. If you received church employee income of \$108.28 or more, subtract any deduction you claim on Form 1040, line 27, from the total of the amounts shown on Schedule SE, Section B, lines 3, 4b, and 5a.

3. If you are filing Schedule C or C-EZ (Form 1040) as a statutory employee, the amount shown on line 1 of the schedule.

4. Nontaxable combat pay, if you elect to include it in earned income. However, including this income will only give you a larger exclusion or deduction if your (or your spouse's) other earned income is less than the amount entered on line 19. To make the election, include all of your nontaxable combat pay in the amount you enter on line 20 (line 21 for your spouse if filing jointly). If you are filing a joint return and both you and your spouse received nontaxable combat pay, you can each make your own election. The amount of your nontaxable combat pay should be shown in box 12 of Form(s) W-2 with code Q.



For purposes of line 20, earned income does not include any dependent care benefits shown on line 14.



You must reduce your earned income by any loss from self-employment.

Special Situations

If you are filing a joint return, disregard community property laws. If

your spouse died in 2007, see Pub. 503. If your spouse was a student or disabled in 2007, see the instructions for line 5.

Line 21

If your filing status is married filing separately, see *Married Persons Filing Separate Returns* on page 2. Are you considered unmarried under that rule?

- Yes.** Enter your earned income (from line 20) on line 21. On line 25, enter \$5,000.
- No.** Enter your spouse's earned income on line 21. If your spouse was a student or disabled in 2007, see the instructions for line 5. On line 25, enter \$2,500.

Line 26

Include your deductible benefits in the total entered on Schedule C, line 14; Schedule E, line 18 or line 28; or Schedule F, line 17; whichever applies.

Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.