

# Calculating 3.8% Net Investment Income Tax (NIIT)



For individuals, the tax applies to the lesser of MAGI exceeding the tax threshold or the total Net Investment Income (NII)

## Modified Adjusted Gross Income (MAGI) amount exceeding the tax threshold

### Tax thresholds

Single or head of household	\$200,000
Married filing jointly	\$250,000
Married filing separately	\$125,000

MAGI = Adjusted Gross Income (AGI) + certain adjusted foreign earned income exclusions.

MAGI includes the following, among other things:

- Wages, compensation (including distributions from nonqualified Deferred compensation plans), taxable alimony, taxable Social Security Income, etc.
- Taxable distributions from IRAs and qualified plans and Taxable nonqualified distributions from Roth IRAs, 529 College Savings Plans, Coverdell ESAs, Health Savings Accounts (HSAs)
- Distribution of earnings from nonqualified annuities
- Net gain from the sale/disposition of property, except for excluded gain, like certain gains from the sale of a principal residence
- Taxable interest and dividends
- Rents and royalties
- Then adjustments are made for items such as deductible IRA contributions and educator expenses, etc.

OR

## Net Investment Income (NII)

### Investment income (as defined below) reduced by those deductions properly allocable to the investment income

#### Net Investment Income includes

- Taxable interest, dividends, rents, royalties
- Distributions of earnings from nonqualified annuities, not held in an IRA or qualified plan
- Net gain from the sale/disposition of certain property (capital gains)
  - Generally, does not include gain on property sold by an active business or gains excluded from income
- Substitute dividend/interest; payments in lieu of dividends
- Income from a trade or business that is considered a passive activity under the passive loss rules, or is in the business of trading in financial instruments or commodities/ commodities-related derivatives

#### Net Investment Income **does not** include

- Wages, compensation, Social Security income and nonqualified deferred compensation distributions
- Qualified retirement plan distributions
  - IRAs, 401(k) plans, 403(b) plans, 457 plans, pensions, etc.
- Tax-exempt income
  - Municipal bond interest
  - Excluded gain on the sale of a principal residence
  - Life insurance death benefit
- Income from a trade or business that is not considered a passive activity under the passive loss rules, and is not in the business of trading financial instruments or commodities-related derivatives
  - Note: income from working capital investments does not fall within this exception
- Self-employment income (taken into account for self-employment tax purposes)

# Reporting requirements for distributions which may be subject to NIIT

## Distribution code “D” for nonqualified annuities

- If you meet the threshold requirement on the previous page, earnings from your nonqualified annuity distributions (from both deferred and annuitized contracts) may be subject to the 3.8% tax<sup>1</sup>.
- We do not calculate the potential tax consequence. We are only required by the IRS to indicate annuity distributions that may be subject to the tax.
  - Distribution code “D” is used in combination with other distributions (1, 2, 3, 4, 7 or C) on Form 1099-R (Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.) for nonqualified annuity accounts to indicate the distribution in question may be subject to the 3.8% net investment income tax (Internal Revenue Code section 1411).
  - Distribution code “D” would not apply to distributions from IRAs or other qualified retirement accounts because those distributions are generally not subject to the 3.8% tax.
- For more information on the Net Investment Income Tax refer to Tax filing FAQ.
- Given the complexity of the 3.8% tax, if this tax is applicable for you based on the guidelines above, we encourage you to work with a qualified tax professional to understand how it may impact your specific situation and to address your questions.

<sup>1</sup> For certain high-income taxpayers, depending on your Modified Adjusted Gross Income or net investment income

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