

Calculating 3.8% Net Investment Income Tax (NIIT)



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

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-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 and 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)
- Inheritance, gifts and distributions from 529 College Savings Plans, Coverdell ESAs and Health Savings Plans (HSAs)

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% tax¹.
- 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 tax (IRC 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.

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

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