THE VA FILES

TDIU Eligibility Checklist

Total Disability based on Individual Unemployability: the gates, the employment rule, and the filing checklist.

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Educational information only — not legal or financial advice. The VA Files is not a law firm and does not prepare, present, or prosecute VA claims (38 U.S.C. §§5901/5905). For help with your own situation, contact VA or an accredited representative.

This checklist is education, not a VA determination. Only VA decides TDIU on a veteran's full record. Checking every box does not mean you qualify — and missing a box does not mean you don't. Exceptions exist, including the extraschedular path at 38 CFR 4.16(b).

1 · What TDIU Is

Total Disability based on Individual Unemployability (TDIU) is a way of being rated **total**. When service-connected conditions prevent substantially gainful employment, VA may pay compensation at the **100% rate** — even when the veteran's combined schedular rating is lower than 100%.

Three facts worth pinning down before anything else:

- TDIU pays at the 100% rate **instead of** your schedular rate — not on top of it.
- TDIU does **not** change your disability rating. The amount of your monthly compensation changes; your rating stays the same.
- TDIU is decided by VA on your full record. No checklist, tool, or third party can determine eligibility for you.

Where this is written down

The program is defined in **38 CFR 4.16** (schedular and extraschedular standards for unemployability), and VA explains eligibility in plain language on the official VA.gov unemployability page:

va.gov/disability/eligibility/special-claims/unemployability/

Verify everything below against that page or against an accredited representative before acting on it. VA rules and compensation rates change; no printed guide stays current on its own.

2 · The Schedular Gates (38 CFR 4.16(a))

To meet the schedular standard, a veteran must fit **one** of two rating doors — **plus** the employment picture from Section 3.

Door 1 — one condition at 60% or higher

A **single service-connected disability rated 60% or more** meets the schedular threshold on its own.

The regulation also groups certain related disabilities together as "one disability," including upper or lower extremities affected together (with the bilateral factor), disabilities with a common cause or from a single accident, disabilities of a single body system, multiple injuries in action, and POW circumstances. Grouping rules matter — discuss them with an accredited representative.

Door 2 — combined 70%, with one condition at 40% or higher

Both of these must be true:

- Two or more service-connected disabilities exist;
- At least one of them is rated 40% or more; **and**
- The combined rating is 70% or more.

VA combined-ratings math is not simple addition — ratings are applied in sequence against the remaining "whole person" (38 CFR 4.25/4.26). As an example, 50% + 30% + 10% combines to 70%, not 90%. The VA publishes a combined-ratings table for running the exact numbers.

Veteran status and discharge

TDIU also requires veteran status with a discharge other than dishonorable, and established service-connected disability — the same foundation every VA claim rests on.

If your ratings fall short of both doors, don't stop here. 38 CFR 4.16(b) creates an extraschedular path: veterans who are unemployable because of service-connected disabilities, but who miss the percentage standards — for example, because of frequent hospitalization — may be referred to the Director of Compensation Service for extraschedular consideration. It is a referral, not a denial.

3 · The Employment Rule

Ratings alone are not enough. VA must find that the veteran's **service-connected** disabilities prevent **substantially gainful employment**. The employment picture is the heart of TDIU — and the part veterans most often misunderstand.

What "substantially gainful employment" means

In plain English, it means **competitive work that pays above the federal poverty threshold** — a real, steady job that supports you financially. VA phrases it as the inability to "have a steady job that supports you financially" because of your service-connected disability.

Two things VA must do in this analysis:

- **Look only at service-connected conditions.** The regulation requires VA to disregard the existence or degree of non-service-connected disabilities — and even non-service-connected disabilities aggravated by service-connected ones. The question is what your service-connected conditions alone prevent.
- **Look at actual work capacity, not just ratings.** A rating percentage measures a condition's severity; TDIU measures whether the conditions, together, keep you from working.

Marginal employment does not disqualify you

Marginal employment generally does **not** count as substantially gainful employment. The regulation deems marginal employment to exist when a veteran's earned annual income does not exceed the **poverty threshold for one person** — and it can also be found on the facts of the case, including work in a **protected environment** such as a family business or a sheltered workshop.

Odd jobs and intermittent work generally fall outside substantially gainful employment. But the lines are fact-specific — this is exactly the kind of question to put to an accredited representative rather than answering alone.

4 · The Filing Checklist

VA decides on evidence. The items below are what the evidentiary file for a TDIU matter generally covers — review them for completeness with an accredited representative before anything is filed.

- ■ **VA Form 21-8940 — the TDIU application**
  "Veteran's Application for Increased Compensation Based on Unemployability." Understand what it covers; prepare and submit it together with your accredited representative. **VA Form 21-8940 (VA.gov)**

- ■ **VA Form 21-4192 — employer information**
  Completed by your most recent employer. If you are self-employed or have not worked recently, document why. **VA Form 21-4192 (VA.gov)**

- ■ **Full work history — and why each job ended**
  Every job with dates and duties, and the reason you left each one. A representative can help connect the relevant details to your service-connected conditions.

- ■ **Medical evidence linking unemployability to service-connected conditions**
  Treatment records documenting your conditions. A clinician can speak to how service-connected conditions affect work capacity — discuss medical questions with your doctor, and claim strategy with an accredited representative.

- ■ **Lay or buddy statements about work capacity**
  Statements from former coworkers, supervisors, or family describing what they observed: missed days, accommodations, tasks you couldn't do. These corroborate your account.

■ **An accredited representative reviews the file before filing**
A VSO, accredited attorney, or accredited claims agent can review your file. Verify accreditation before sharing your information with anyone: **va.gov/ogc/accreditation.asp**

Checking every box above means you have reviewed the criteria — it is **not** a VA determination and not a finding that anyone qualifies. Only VA decides on the full record.

5 · Common Misunderstandings

- **Myth:** “TDIU is a separate rating I stack on top of my rating.”

Reality: TDIU pays at the 100% compensation rate *instead of* the schedular rate. There is no TDIU + rating math.

- **Myth:** “Getting TDIU raises my disability rating.”

Reality: the disability rating stays the same; only the monthly compensation amount changes.

- **Myth:** “If my combined rating is below the gates, I can't get TDIU.”

Reality: the extraschedular path at 38 CFR 4.16(b) exists for veterans who are unemployable because of service-connected disabilities but miss the percentage standards. VA must consider referring those cases to the Director of Compensation Service.

- **Myth:** “Any work at all ends TDIU.”

Reality: marginal employment — generally earnings at or below the poverty threshold for one person, or work in a protected environment like a family business or sheltered workshop — does not count as substantially gainful employment. But working while on TDIU has rules, and the facts of any work arrangement matter. Discuss employment questions with an accredited representative before relying on general descriptions.

- **Myth:** “A checklist said I meet the criteria, so I'm approved.”

Reality: no checklist, tool, or person outside VA can determine eligibility. Eligibility is decided by VA on the full record — medical evidence, work history, and the regulatory criteria together. Use this checklist to prepare for a conversation with an accredited representative, not as a substitute for one.

- **Myth:** “I should pay someone to file this for me.”

Reality: only accredited VSOs, claims agents, and attorneys may represent claimants before VA (38 U.S.C. §§5901, 5905), and accredited agents and attorneys generally cannot charge fees until after a Notice of Disagreement is filed (38 U.S.C. 5904(c)). Accredited VSO help is free. Anyone selling a shortcut is selling something the law does not recognize.

6 · Official Sources — Verify Everything Here

Rules and rates change. Treat the list below as your verification starting point:

- **VA.gov — Individual Unemployability eligibility:** https://www.va.gov/disability/eligibility/special-claims/unemployability/
- **38 CFR 4.16 — Total disability ratings for compensation based on unemployability of the individual:** https://www.law.cornell.edu/cfr/text/38/4.16
- **VA Form 21-8940 — Veteran's Application for Increased Compensation Based on Unemployability:** https://www.va.gov/find-forms/about-form-21-8940/
- **VA Form 21-4192 — Request for Employment Information in Connection with Claim for Disability Benefits:** https://www.va.gov/find-forms/about-form-21-4192/
- **VA accreditation search — verify a representative's accreditation:** https://www.va.gov/ogc/accreditation.asp

One rule before you close this guide: no printed checklist stays current on its own, and no general description replaces review of your own record. Take these pages to an accredited representative — a VSO, accredited attorney, or accredited claims agent — for a real review of your situation.

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