INTERNAL REVENUE SERVICE

IRS Fact Sheet

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EITC Eligibility Rules Outlined

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The Earned Income Tax Credit (EITC) is a tax credit for people who work but do not earn high incomes. The EITC is a valuable tool helping eligible taxpayers to lower their taxes or to claim a refund. The IRS wants all eligible taxpayers to claim this credit.

Many taxpayers who qualify for EITC may also be eligible for free tax preparation and electronic filing by participating tax professionals and volunteers. Taxpayers and tax professionals should review the rules before attempting to claim the EITC.

Do You Qualify for EITC?

To qualify, you must meet certain requirements and file a U.S. Individual Income Tax Return. As described below, some EITC rules apply to everyone. There are also special rules for people who have children and for those who do not.

Individuals and families must meet certain general requirements:

- You must have earned income.
- You must have a valid Social Security number for yourself, your spouse (if married filing jointly) and your qualifying child.
- Investment income is limited to $2,950.
- Your filing status cannot be “married filing separately.”
- Generally, you must be a U.S. citizen or resident alien all year.
- You cannot be a qualifying child of another person.
- You cannot file Form 2555 or Form 2555-EZ (related to foreign earned income).

Your income cannot exceed certain limitations. For Tax Year 2008, you must have adjusted gross income of less than:

- $38,646 ($41,646 if married filing jointly) with two or more qualifying children.
- $33,995 ($36,995 if married filing jointly) with one qualifying child.
- $12,880 ($15,880 if married filing jointly) with no qualifying children.

If you claim a child, he or she must meet three eligibility tests:

- Residency Test — The child must have lived with you in the United States for more than half of 2008.
- Relationship Test — The child must be your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them. Your child includes:
  - A foster child who was placed with you by an authorized placement agency, or by judgment, decree, or other order of any court of competent jurisdiction
  - A legally adopted child or a child lawfully placed with you for legal adoption
- Age test — At the end of 2008, the child must have been under age 19, a full-time student under age 24 or any age if permanently and totally disabled at anytime during 2008.

Your qualifying child cannot be used by more than one person to claim EITC. If a child meets the rules to be a qualifying child of more than one person, only one person can treat that child as a qualifying child and claim EITC.

If you don't have a child, you must meet three additional tests:

- At the end of 2008, you must have been at least age 25, but under age 65.
- You cannot qualify as the dependent of another person.
- You must have lived in the United States for more than half of 2008.

Credit Limits for 2008 Tax Year

Income and family size determine the amount of the EITC. The Earned Income Credit Table, which shows the credit amounts, is included in the Instruction booklet for Form 1040 and in Publication 596, Earned Income Credit.

For tax year 2008, the maximum credit amounts are:

- Two or more children — $4,824
- One child — $2,917
- No children — $438

Combat Zone Pay

Members of the military have the option to include their tax exempt combat zone pay when computing their earned income for EITC. The combat pay remains exempt for federal taxes. However, families should be aware that they must include all of the combat pay or none of it. For example, if the inclusion of combat pay would push a taxpayer's adjusted gross income above the EITC income limit, taxpayers should leave it out of their EITC calculations. If, however, the inclusion of combat pay would enable a taxpayer to obtain a higher refund, then combat pay should be included.

On-Line Tools

If you are in doubt about your eligibility, you or your tax preparer may use the new EITC Assistant on the IRS Web site. The EITC Assistant, available in English and Spanish, will help you determine your eligibility by answering a few simple questions. For tax professionals, there is an electronic tool kit at EITC Central.

Avoid Common Errors

You are responsible for the accuracy of your tax return. The rules for EITC can be complicated, so you should seek assistance if you are unsure of your eligibility. Some common EITC errors are:

- Claiming a child who is not a qualifying child.
- Filing as “single” or “head of household” when the taxpayer actually is married.
- Reporting incorrect income amounts.
- Missing or Incorrect Social Security numbers — for both taxpayers and qualifying children.

The IRS continues to work on ways to reduce these errors. If you receive a letter from the IRS requesting additional information about your EITC, please reply immediately to avoid delaying your EITC refund. If you need assistance or if you have questions, you should call the number included in the IRS letter.

Beware of Scams

A deliberate error can have lasting impact on your eligibility to claim EITC. Beware of scams that claim to increase your EITC refund. Scams that create fictitious qualifying children or inflate income levels to get the maximum EITC could leave you with a penalty. If your EITC claim was reduced or denied after tax year 1996 for any reason other than a mathematical or clerical error, you must file Form 8862, Information To Claim Earned Income Credit After Disallowance, with your next return if you wish to claim the credit.

How to Claim EITC

Publication 596, Earned Income Credit, explains the process. The publication is available on this Web site or by calling 1-800-829-3676. Publication 596 also is available in Spanish. The Instructions for Form 1040 can help you determine your eligibility.

The instructions contain a worksheet and the earned income credit table to help you determine the amount of your credit. If you are claiming the EITC with a qualifying child, you must complete Schedule EIC and attach it to your tax return. Schedule EIC provides IRS with information about your qualifying children, including their names, ages, SSNs, relationship to you and the amount of time they lived with you during the year.

How to Get Tax Help

Taxpayers can find help in determining eligibility by using the new EITC Assistant on the IRS Web site.

Taxpayers who qualify for EITC should explore available free tax preparation services. The IRS provides assistance to low-income taxpayers at more than 400 IRS offices nationwide. We also partner with local community and non-profit organizations to provide free tax return preparation for low-income and elderly taxpayers at more than 12,000 volunteer sites nationwide. Other options include the use of Free File, the free tax preparation and electronic filing program provided by software companies.

Many e-file software providers and tax professionals also provide free services for low income taxpayers. To find a free tax site in your area, call the IRS at 1-800-906-9887.

EITC recipients should remember they can get faster access to their refund by using direct deposit. If you use IRS e-file and direct deposit, you could have your refund in half the time of a paper return.

Advance Earned Income Tax Credit

If you received advance EITC payments in 2008, you must file a tax return to report the payments. Your W-2 form will report your advance EITC amount. You cannot use a Form 1040-EZ to report advance payments.

The advance EITC payment program allows you to receive part of the credit through your employer. If you would like to participate for 2009, you must work and receive taxable wages. If you qualify for EITC and you have at least one qualifying child for 2008, give your employer a Form W-5, Earned Income Credit Advance Payment Certificate, and your employer will include part of the credit regularly in your pay.

The maximum Advance EITC for 2009 is $1,750.

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