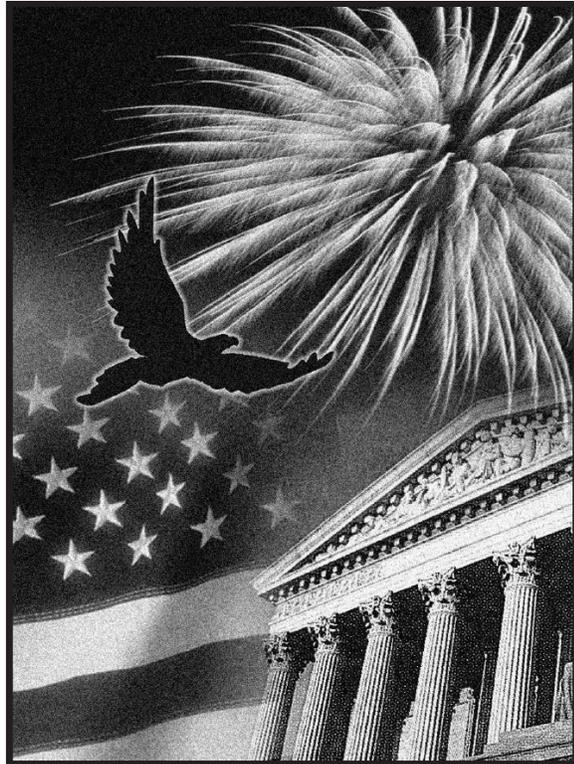


Publication 596

Earned Income Credit (EIC)

For use in preparing **2023** Returns

Volume 1 of 2



Get forms and other information faster and easier at:

- [IRS.gov](https://www.irs.gov) (English)
- [IRS.gov/Korean](https://www.irs.gov/Korean) (한국어)
- [IRS.gov/Spanish](https://www.irs.gov/Spanish) (Español)
- [IRS.gov/Russian](https://www.irs.gov/Russian) (Русский)
- [IRS.gov/Chinese](https://www.irs.gov/Chinese) (中文)
- [IRS.gov/Vietnamese](https://www.irs.gov/Vietnamese) (Tiếng Việt)



Department of the Treasury
Internal Revenue Service

Publication 596 (Rev. 2023) Catalog Number 39307C
Department of the Treasury **Internal Revenue Service** www.irs.gov



Visit the Accessibility
Page on [IRS.gov](https://www.irs.gov)

This page is intentionally left blank

Contents

Topic	Regular Page	Large Print Page
What's New for 2023	3	14
Reminders	3	15
Chapter 1. Rules for Everyone	4	22
Rule 1—Adjusted Gross Income (AGI) Limits	4	22
Rule 2—You Must Have a Valid Social Security Number (SSN)	4	24
Rule 3—If You Are Separated From Your Spouse and Not Filing a Joint Return, You Must Meet Certain Rules	5	29
Rule 4—You Must Be a U.S. Citizen or Resident Alien All Year	5	31

Rule 5—You Cannot File Form 2555	6	32
Rule 6—Your Investment Income Must Be \$11,000 or Less	6	32
Rule 7—You Must Have Earned Income	7	35
Chapter 2. Rules if You Have a Qualifying Child	9	46
Rule 8—Your Child Must Meet the Relationship, Age, Residency, and Joint Return Tests	9	48
Rule 9—Your Qualifying Child Cannot Be Used by More Than One Person To Claim the EIC	12	67
Rule 10—You Cannot Be a Qualifying Child of Another Taxpayer	15	84

Chapter 3. Rules If You Do Not Have a Qualifying Child	16	89
Rule 11—You Must Meet the Age Requirements	16	90
Rule 12—You Cannot Be the Dependent of Another Person	16	93
Rule 13—You Cannot Be a Qualifying Child of Another Taxpayer	17	99
Rule 14—You Must Have Lived in the United States More Than Half of the Year	18	104
Chapter 4. Figuring and Claiming the EIC	18	106
Rule 15—Earned Income Limits	18	106
IRS Will Figure the EIC for You	19	112
How To Figure the EIC Yourself	19	113

Chapter 5. Disallowance of the EIC	20	118
Chapter 6. Detailed Examples	21	127
EIC Eligibility Checklist	22	133
How To Get Tax Help	22	135
2023 EIC Table	27	161
Index	38	173

Future Developments

For the latest information about developments related to Pub. 596, such as legislation enacted after it was published, go to [IRS.gov/Pub596](https://www.irs.gov/pub596).

What Is the EIC?

The EIC is a tax credit for certain people who work and have earned income under \$63,398. A tax credit usually means more money in your pocket. It reduces the amount of tax you owe. The EIC may also give you a refund.

Can I Claim the EIC?

To claim the EIC, you must meet certain rules. These rules are summarized in Table 1.

This page is intentionally left blank

Table 1. Earned Income Credit in a Nutshell

First, you must meet all the rules in this column.		Second, you must meet all the rules in <i>one</i> of these columns, whichever applies.		Third, you must meet the rule in this column.
Chapter 1. Rules for Everyone		Chapter 2. Rules If You Have a Qualifying Child	Chapter 3. Rules If You Do Not Have a Qualifying Child	Chapter 4. Figuring and Claiming the EIC
<p>1. Your adjusted gross income (AGI) must be less than:</p> <ul style="list-style-type: none"> • \$56,838 (\$63,398 for married filing jointly) if you have three or more qualifying children who have valid social security numbers (SSNs), • \$52,918 (\$59,478 for married filing jointly) if you have two qualifying children who have valid SSNs, • \$46,560 (\$53,120 for married filing jointly) if you have one qualifying child who has a valid SSN, or • \$17,640 (\$24,210 for married filing jointly) if you don't have a qualifying child who has a valid SSN. 	<p>2. You must have a valid social security number (SSN) by the due date of your 2023 return (including extensions).</p> <p>3. You must meet certain requirements if you are separated from your spouse and not filing a joint return.</p> <p>4. You must be a U.S. citizen or resident alien all year.</p> <p>5. You can't file Form 2555 (relating to foreign earned income).</p> <p>6. Your investment income must be \$11,000 or less.</p> <p>7. You must have earned income.</p>	<p>8. Your child must meet the relationship, age, residency, and joint return tests.</p> <p>9. Your qualifying child can't be used by more than one person to claim the EIC.</p> <p>10. You can't be a qualifying child of another person.</p>	<p>11. You must meet the age requirements.</p> <p>12. You can't be the dependent of another person.</p> <p>13. You can't be a qualifying child of another person.</p> <p>14. You must have lived in the United States more than half of the year.</p>	<p>15. Your earned income must be less than:</p> <ul style="list-style-type: none"> • \$56,838 (\$63,398 for married filing jointly) if you have three or more qualifying children who have valid SSNs, • \$52,918 (\$59,478 for married filing jointly) if you have two qualifying children who have valid SSNs, • \$46,560 (\$53,120 for married filing jointly) if you have one qualifying child who has a valid SSN, or • \$17,640 (\$24,210 for married filing jointly) if you don't have a qualifying child who has a valid SSN.

This page is intentionally left blank

Do I Need This Publication?

Certain people who file Form 1040 or 1040-SR must use Worksheet 1 in this publication, instead of Step 2 in their Form 1040 instructions, when they are checking whether they can take the EIC. You are one of those people if any of the following statements are true for 2023.

- You are filing Schedule E (Form 1040).
- You are reporting income from the rental of personal property not used in a trade or business.
- You are reporting income on Schedule 1 (Form 1040), line 8z, from Form 8814 (relating to election to report child's interest and dividends).
- You have income or loss from a passive activity.

- You are reporting an amount on Form 1040 or 1040-SR, line 7, that includes an amount from Form 4797.

If none of the statements above apply to you, your tax form instructions may have all the information you need to find out if you can claim the EIC and to figure your EIC. You may not need this publication. But you can read it to find out whether you can take the EIC and to learn more about the EIC.

Do I Have To Have a Child To Qualify for the EIC?

No, you can qualify for the EIC without a qualifying child if you are at least age 25 but under age 65 and your earned income is less than \$17,640 (\$24,210 if married filing jointly). See chapter 3.

How Do I Figure the Amount of EIC?

If you can claim the EIC, you can either have the IRS figure your credit, or you can figure it yourself. To figure it yourself, you can complete a worksheet in the instructions for the form you file. To find out how to have the IRS figure it for you, see chapter 4.

How Can I Quickly Locate Specific Information?

You can use the index to look up specific information. In most cases, index entries will point you to headings, tables, or a worksheet.

Is There Help Online?

Yes. You can use the EITC Qualification Assistant at [IRS.gov/EITC](https://www.irs.gov/EITC) to find out if you may be eligible for the credit. The EITC Qualification Assistant is available in English and Spanish.

What's New for 2023

Earned income amount. The maximum amount of income you can earn and still get the credit has changed.

You may be able to take the credit if:

- You have three or more qualifying children who have valid SSNs and you earned less than \$56,838 (\$63,398 if married filing jointly),
- You have two qualifying children who have valid SSNs and you earned less than \$52,918 (\$59,478 if married filing jointly),
- You have one qualifying child who has a valid SSN and you earned less than \$46,560 (\$53,120 if married filing jointly),
or
- You don't have a qualifying child who has a valid SSN and you earned less than \$17,640 (\$24,210 if married filing jointly).

Your AGI must also be less than the amount just listed that applies to you. For details, see *Rules 1 and 15*.

Investment income amount. The maximum amount of investment income you can have and still get the credit is \$11,000. See [Rule 6 Your Investment Income Must Be \\$11,000 or Less](#).

Reminders

Self-only EIC. If your qualifying child is treated under the tiebreaker rules as the qualifying child of another person for 2023, you may be able to take the EIC using the rules in chapter 3 for taxpayers who don't have a qualifying child.

File Schedule EIC (Form 1040) if you have a qualifying child. If you have at least one child who meets the conditions to be your qualifying child for purposes of

claiming the EIC, complete and attach Schedule EIC to your Form 1040 or 1040-SR even if that child doesn't have a valid SSN. For more information, including how to complete Schedule EIC if your qualifying child doesn't have a valid SSN, see Schedule EIC.

Increased EIC on certain joint returns. A married person filing a joint return may get more EIC than someone with the same income but a different filing status. As a result, the EIC Table has different columns for married persons filing jointly than for everyone else. When you look up your EIC in the EIC Table, be sure to use the correct column for your filing status and the number of qualifying children with a valid SSN you have.

Separated spouses. If you are married, but don't file a joint return, you may qualify to claim the EIC. See [Rule 3—If You Are Separated From Your Spouse and Not Filing a](#)

[Joint Return, You Must Meet Certain Rules](#), for more information.

EIC has no effect on certain welfare benefits. Any refund you receive because of the EIC can't be counted as income when determining whether you or anyone else is eligible for benefits or assistance, or how much you or anyone else can receive, under any federal program or under any state or local program financed in whole or in part with federal funds. These programs include the following.

- Temporary Assistance for Needy Families (TANF).
- Medicaid.
- Supplemental Security Income (SSI).
- Supplemental Nutrition Assistance Program (food stamps).
- Low-income housing.

In addition, when determining eligibility, the refund can't be counted as a resource for at least 12 months after you receive it. Check with your local benefit coordinator to find out if your refund will affect your benefits.

Medicaid waiver payments. For information on how Medicaid waiver payments are treated for purposes of the EIC, see [Earned Income](#).

Don't overlook your state credit. If you can claim the EIC on your federal income tax return, you may be able to take a similar credit on your state or local income tax return. For a list of states that offer a state EIC, go to [IRS.gov/EITC](https://www.irs.gov/EITC).

EIC questioned by IRS. The IRS may ask you to provide documents to prove you are entitled to claim the EIC. We will tell you what documents to send us. These may include birth certificates, school records, etc. The

process of establishing your eligibility will delay your refund.

Spanish version of Pub. 596. Pub. 596(SP), Crédito por Ingreso del Trabajo, is a Spanish translation of Pub. 596. Go to [IRS.gov/Pub596SP](https://www.irs.gov/pub596sp). Or see [Ordering forms and publications](#) or [How To Get Tax Help](#), later, to find out how to order this and other IRS forms and publications.

Photographs of missing children. The Internal Revenue Service is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](#). Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 800-THE-LOST (800-843-5678) if you recognize a child.

Comments and suggestions. We welcome your comments about this publication and suggestions for future editions.

You can send us comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or, you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications. **Don't** send tax questions, tax returns, or payments to the above address.

Getting answers to your tax questions. If you have a tax question not answered by this publication or the [How To Get Tax Help](#) section at the end of this publication, go to the IRS Interactive Tax Assistant page at [IRS.gov/ Help/ITA](https://www.irs.gov/Help/ITA) where you can find topics

by using the search feature or viewing the categories listed.

Getting tax forms, instructions, and

publications. Go to [IRS.gov/Forms](https://www.irs.gov/forms) to download current and prior-year forms, instructions, and publications.

Ordering tax forms, instructions, and

publications. Go to [IRS.gov/OrderForms](https://www.irs.gov/orderforms) to order current forms, instructions, and publications; call 800-829-3676 to order prior-year forms and instructions. The IRS will process your order for forms and publications as soon as possible. **Don't** resubmit requests you've already sent us. You can get forms and publications faster online.

1.

Rules for Everyone

This chapter discusses Rules 1 through 7. You must meet all seven rules to qualify for the EIC. If you don't meet all seven rules, you can't get the credit and you don't need to read the rest of the publication.

If you meet all seven rules in this chapter, then read either chapter 2 or chapter 3 (whichever applies) for more rules you must meet.

Rule 1—Adjusted Gross Income (AGI) Limits

Your adjusted gross income (AGI) must be less than:

- \$56,838 (\$63,398 for married filing jointly) if you have three or more qualifying children who have valid SSNs,

- \$52,918 (\$59,478 for married filing jointly) if you have two qualifying children who have valid SSNs,
- \$46,560 (\$53,120 for married filing jointly) if you have one qualifying child who has a valid SSN, or
- \$17,640 (\$24,210 for married filing jointly) if you don't have a qualifying child who has a valid SSN.

Adjusted gross income (AGI). AGI is the amount on Form 1040 or 1040-SR, line 11.

If your AGI is equal to or more than the applicable limit listed above, you can't claim the EIC. You don't need to read the rest of this publication.

Example—AGI is more than limit. Your AGI is \$50,000, you are single, and you have one qualifying child who has a valid SSN. You can't claim the EIC because your AGI isn't less than \$46,560. However, if your filing status was married filing jointly, you might be

able to claim the EIC because your AGI is less than \$53,120.

Community property. If you are married, but qualify to file as head of household or married filing separately under special rules for married taxpayers living apart (see *Rule 3*), and live in a state that has community property laws, your AGI includes that portion of both your and your spouse's wages that you are required to include in gross income. This is different from the community property rules that apply under *Rule 7*.

Rule 2—You Must Have a Valid Social Security Number (SSN)

To claim the EIC, you (and your spouse, if filing a joint return) must have a valid SSN issued by the Social Security Administration (SSA) by the due date of your 2023 return (including extensions).

Your qualifying child must have a valid SSN issued on or before the due date of your return (including extensions) for you to claim a higher EIC amount based on that child. If you have at least one child who meets the conditions to be your qualifying child for purposes of claiming the EIC, but that child doesn't have a valid SSN issued on

or before the due date of your 2023 return (including extensions), you may be eligible to claim a self-only EIC if you are otherwise eligible. For information about how to complete Schedule EIC if your qualifying child or children don't have valid SSNs issued on or before the due date of your return, see Schedule EIC.

An SSN is valid for the EIC unless it was issued after the due date of your 2023 return (including extensions) or it was issued solely to apply for or receive a federally funded benefit and does not authorize you to work.

An example of a federally funded benefit is Medicaid.



If you, your spouse, or your child has a social security card with "Not valid for employment" printed on it and the immigration status of you, your spouse, or your child has changed so that the individual is now a U.S. citizen or permanent resident, ask the SSA for a social security card without the legend.

U.S. citizen. If you were a U.S. citizen when you received your SSN, you have a valid SSN.

Valid for work only with INS authorization or DHS authorization. If your social security card reads "Valid for work only with INS authorization" or "Valid for work only with DHS authorization," you have a valid SSN, but only if that authorization is still valid.

SSN missing or incorrect. If an SSN for you or your spouse is missing from your tax

return or is incorrect, you may not get the EIC.

If an SSN for you or your spouse is missing from your return because either you or your spouse didn't have a valid SSN on or before the due date of your 2023 return (including extensions) and you later get a valid SSN, you can't file an amended return to claim the EIC. However, if you or your spouse were issued an SSN that wasn't valid for the EIC, but by the due date of your 2023 return (including extensions) you or your spouse became eligible for a social security card without "Not valid for employment" printed on it, you may claim the EIC on an original or amended 2023 return even if the social security card wasn't updated by the due date of your 2023 return (including extensions).

Other taxpayer identification number.

You can't get the EIC if, instead of an SSN, you (or your spouse, if filing a joint return) have an individual taxpayer identification

number (ITIN). ITINs are issued by the IRS to noncitizens who can't get an SSN.

No SSN. If you don't have a valid SSN on or before the due date of your 2023 return (including extensions), enter "No" on the dotted line next to line 27 (Form 1040 or 1040-SR). You can't claim the EIC on either your original or an amended 2023 return.

Getting an SSN. If you (or your spouse, if filing a joint return) don't have an SSN, you can apply for one by filing Form SS-5 with the SSA. You can get Form SS-5 online at [SSA.gov/forms/ss-5.pdf](https://ssa.gov/forms/ss-5.pdf), from your local SSA office, or by calling the SSA at 800-772-1213.

Filing deadline approaching and still no SSN. If the filing deadline is approaching and you still don't have an SSN, you can request an automatic 6-month extension of time to file your return. You can get this extension by filing Form 4868, Application for Automatic Extension of Time To File U.S. Individual

Income Tax Return. For more information, see the instructions for Form 4868. Instead of filing Form 4868, you can apply for an automatic extension by making an electronic payment by the due date of your return.

Rule 3—If You Are Separated From Your Spouse and Not Filing a Joint Return, You Must Meet Certain Rules

If you are married, you must usually file a joint return to claim the EIC. However, there is a special rule for separated spouses.

Special rule for separated spouses. You can claim the EIC if you are married, not filing a joint return, had a qualifying child who lived with you for more than half of 2023, and either of the following apply.

- You lived apart from your spouse for the last 6 months of 2023, or

- You are legally separated according to your state law under a written separation agreement or a decree of separate maintenance and you didn't live in the same household as your spouse at the end of 2023.

If you meet these requirements, check the box at the top of Schedule EIC (Form 1040).



Make sure you complete and attach Schedule EIC to your return to list your qualifying child (or children).

Complete and attach Schedule EIC whether or not your qualifying child (or children) has a valid SSN.



If the child who meets the conditions to be your qualifying child for purposes of claiming the EIC doesn't

have a valid SSN, you may still qualify to claim a self-only EIC.

Rule 4—You Must Be a U.S. Citizen or Resident Alien All Year

If you were a nonresident alien for any part of the year, you can't claim the EIC unless your filing status is married filing jointly. You can use that filing status only if your spouse is a U.S. citizen or resident alien and you choose to be treated as a U.S. resident. If you make this choice, you and your spouse are taxed on your worldwide income. If you need more information on making this choice, get Pub. 519, U.S. Tax Guide for Aliens. If you were a nonresident alien for any part of the year and your filing status isn't married filing jointly, enter "No" on the dotted line next to line 27 (Form 1040 or 1040-SR).

Rule 5—You Cannot File Form 2555

You can't claim the EIC if you file Form 2555, Foreign Earned Income. You file these forms to exclude income earned in foreign countries from your gross income, or to deduct or exclude a foreign housing amount. U.S. territories aren't foreign countries. See Pub. 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad, for more detailed information.

Rule 6—Your Investment Income Must Be \$11,000 or Less

You can't claim the EIC unless your investment income is \$11,000 or less. If your investment income is more than \$11,000, you can't claim the credit.

Use Worksheet 1 in this chapter to figure your investment income.

Worksheet 1. **Investment Income**

Keep for Your Records 

Use this worksheet to figure investment income for the EIC when you file Form 1040 or 1040-SR.

Interest and Dividends	
1. Enter any amount from Form 1040 or 1040-SR, line 2b	1. _____
2. Enter any amount from Form 1040 or 1040-SR, line 2a, plus any amount on Form 8814, line 1b	2. _____
3. Enter any amount from Form 1040 or 1040-SR, line 3b	3. _____
4. Enter the amount from Schedule 1 (Form 1040), line 8z, that is from Form 8814 if you are filing that form to report your child's interest and dividend income on your return. (If your child received an Alaska Permanent Fund dividend, use Worksheet 2 in this chapter to figure the amount to enter on this line.)	4. _____
Capital Gain Net Income	
5. Enter the amount from Form 1040 or 1040-SR, line 7. If the amount on that line is a loss, enter -0-	5. _____
6. Enter any gain from Form 4797, Sales of Business Property, line 7. If the amount on that line is a loss, enter -0-. (But, if you completed lines 8 and 9 of Form 4797, enter the amount from line 9 instead.)	6. _____
7. Subtract line 6 of this worksheet from line 5 of this worksheet. (If the result is less than zero, enter -0-.)	7. _____
Royalties and Rental Income From Personal Property	
8. Enter any royalty income from Schedule E, line 23b, plus any income from the rental of personal property shown on Schedule 1 (Form 1040), line 8l	8. _____
9. Enter any expenses from Schedule E, line 20, related to royalty income, plus any expenses from the rental of personal property deducted on Schedule 1 (Form 1040), line 24b	9. _____
10. Subtract the amount on line 9 of this worksheet from the amount on line 8. (If the result is less than zero, enter -0-.)	10. _____
Passive Activities	
11. Enter the total of any net income from passive activities (such as income included on Schedule E, line 26, 29a (col. (h)), 34a (col. (d)), or 40; or an ordinary gain identified as "FPA" on Form 4797, line 10). (See instructions below for lines 11 and 12.)	11. _____
12. Enter the total of any losses from passive activities (such as losses included on Schedule E, line 26, 29b (col. (g)), 34b (col. (c)), or 40; or an ordinary loss identified as "PAL" on Form 4797, line 10). (See instructions below for lines 11 and 12.)	12. _____
13. Combine the amounts on lines 11 and 12 of this worksheet. (If the result is less than zero, enter -0-.)	13. _____
14. Add the amounts on lines 1, 2, 3, 4, 7, 10, and 13. Enter the total. This is your investment income	14. _____
15. Is the amount on line 14 more than \$11,000? <input type="checkbox"/> Yes. You can't take the credit. <input type="checkbox"/> No. Go to <i>Step 3</i> of the Form 1040 instructions for line 27 to find out if you can take the credit (unless you are using this publication to find out if you can take the credit; in that case, go to <i>Rule 7</i> next).	
Instructions for lines 11 and 12. In figuring the amount to enter on lines 11 and 12, don't take into account any royalty income (or loss) included on line 26 of Schedule E or any income (or loss) included in your earned income or on line 1, 2, 3, 4, 7, or 10 of this worksheet. To find out if the income on line 26 or line 40 of Schedule E is from a passive activity, see the Schedule E instructions. If any of the rental real estate income (or loss) included on Schedule E, line 26, isn't from a passive activity, enter "NPA" and the amount of that income (or loss) on the dotted line next to line 26.	

Worksheet 2. **Worksheet for Line 4 of Worksheet 1**

Keep for Your Records 

Complete this worksheet only if Form 8814 includes an Alaska Permanent Fund dividend.

Note. Fill out a separate Worksheet 2 for each Form 8814.

- | | | | |
|-----|---|-----|-------|
| 1. | Enter the amount from Form 8814, line 2a | 1. | _____ |
| 2. | Enter the amount from Form 8814, line 2b | 2. | _____ |
| 3. | Subtract line 2 from line 1 | 3. | _____ |
| 4. | Enter the amount from Form 8814, line 1a | 4. | _____ |
| 5. | Add lines 3 and 4 | 5. | _____ |
| 6. | Enter the amount of the child's Alaska Permanent Fund dividend | 6. | _____ |
| 7. | Divide line 6 by line 5. Enter the result as a decimal (rounded to at least three places) | 7. | _____ |
| 8. | Enter the amount from Form 8814, line 12 | 8. | _____ |
| 9. | Multiply line 7 by line 8 | 9. | _____ |
| 10. | Subtract line 9 from line 8. Enter the result on line 4 of Worksheet 1 | 10. | _____ |

(If filing more than one Form 8814, enter on line 4 of Worksheet 1 the total of the amounts on line 10 of all Worksheets 2.)

Rule 7—You Must Have Earned Income

This credit is called the “earned income” credit because, to qualify, you must work and have earned income. If you are married and file a joint return, you meet this rule if at least one spouse works and has earned income. If you are an employee, earned income includes all the taxable income you get from your employer.

Rule 15 has information that will help you figure the amount of your earned income. If you are self-employed or a statutory employee, you will figure your earned income on EIC Worksheet B in the Form 1040 instructions.

Earned Income

Earned income includes all of the following types of income.

1. Wages, salaries, tips, and other taxable employee pay. Employee pay is earned income only if it is taxable. Nontaxable employee pay, such as certain dependent care benefits and adoption benefits, isn't earned income. But there is an exception for nontaxable combat pay, which you can choose to include in earned income, as explained later in this chapter.
2. Net earnings from self-employment.
3. Gross income received as a statutory employee.

Wages, salaries, and tips reported in box 1 of Form(s) W-2. Wages, salaries, and tips you receive for working are reported to you on Form W-2, in box 1. You should report these on Form 1040 or 1040-SR, line 1a.

Other types of earned income. Other types of earned income not reported on Form W-2, in box 1, include household employee wages, tip income not reported to your employer, certain Medicaid waiver payments if you choose to include nontaxable payments in earned income for purposes of claiming the EIC, taxable dependent care benefits, employer provided adoption benefits from Form 8839, wages from Form 8919, and other earned income. You should report these on Form 1040 or 1040-SR, lines 1b through 1h.

Nontaxable combat pay election. You can elect to include your nontaxable combat pay in earned income for the EIC. The amount of your nontaxable combat pay should be shown on your Form W-2, in box 12, with code Q. Electing to include nontaxable combat pay in earned income may increase or decrease your EIC. For details, see [Nontaxable combat pay](#) in chapter 4.

Net earnings from self-employment. You may have net earnings from self-employment if:

- You own your own business, or
- You are a minister or member of a religious order.

Minister's housing. The rental value of a home or a housing allowance provided to a minister as part of the minister's pay generally isn't subject to income tax but is included in net earnings from self-employment. For that reason, it is included in earned income for the EIC (except in the cases described in [Approved Form 4361 or Form 4029](#) below).

Statutory employee. You are a statutory employee if you receive a Form W-2 on which the "Statutory employee" box (box 13) is checked. You report your income and expenses as a statutory employee on Schedule C (Form 1040).

Strike and lockout benefits. Benefits paid to you as strike or lockout benefits, including both cash and the fair market value of other property (other than bona fide gifts), are generally taxable to you. If strike and lockout benefits are taxable, the benefits are generally earned income. You should report the amount of your taxable strike and lockout benefits on Form 1040 or 1040-SR, line 1h.

Approved Form 4361 or Form 4029

This section is for persons who have an approved:

- Form 4361, Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders, and Christian Science Practitioners, or
- Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

Each approved form exempts certain income from social security taxes. Each form is discussed here in terms of what is or isn't earned income for the EIC.

Form 4361. Whether or not you have an approved Form 4361, amounts you received for performing ministerial duties as an employee count as earned income. This includes wages, salaries, tips, and other taxable employee compensation.

If you have an approved Form 4361, a nontaxable housing allowance or the nontaxable rental value of a home isn't earned income. Also, amounts you received for performing ministerial duties, but not as an employee, don't count as earned income. Examples include fees for performing marriages and honoraria for delivering speeches.

Form 4029. Whether or not you have an approved Form 4029, all wages, salaries,

tips, and other taxable employee compensation count as earned income. However, amounts you received as a self-employed individual don't count as earned income. Also, in figuring earned income, don't subtract losses on Schedule C or F from wages reported on lines 1a through 1h of Form 1040 or 1040-SR.

Disability Benefits

If you retired on disability, taxable benefits you receive under your employer's disability retirement plan are considered earned income until you reach minimum retirement age. Minimum retirement age is generally the earliest age at which you could have received a pension or annuity if you weren't disabled. You must report your taxable disability payments on line 1h of Form 1040 or 1040-SR until you reach minimum retirement age.

Beginning on the day after you reach minimum retirement age, payments you

receive are taxable as a pension and aren't considered earned income. Report taxable pension payments on Form 1040 or 1040-SR, lines 5a and 5b.

Disability insurance payments. Payments you received from a disability insurance policy that you paid the premiums for aren't earned income. It doesn't matter whether you have reached minimum retirement age. If this policy is through your employer, the amount may be shown in box 12 of your Form W-2 with code J.

Income That Is Not Earned Income

Examples of items that aren't earned income include interest and dividends, pensions and annuities, social security and railroad retirement benefits (including disability benefits), alimony and child support, welfare benefits, workers' compensation benefits, unemployment compensation (insurance), nontaxable foster care payments, and

veterans' benefits, including VA rehabilitation payments. Don't include any of these items in your earned income.

Earnings while an inmate. Amounts received for services performed while an inmate in a penal institution aren't earned income when figuring the EIC.

Workfare payments. Nontaxable workfare payments aren't earned income for the EIC. These are cash payments certain people receive from a state or local agency that administers public assistance programs funded under the federal TANF program in return for certain work activities such as (1) work experience activities (including remodeling or repairing public housing) if sufficient private sector employment isn't available, or (2) community service program activities.

Community property. If you are married, but qualify to file as head of household or

married filing separately under special rules for married taxpayers living apart (see *Rule 3*), and live in a state that has community property laws, your earned income for the EIC doesn't include any amount earned by your spouse that is treated as belonging to you under those laws. That amount isn't earned income for the EIC, even though you must include it in your gross income on your income tax return. Your earned income includes the entire amount you earned, even if part of it is treated as belonging to your spouse under your state's community property laws.

Nevada, Washington, and California domestic partners. If you are a registered domestic partner in Nevada, Washington, or California, the same rules apply. Your earned income for the EIC doesn't include any amount earned by your partner. Your earned income includes the entire amount you earned. For details, see Pub. 555.

Conservation Reserve Program (CRP) payments. If you were receiving social security retirement benefits or social security disability benefits at the time you received any CRP payments, your CRP payments aren't earned income for the EIC.

Nontaxable military pay. Nontaxable pay for members of the Armed Forces isn't considered earned income for the EIC. Examples of nontaxable military pay are combat pay, the Basic Allowance for Housing (BAH), and the Basic Allowance for Subsistence (BAS). See Pub. 3, *Armed Forces' Tax Guide*, for more information.



Combat pay. You can elect to include your nontaxable combat pay in earned income for the EIC. See [*Nontaxable combat pay*](#) in chapter 4.

2.

Rules if You Have a Qualifying Child

If you have met all the rules in chapter 1, use this chapter to see if you have a qualifying child. This chapter discusses *Rules 8* through *10*. You must meet all three of those rules, in addition to the rules in chapters 1 and 4, to qualify for the EIC with a qualifying child.

Follow these rules if you have a child who meets the conditions to be your qualifying child for purposes of claiming the EIC, even if the child who qualifies you to claim the EIC doesn't have a valid SSN issued on or before the due date of your 2023 return (including extensions).

When you file Form 1040 or 1040-SR, you must attach Schedule EIC to your return if you have at least one child who meets the conditions to be your qualifying child for

purposes of claiming the EIC, even if that child doesn't have a valid SSN issued on or before the due date of your return (including extensions). For information about how to complete Schedule EIC if your qualifying child or children don't have valid SSNs, see Schedule EIC. If you meet all the rules in chapter 1 and this chapter, read chapter 4 to find out what to do next.

No qualifying child. If you don't meet *Rule 8*, you don't have a qualifying child. Read chapter 3 to find out if you can get the EIC without a qualifying child.



If your child meets the tests to be your qualifying child, but also meets the tests to be the qualifying child of another person, only one of you can actually treat the child as a qualifying child to claim the EIC. If the other person can claim the child under the tiebreaker rules, you can't claim the EIC as a taxpayer with a qualifying child unless you have another qualifying child.

However, you may be able to claim the EIC without a qualifying child.

Rule 8—Your Child Must Meet the Relationship, Age, Residency, and Joint Return Tests

Your child is a qualifying child if your child meets four tests. The four tests are:

1. Relationship,
2. Age,
3. Residency, and
4. Joint return.

The four tests are illustrated in Figure A. The paragraphs that follow contain more information about each test.

Relationship Test

To be your qualifying child, a child must be your:

- Son, daughter, stepchild, foster child, or a descendant of any of them (for example, your grandchild); or
- Brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them (for example, your niece or nephew).

The following definitions clarify the relationship test.

Adopted child. An adopted child is always treated as your own child. The term “adopted child” includes a child who was lawfully placed with you for legal adoption.

Foster child. For the EIC, a person is your foster child if the child is placed with you by an authorized placement agency or by

judgment, decree, or other order of any court of competent jurisdiction. An authorized placement agency includes:

- A state or local government agency,
- A tax-exempt organization licensed by a state, and
- An Indian tribal government or an organization authorized by an Indian tribal government to place Indian children.

Example. D, who is 12 years old, was placed in your care 2 years ago by an authorized agency responsible for placing children in foster homes. D is your foster child.

Age Test

Your child must be:

1. Under age 19 at the end of 2023 and younger than you (or your spouse, if filing jointly);
2. Under age 24 at the end of 2023, a student, and younger than you (or your spouse, if filing jointly); or
3. Permanently and totally disabled at any time during 2023, regardless of age.

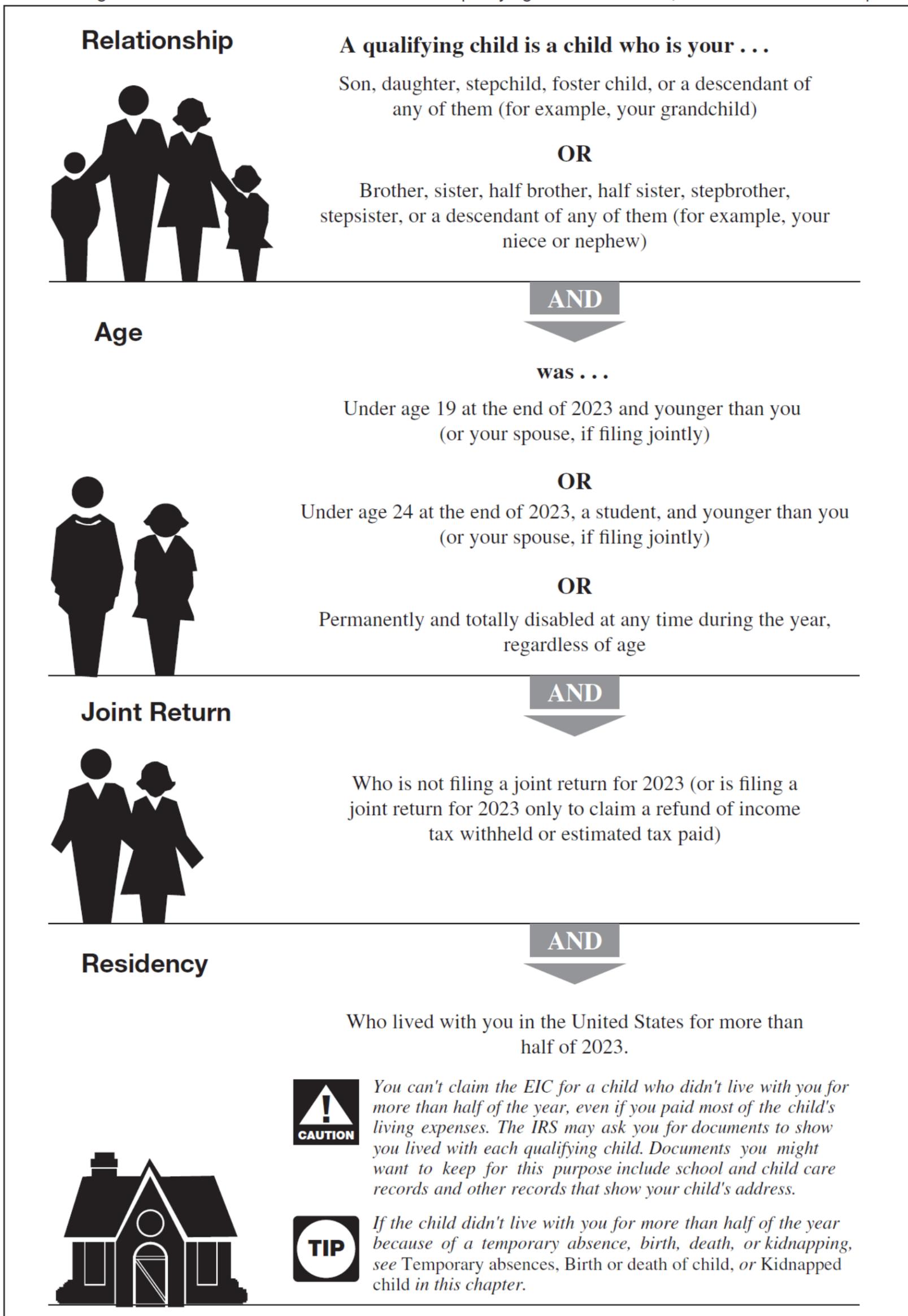
The following examples and definitions clarify the age test.

Example 1—Child not under age 19. Your child, S, turned 19 on December 10. Unless S was permanently and totally disabled or a student, S isn't a qualifying child because, at the end of the year, S wasn't **under age 19**.

Example 2—Child not younger than you or your spouse. Your 23-year-old sibling, B, who is a full-time student and unmarried, lives with you and your spouse. B isn't disabled. Both you and your spouse are 21 years old, and you file a joint return. B isn't your qualifying child because B isn't younger than you or your spouse.

Figure A. Tests for Qualifying Child

Caution: Figure A is an overview of the tests to claim a qualifying child. For details, see the rest of this chapter.



This page is intentionally left blank

Example 3—Child younger than your spouse but not younger than you. The facts are the same as in *Example 2* except that your spouse is 25 years old. Because B is younger than your spouse, B is your qualifying child, even though B isn't younger than you.

Student defined. To qualify as a student, your child must be, during some part of each of any 5 calendar months during the calendar year:

1. A full-time student at a school that has a regular teaching staff, course of study, and regular student body at the school; or
2. A student taking a full-time, on-farm training course given by a school described in (1), or a state, county, or local government.

The 5 calendar months need not be consecutive. A full-time student is a student who is enrolled for the number of hours or courses the school considers to be full-time attendance.

School defined. A school can be an elementary school, junior or senior high school, college, university, or technical, trade, or mechanical school. However, on-the-job training courses, correspondence schools, and schools offering courses only through the internet don't count as schools for the EIC.

Vocational high school students. Students who work in co-op jobs in private industry as a part of a school's regular course of classroom and practical training are considered full-time students.

Permanently and totally disabled. Your child is permanently and totally disabled if both of the following apply.

1. Your child can't engage in any substantial gainful activity because of a physical or mental condition.
2. A doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

Substantial gainful activity. Substantial gainful activity means performing significant duties over a reasonable period of time while working for pay or profit, or in work generally done for pay or profit. Full-time work (or part-time work done at an employer's convenience) in a competitive work situation for at least the minimum wage shows that the child can engage in substantial gainful activity.

Substantial gainful activity isn't work done to take care of yourself or your home. It isn't unpaid work on hobbies, institutional therapy or training, school attendance, clubs, social programs, and similar activities. However, doing this kind of work may show that the child is able to engage in substantial gainful activity.

The fact that the child hasn't worked for some time doesn't, by itself, prove the child can't engage in substantial gainful activity.

For examples of substantial gainful activity, see Pub. 524.

Residency Test

Your child must have lived with you in the United States for more than half of 2023.



You can't claim the EIC for a child who didn't live with you for more than half of the year, even if you paid most of the child's living expenses. The IRS may ask you for documents to show you lived

with each qualifying child. Documents you might want to keep for this purpose include school and childcare records and other records that show your child's address.

The following paragraphs clarify the residency test.

United States. This means the 50 states and the District of Columbia. It doesn't include Puerto Rico or U.S. territories such as Guam.

Homeless shelter. Your home can be any location where you regularly live. You don't need a traditional home. For example, if your child lived with you for more than half the year in one or more homeless shelters, your child meets the residency test.

Military personnel stationed outside the United States. U.S. military personnel stationed outside the United States on extended active duty are considered to live in

the United States during that duty period for purposes of the EIC.

Extended active duty. Extended active duty means you are called or ordered to duty for an indefinite period or for a period of more than 90 days. Once you begin serving your extended active duty, you are still considered to have been on extended active duty even if you don't serve more than 90 days.

Birth or death of child. A child who was born or died in 2023 is treated as having lived with you for more than half of 2023 if your home was the child's home for more than half the time the child was alive in 2023.

Temporary absences. Count time that you or your child is away from home on a temporary absence due to a special circumstance as time the child lived with you. Examples of a special circumstance include illness, school attendance, business, vacation,

military service, and detention in a juvenile facility.

Adopted child. If you adopted a child in 2023, and that child was lawfully placed with you for legal adoption by you in 2023, or the child was an eligible foster child placed with you during 2023, the child is considered to have lived with you for more than half of 2023 if your main home was this child's main home for more than half the time this child was adopted or placed with you in 2023.

Kidnapped child. A kidnapped child is treated as living with you for more than half of the year if the child lived with you for more than half the part of the year before the date of the kidnapping or following the date of the child's return. The child must be presumed by law enforcement authorities to have been kidnapped by someone who isn't a member of your family or the child's family. This treatment applies for all years until the child

is returned. However, the last year this treatment can apply is the earlier of:

1. The year there is a determination that the child is dead, or
2. The year the child would have reached age 18.

If your qualifying child has been kidnapped and meets these requirements, enter "KC," instead of a number, on line 6 of Schedule EIC.

Joint Return Test

To meet this test, the child can't file a joint return for the year.

Exception. An exception to the joint return test applies if your child and your child's spouse file a joint return only to claim a refund of income tax withheld or estimated tax paid.

Example 1—Child files joint return. You supported your 18-year-old child who lived with you all year while the child's spouse was in the Armed Forces. Your child's spouse earned \$25,000 for the year. The couple files a joint return so this child isn't your qualifying child.

Example 2—Child files joint return to get refund of tax withheld. Your 18-year-old child and your child's 17-year-old spouse had \$800 of wages from part-time jobs and no other income. They don't have a child. Neither is required to file a tax return. Taxes were taken out of their pay, so they file a joint return only to get a refund of the withheld taxes. The exception to the joint return test applies, so this child may be your qualifying child if all the other tests are met.

Example 3—Child files joint return to claim American opportunity credit. The facts are the same as in *Example 2* except no taxes were taken out of your child's pay. Your

child and their spouse aren't required to file a tax return, but they file a joint return to claim an American opportunity credit of \$124 and get a refund of that amount. Because claiming the American opportunity credit is their reason for filing the return, they aren't filing it only to claim a refund of income tax withheld or estimated tax paid. The exception to the joint return test doesn't apply, so this child isn't your qualifying child.

Married child. Even if your child doesn't file a joint return, if your child was married at the end of the year, your child can't be your qualifying child unless:

1. You can claim the child as a dependent, or
2. The reason you can't claim the child as a dependent is that you let the child's other parent claim the child as a dependent under the [Special rule for divorced or separated parents \(or](#)

[parents who live apart](#)), described later.



Social security number (SSN). To claim a higher EIC amount based on a qualifying child, that qualifying child must have a valid SSN issued on or before the due date of your 2023 return (including extensions), unless the child was born and died in 2023 and you attach to your return a copy of the child's birth certificate, death certificate, or hospital records showing a live birth. You can't claim a higher EIC amount on the basis of a qualifying child if:

1. The qualifying child's SSN is missing from your tax return or is incorrect;
2. The qualifying child's social security card says "Not valid for employment" and was issued for use in getting a federally funded benefit; or
3. Instead of an SSN, the qualifying child has:

- a. *An ITIN, which is issued to a noncitizen who can't get an SSN, or*
- b. *An adoption taxpayer identification number (ATIN), issued to adopting parents who can't get an SSN for the child being adopted until the adoption is final.*

If you have more than one qualifying child and only one has a valid SSN, you can use only that child to claim a higher EIC amount. For more information about SSNs, see Rule 2.



If "Not Valid for Employment" is printed on your child's social security card and your child's immigration status has changed so that your child is now a U.S. citizen or permanent resident, ask the SSA for a social security card without the legend.



If you have a child who meets the conditions to be a qualifying child for purposes of claiming the EIC, but that child doesn't have a valid SSN, you may be eligible to claim a self-only EIC.

Rule 9—Your Qualifying Child Cannot Be Used by More Than One Person To Claim the EIC

Sometimes a child meets the tests to be a qualifying child of more than one person. However, only one of these persons can actually treat the child as a qualifying child. Only that person can use the child as a qualifying child to take all of the following tax benefits (provided the person is eligible for each benefit).

1. The child tax credit, credit for other dependents, or additional child tax credit.
2. Head of household filing status.

3. The credit for child and dependent care expenses.
4. The exclusion for dependent care benefits.
5. The EIC.

The other person can't take any of these benefits based on this qualifying child. In other words, you and the other person can't agree to divide these tax benefits between you. The other person can't take any of these tax benefits unless that person has a different qualifying child.

The tiebreaker rules, which follow, explain who, if anyone, can claim the EIC when more than one person has the same qualifying child. However, the tiebreaker rules don't apply if the other person is your spouse and you file a joint return.

Tiebreaker rules. To determine which person can treat the child as a qualifying child

to claim the five tax benefits just listed, the following tiebreaker rules apply. For purposes of these tiebreaker rules, the term "parent" means a biological or adoptive parent of an individual. It does not include a stepparent or foster parent unless that person has adopted the individual.

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
- If the parents file a joint return together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
- If the parents don't file a joint return together but both parents claim the child as a qualifying child, the IRS will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time during the year. If the child lived with each parent for the same

amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher AGI for the year.

- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the year.
- If a parent can claim the child as a qualifying child but no parent claims the child, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who can claim the child.



If your qualifying child is treated under the tiebreaker rules as the qualifying child of another person for 2023, you may be able to take the EIC using the rules in chapter 3 for taxpayers who don't have a qualifying child.

Subject to these tiebreaker rules, you and the other person may be able to choose which of you claims the child as a qualifying child. See *Examples 1 through 12*.

If you can't claim the EIC because your qualifying child is treated under the tiebreaker rules as the qualifying child of another person for 2023, you may be able to take the EIC using a different qualifying child, or take the EIC using the rules in chapter 3 for people who don't have a qualifying child.

If the other person cannot claim the EIC.

If you and someone else have the same qualifying child but the other person can't claim the EIC because the other person isn't eligible or their earned income or AGI is too high, you may be able to treat the child as a qualifying child. See *Examples 6 and 7*. But you can't treat the child as a qualifying child to claim the EIC if the other person uses the child to claim any of the other five tax benefits listed earlier in this chapter.

Examples. The following examples may help you in determining whether you can claim the EIC when you and someone else have the same qualifying child.

Example 1—Child lived with parent and grandparent. You and your 2-year-old child S lived with your parent all year. You are 25 years old, unmarried, and your AGI is \$9,000. Your only income was \$9,000 from a part-time job. Your parent's only income was \$22,000 from a job, and their AGI is \$22,000. Your child's other parent did not live with you or S. The special rule explained later for divorced or separated parents (or parents who live apart) doesn't apply. S is a qualifying child of both you and your parent because S meets the relationship, age, residency, and joint return tests for both you and your parent. However, only one of you can treat S as a qualifying child to claim the EIC (and the other tax benefits listed earlier in this chapter for which that person qualifies). S isn't a

qualifying child of anyone else, including the child's other parent. If you don't claim S as a qualifying child for the EIC or any of the other tax benefits listed earlier, your parent can treat S as a qualifying child to claim the EIC (and any of the other tax benefits listed earlier for which your parent qualifies).

Example 2—Parent has higher AGI than grandparent. The facts are the same as in *Example 1* except your AGI is \$25,000. Because your parent's AGI isn't higher than yours, your parent can't claim S as a qualifying child. Only you can claim S.

Example 3—Two persons claim same child. The facts are the same as in *Example 1* except that you and your parent both claim S as a qualifying child. In this case, you as the child's parent will be the only one allowed to claim S as a qualifying child for the EIC and the other tax benefits listed earlier for which you qualify. The IRS will disallow your parent's claim to the EIC and any of the other

tax benefits listed earlier based on S. Your parent can't take the EIC for a taxpayer without a qualifying child because your parent's AGI is more than \$17,640.

Example 4—Qualifying children split between two persons. The facts are the same as in *Example 1* except that you also have two other young children who are qualifying children of both you and your parent. Only one of you can claim each child. However, if your parent's AGI is higher than yours, you can allow your parent to claim one or more of the children. For example, if you claim one child, your parent can claim the other two.

Example 5—Taxpayer who is a qualifying child. The facts are the same as in *Example 1* except that you are only 18 years old. This means you are a qualifying child of your parent. Because of *Rule 10*, discussed next, you can't claim the EIC and can't claim S as a qualifying child. Only your parent may be able

to treat S as a qualifying child to claim the EIC. If your parent meets all the other requirements for claiming the EIC and you don't claim S as a qualifying child for any of the other tax benefits listed earlier, your parent can claim both you and S as qualifying children for the EIC.

Example 6—Grandparent with too much earned income to claim EIC. The facts are the same as in *Example 1* except that your parent earned \$50,000 from employment. Because your parent's earned income is too high for your parent to claim the EIC, only you can claim the EIC using S.

Example 7—Parent with too much earned income to claim EIC. The facts are the same as in *Example 1* except that you earned \$50,000 from your job and your AGI is \$50,500. Your earned income is too high for you to claim the EIC. But your parent can't claim the EIC either, because your parent's AGI isn't higher than yours.

Example 8—Separated parents. You, your spouse, and your 10-year-old child, J, lived together until August 1, 2023, when your spouse moved out of the household. In August and September, J lived with you. For the rest of the year, J lived with J's other parent. J is a qualifying child of both you and your spouse because J lived with each of you for more than half the year and because J met the relationship, age, and joint return tests for both of you. At the end of the year, you and your spouse still weren't divorced, legally separated, or separated under a written separation agreement, so the [*Special rule for divorced or separated parents \(or parents who live apart\)*](#) doesn't apply.

You and your spouse will file separate returns. Your spouse agrees to let you treat J as a qualifying child. This means, if your spouse doesn't claim J as a qualifying child for any of the tax benefits listed earlier, you can claim J as a qualifying child for any tax benefit

listed earlier for which you qualify. However, you can't take the EIC because you and your spouse didn't live apart for the last 6 months of 2023 and, while you did live apart at the end of 2023, you aren't legally separated under a written separation agreement or decree of separate maintenance. Therefore, you don't meet the requirements for certain separated spouses to take the EIC when they don't file a joint return. See *Rule 3*. You also can't take the credit for child and dependent care expenses because your filing status is married filing separately and you and your spouse didn't live apart for the last 6 months of 2023. See Pub. 503.

Example 9—Separated parents claim same child. The facts are the same as in *Example 8*, except that you and your spouse both claim J as a qualifying child. In this case, only your spouse will be allowed to treat J as a qualifying child. This is because, during 2023, J lived with your spouse longer than with you.

You can't claim the EIC because you are a separated spouse who isn't filing a joint return and you don't have a qualifying child. However, your spouse's filing status is also married filing separately, so your spouse can't claim the EIC because you and your spouse didn't live apart for the last 6 months of 2023 or you aren't legally separated under a written separation agreement or decree of separate maintenance. Therefore, your spouse doesn't meet the requirements to claim the EIC as a separated spouse who isn't filing a joint return. See *Rule 3*. Your spouse also can't take the credit for child and dependent care expenses because your spouse's filing status is married filing separately and you and your spouse didn't live apart for the last 6 months of 2023. See Pub. 503.

Example 10—Unmarried parents. You, your 5-year-old child, L, and L's other parent lived together all year. You and L's other

parent aren't married. L is a qualifying child of both you and L's other parent because L meets the relationship, age, residency, and joint return tests for both you and L's other parent. Your earned income and AGI are \$12,000, and L's other parent's earned income and AGI are \$14,000. Neither of you had any other income. L's other parent agrees to let you treat the child as a qualifying child. This means if L's other parent doesn't claim L as a qualifying child for the EIC or any of the other tax benefits listed earlier, you can claim L as a qualifying child for the EIC and any of the other tax benefits listed earlier for which you qualify.

Example 11—Unmarried parents claim same child. The facts are the same as in *Example 10* except that you and L's other parent both claim L as a qualifying child. In this case, only L's other parent will be allowed to treat L as a qualifying child. This is because L's other parent's AGI,

\$14,000, is more than your AGI, \$12,000. You can claim the EIC without a qualifying child.

Example 12—Child did not live with a parent. You and your sibling's child, M, lived with your parent all year. You are 25 years old, and your AGI is \$9,300. Your only income was from a part-time job. Your parent's AGI is \$15,000. Your parent's only income was from a job. M's parents file jointly, have an AGI of less than \$9,000, and don't live with you or M. M is a qualifying child of both you and your parent because M meets the relationship, age, residency, and joint return tests for both you and your parent. However, only your parent can treat M as a qualifying child. This is because your parent's AGI, \$15,000, is more than your AGI, \$9,300.

Special rule for divorced or separated parents (or parents who live apart). A child will be treated as the qualifying child of

the noncustodial parent if all of the following statements are true.

1. The parents:
 - a. Are divorced or legally separated under a decree of divorce or separate maintenance;
 - b. Are separated under a written separation agreement; or
 - c. Lived apart at all times during the last 6 months of 2023.
2. The child received over half of the child's support for the year from the parents.
3. The child is in the custody of one or both parents for more than half of 2023.

4. Either of the following statements is true.
 - a. The custodial parent signs Form 8332 or a substantially similar statement that the custodial parent will not claim the child as a dependent for the year, and the noncustodial parent attaches the form or statement to their return. If the divorce decree or separation agreement went into effect after 1984 and before 2009, the noncustodial parent may be able to attach certain pages from the decree or agreement instead of Form 8332.
 - b. A pre-1985 decree of divorce or separate maintenance or written separation agreement that applies to 2023 provides that the noncustodial parent can claim the child as a dependent, and the

noncustodial parent provides at least \$600 for support of the child during 2023.

For details, see Pub. 501. If a child is treated as the qualifying child of the noncustodial parent under this special rule for children of divorced or separated parents (or parents who live apart), only the noncustodial parent can claim the child tax credit or the credit for other dependents for the child. However, only the custodial parent, if eligible, or another eligible taxpayer can claim the child as a qualifying child for the EIC. For details and examples, see *Applying the tiebreaker rules to divorced or separated parents (or parents who live apart)* in Pub. 501.

Rule 10—You Cannot Be a Qualifying Child of Another Taxpayer

You are a qualifying child of another taxpayer (such as your parent, guardian, or foster parent) if all of the following statements are true.

1. You are that person's son, daughter, stepchild, foster child, or a descendant of any of them. Or, you are that person's brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them.
2. You were:
 - a. Under age 19 at the end of the year and younger than that person (or that person's spouse, if the person files jointly);
 - b. Under age 24 at the end of the year, a student, and younger

than that person (or that person's spouse, if the person files jointly); or

- c. Permanently and totally disabled, regardless of age.
3. You lived with that person in the United States for more than half of the year.
 4. You aren't filing a joint return for the year (or are filing a joint return only to claim a refund of withheld income tax or estimated tax paid).

For more details about the tests to be a qualifying child, see *Rule 8*.

If you are a qualifying child of another taxpayer, you can't claim the EIC. This is true even if the person for whom you are a qualifying child doesn't claim the EIC or meet all of the rules to claim the EIC. Enter "No" on the dotted line next to line 27 (Form 1040 or 1040-SR).

Example. You and your child lived with your parent all year. You are 22 years old, unmarried, and attended a trade school full time. You had a part-time job and earned \$5,700. You had no other income. Because you meet the relationship, age, residency, and joint return tests, you are a qualifying child of your parent. Your parent can claim the EIC if your parent meets all the other requirements. Because you are your parent's qualifying child, you can't claim the EIC. This is so even if your parent can't or doesn't claim the EIC.

Child of person not required to file a return. You aren't the qualifying child of another taxpayer (and so may qualify to claim the EIC) if the person for whom you met the relationship, age, residency, and joint return tests isn't required to file an income tax return and either:

- Doesn't file an income tax return, or

- Files a return only to get a refund of income tax withheld or estimated tax paid.

Example 1—Return not required. The facts are the same as in the last example except your parent had no gross income, isn't required to file a 2023 tax return, and doesn't file a 2023 tax return. As a result, you aren't your parent's qualifying child. You can claim the EIC if you meet all the other requirements to do so.

Example 2—Return filed to get refund of tax withheld. The facts are the same as in *Example 1* except your parent had wages of \$1,500 and had income tax withheld from those wages. Your parent files a return only to get a refund of the income tax withheld and doesn't claim the EIC or any other tax credits or deductions. As a result, you aren't your parent's qualifying child. You can claim the EIC if you meet all the other requirements to do so.

Example 3—Return filed to get EIC. The facts are the same as in *Example 2* except your parent claimed the EIC on their return. Since your parent filed the return to get the EIC, your parent isn't filing it only to get a refund of income tax withheld. As a result, you are your parent's qualifying child. You can't claim the EIC.

3.

Rules If You Do Not Have a Qualifying Child

Use this chapter if you don't have a qualifying child and have met all the rules in chapter 1. This chapter discusses *Rules 11* through *14*. You must meet all four of these rules, in addition to the rules in chapters 1 and 4, to qualify for the EIC without a qualifying child. If you meet all the rules in chapter 1 and this chapter, read chapter 4 to find out what to do next.

If you have a qualifying child. If you meet *Rule 8*, you have a qualifying child. If you meet *Rule 8* and don't claim the EIC with a qualifying child, you can claim the EIC without a qualifying child.



If your child meets the tests to be your qualifying child, but also meets the tests to be the qualifying child of another person, only one of you can actually treat the child as a qualifying child to claim the EIC. If the other person can claim the child under the tiebreaker rules, you can't claim the EIC as a taxpayer with a qualifying child unless you have another qualifying child. However, you may be able to claim the EIC without a qualifying child.

Rule 11—You Must Meet the Age Requirements

You must be at least age 25 but under age 65 at the end of 2023. If you are married filing a joint return, either you or your spouse must be at least age 25 but under age 65 at the end of 2023. It doesn't matter which spouse meets the age test, as long as one of the spouses does.

You meet the age test if you were born after December 31, 1958, and before January 2, 1999. If you are married filing a joint return, you meet the age test if either you or your spouse was born after December 31, 1958, and before January 2, 1999.

If neither you nor your spouse meets the age test, you can't claim the EIC. Enter "No" on the dotted line next to line 27 (Form 1040 or 1040-SR).

Example 1. You are age 28 and unmarried. You meet the age test.

Example 2—Spouse meets age test. You are married and filing a joint return. You are age 23 and your spouse is age 27. You meet the age test because your spouse is at least age 25 but under age 65.

Death of spouse. If you are filing a joint return with your spouse who died in 2023, you meet the age test if you are at least age 25 but under age 65 at the end of 2023, or

your spouse was at least age 25 but under age 65 at the time of death.

Your spouse is considered to reach age 25 on the day before their 25th birthday. However, the rule for reaching age 65 is different; your spouse reaches age 65 on their 65th birthday.

Even if your spouse was born before January 2, 1999, they aren't considered at least age 25 at the end of 2023 unless they were at least age 25 at the time of death.

Example 1. You are married and filing a joint return with your spouse who died in August 2023. You are age 67. Your spouse would have become age 65 in November 2023. Because your spouse was under age 65 when he or she died, you meet the age test.

Example 2. Your spouse was born on February 14, 1998, and died on February 13, 2023. Your spouse is considered age 25 at the time of death. However, if your spouse died on February 12, 2023, your spouse isn't

considered age 25 at the time of death and isn't at least age 25 at the end of 2023.

Death of taxpayer. A taxpayer who died in 2023 meets the age test if the taxpayer was at least age 25 but under age 65 at the time of death.

A taxpayer is considered to reach age 25 on the day before the taxpayer's 25th birthday. However, the rule for reaching age 65 is different; a taxpayer reaches age 65 on the taxpayer's 65th birthday.

Even if the taxpayer was born before January 2, 1999, they aren't considered at least age 25 at the end of 2023 unless they were at least age 25 at the time of death.

Rule 12—You Cannot Be the Dependent of Another Person

If you **aren't** filing a joint return, you meet this rule if you did **not** check the box under

your name that says "Someone can claim you as a dependent."

If you are filing a joint return, you meet this rule if you did not check either box that says "Someone can claim you as a dependent" or "Someone can claim your spouse as a dependent."

If you aren't sure whether someone else can claim you as a dependent, get Pub. 501 and read the rules for claiming a dependent.

If someone else can claim you as a dependent on their return, but doesn't, you still can't claim the credit unless the person who can claim you on their tax return isn't required to file an income tax return and doesn't file a tax return or files a return only to claim a refund of withheld income tax or estimated tax paid.