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## EITC Eligibility Rules for 2010 Tax Year 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. Nationwide last year, over 26 million eligible taxpayers received nearly \$59 billion total in EITC. The IRS encourages all eligible taxpayers to claim this credit as it is a valuable tool to lower their taxes or to claim a refund.

The American Recovery and Reinvestment Act of 2009 created a new category of families with three or more children and increased the maximum benefit of EITC for tax years 2009 and 2010. The Tax Relief and Job Creation Act of 2010 extended these changes through 2012.

To qualify, taxpayers must meet certain requirements and file a tax return, even if they did not earn enough money to be obligated to file a tax return.

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

The EITC has no effect on certain welfare benefits. In most cases, EITC payments will not be used to determine eligibility for Medicaid, Supplemental Security Income (SSI), food stamps, low-income housing or most Temporary Assistance for Needy Families (TANF) payments. Unemployment benefits are not considered earned income, but must be included in income calculations.

### 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 \$3,100.

- 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 2010, your earned income and adjusted gross income (AGI) must each be less than:

- \$43,352 (\$48,362 married filing jointly) with three or more qualifying children
- \$40,363 (\$45,373 married filing jointly) with two qualifying children
- \$35,535 (\$40,545 married filing jointly) with one qualifying child
- \$13,460 (\$18,470 married filing jointly) with no qualifying children

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

- Residency Test — The child must have lived with you in the United States for more than half of 2010.
- 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 2010, the child must have been under age 19, a full-time student under age 24, younger than the EITC-claiming taxpayer or any age if permanently and totally disabled at anytime during 2010.
- The child must be younger than the person claiming the child, unless the child is permanently and totally disabled.
- The child must not have filed a joint return other than to claim a refund.

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. Also, if a qualifying child can be claimed by both a parent and another person, the other person must have an AGI higher than the parent in order to claim the child for EITC purposes.

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

- At the end of 2010, 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 2010.

## **Credit Limits for 2010 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 2010, the maximum credit amounts are:

- \$5,666 with three or more qualifying children
- \$5,036 with two qualifying children
- \$3,050 with one qualifying child
- \$457 with no qualifying children

## **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 EITC Assistant on the IRS website. The [EITC Assistant](#), available in English and Spanish ([Asistente EITC](#)), 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 website or by calling 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 EITC Assistant on the IRS website, available in English and Spanish.

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 their area, taxpayers should check the [Volunteer Income Tax Assistance site listing](#) on www.IRS.gov or call the IRS at 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.

## **New on EITC**

Starting in January 2011, taxpayers can no longer get advance payments of the earned income tax credit in their pay throughout the year as they could in 2010 and earlier years. This is because the law has changed. However, this does not affect EITC claims on tax returns

### **Other Resources**

- [Pub 596, Earned Income Tax Credit](#) and Pub 596 SP, Earned Income Tax Credit - Spanish offer a detailed overview of EITC, the eligibility rules and instructions on how to claim it.
- [IRSVideos](#), available on YouTube, provide information about credits, deductions and tax law changes. The IRS also has videos in American Sign Language ([IRSVideosASL](#)) and Spanish ([IRSVideosMultilingua](#)).
- [IRS audio files](#), informal tax messages in English and Spanish, to use for podcasts or to play on a portable music player. These are also available by subscription through [iTunes](#).
- [@IRSnews](#) and [@IRSenEspañol](#), the IRS Twitter news feeds, provide the latest federal tax news and information for taxpayers in English and Spanish.