



IRS Nationwide
TaxForum | 2020

Keys to Mastering Due
Diligence Requirements and
Audits

Today our seminar will:

- Review paid preparer due diligence requirements
- Discuss due diligence documentation requirements
- Describe IRS due diligence contact methods
- Explain the due diligence audit process
- Provide paid preparers online educational resources

Preparer Due Diligence

As a paid tax return preparer, you must:

Ask all
the right
questions

Compute
the credits
based on
the facts

Complete
and
submit
Form
8867

Keep
records



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Preparer Due Diligence

Ask all the right
questions

When are Client Documents Needed?



Request documentation when additional information is needed to verify a claim for:

- EITC
- CTC/ ACTC/ ODC
- AOTC
- HOH

Be sure to keep a paper or electronic copy

Preparer Due Diligence

Compute the credits based on the facts

Complete and Submit Form 8867

Form 8867 | **Paid Preparer's Due Diligence Checklist** | OMB No. 1545-0074

Department of the Treasury | Internal Revenue Service | **2019** | Attachment Sequence No. 70

To be completed by preparer and filed with Form 1040, 1040-SR, 1040-NR, 1040-PR, or 1040-SS. Go to www.irs.gov/Form8867 for instructions and the latest information.

Taxpayer name(s) shown on return: _____ Taxpayer identification number: _____

Enter preparer's name and PTIN: _____

Part I Due Diligence Requirements

Please check the appropriate box for the credit(s) and/or HOH filing status claimed on the return and complete the related Parts I-V for the benefit(s) claimed (check all that apply).

	<input type="checkbox"/> EIC	<input type="checkbox"/> CTC/ACTC/ODC	<input type="checkbox"/> AOTC	<input type="checkbox"/> HOH
1 Did you complete the return based on information for tax year 2019 provided by the taxpayer or reasonably obtained by you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
2 If credits are claimed on the return, did you complete the applicable EIC and/or CTC/ACTC/ODC worksheets found in the Form 1040, 1040-SR, 1040-NR, 1040-PR, or 1040-SS instructions, and/or the AOTC worksheet found in the Form 8863 instructions, or your own worksheet(s) that provides the same information, and all related forms and schedules for each credit claimed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3 Did you satisfy the knowledge requirement? To meet the knowledge requirement, you must do both of the following. <ul style="list-style-type: none"> Interview the taxpayer, ask questions, and contemporaneously document the taxpayer's responses to determine that the taxpayer is eligible to claim the credit(s) and/or HOH filing status. Review information to determine if the taxpayer is eligible to claim the credit(s) and/or HOH filing status. 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Part IV Due Diligence Questions for Claiming HOH (if the return for the taxpayer is eligible to claim the credit(s) and/or HOH filing status)

14 Have you determined that the taxpayer was unremarried or considered a surviving spouse on the last day of the tax year and provided more than half of the cost of keeping up a home for the year for a qualifying person?

Part V Eligibility Certification

You will have completed with all due diligence requirements for claiming the applicable credit and/or HOH filing status on the return of the taxpayer identified above if you:

- Interviewed the taxpayer, ask adequate questions, and contemporaneously document the taxpayer's responses on the return or in your notes, review the amount of the credit(s) claimed;
- Complete this Form 8867 truthfully and accurately and complete the actions described in the Form 8867 instructions under "Document Preparation";
- Keep a file of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under "Document Preparation":
 - A copy of Form 8867;
 - The applicable worksheet(s) or your own worksheet(s) for any credit(s) claimed;
 - Copies of any documents provided by the taxpayer on which you relied to determine eligibility for the credit(s) and/or HOH filing status;
 - A record of how, when, and from whom the information used to prepare this form and the applicable worksheet(s) was obtained; and
 - A record of any additional questions you may have asked to determine eligibility to claim the credit(s) and/or HOH filing status and the amount(s) of any credit(s) claimed and the taxpayer's answers.



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Preparer Due Diligence

Keep records

Contact Methods



Letter 5025 – You may not have met due diligence requirements



Department of the Treasury
 Internal Revenue Service
 Wage & Investment
 4800 Buford Highway Mail Stop #50
 Chamblee, GA 30341

Date:
 06/02/2020
 Preparer ID number:

 Contact telephone number:
 866-860-4259
 Contact email address:
 wi.rpreparerresponse@irs.gov

Dear [Name]:

Why we're sending you this letter

A review of the [2018] returns you prepared shows you may not have met your due diligence requirements and may have prepared inaccurate returns for your clients, claiming at least one of the following:

- Earned Income Tax Credit (EITC)
- Child Tax Credit (CTC) / Additional Child Tax Credit (ACTC) / Credit for Other Dependents (ODC)
- American Opportunity Tax Credit (AOTC)
- Head of Household (HoH) filing status

This letter is to give you information and make you aware of the due diligence requirements that all paid preparers must follow. If you do not prepare accurate returns and comply with due diligence requirements under Internal Revenue Code Sections 6695(g) and 1.6695-2(b) of the Income Tax Regulations, you may be penalized. The penalty is \$[530] per failure for tax returns filed in [2020]. The failure to exercise due diligence can also result in an audit, the suspension or termination of your e-filing privileges, or a referral to the IRS Criminal Investigation Division. We may also audit your clients which could prevent them from claiming the credits for a period of time in the future.

We can't supply information specific to the questionable returns, however, we found the following issues:

What you need to do

Meet all four due diligence requirements:

- Complete and send Form 8879, which claims any of the benefits listed above and the amended return.
- Question the client if any questions and the client's responses.
- Keep all required records, including benefits listed above and the amended return.

What happens next

This letter is for your information only. You don't need to respond. We'll continue to check future returns you prepare that claim these benefits to ensure you're meeting your due diligence requirements.

Letter 5025 (Rev. 11-2019)
 Catalog Number 59926H

What happens next

This letter is for your information only. You don't need to respond. We'll continue to check future returns you prepare that claim these benefits to ensure you're meeting your due diligence requirements.

Letter 5025 (Rev. 11-2019)
 Catalog Number 59926H

Letter 4858 - Due diligence requirements may not have been met



Department of the Treasury
Internal Revenue Service
Wage & Investment
NDC/EITC
4800 Buford Highway Mail Stop #50
Chamblee, GA 30341

Date:
06/02/2020
Preparer ID number:

Contact telephone number:
866-860-4259
Contact e-mail address:
wi.rcpreparerresponse@irs.gov

[Recipient name]
[Address line 1]
[Address line 2]
[Address line 3]

You may not have n

Dear [Name]:

Why we're sending you this letter

We're writing to make you aware of due diligence

You prepared tax year 2019 returns claiming at

- Head of Household (HoH) filing status
- Earned Income Tax Credit (EITC)
- American Opportunity Tax Credit (AOTC)
- Child Tax Credit (CTC) / Additional Child T

Our review of these returns indicates you may n

Paid preparers must comply with all due diligen
comply with due diligence requirements under I
of the Income Tax Regulations, you may be pen
2020. The failure to exercise due diligence can
e-filing privileges, or a referral to the IRS Crimi
which could prevent them from claiming the cre

What you need to do

This letter is for your information only. You do
requirements:

1. Complete and send Form 8867, Paid Prepara
which claims any of the benefits listed abov
2. Complete all worksheets, or equivalents, sh
amended return.
3. Question any client if any information seem
questions and the client's responses.
4. Keep all required records for the applicable retention period, including copies of any documents you relied
on to determine eligibility for the benefits listed above and to compute the amount of the credits.

What you need to do

This letter is for your information only. You don't need to respond. Remember to meet all four due diligence requirements:

1. Complete and send Form 8867, Paid Preparer's Due Diligence Checklist, with every return you prepare which claims any of the benefits listed above.
2. Complete all worksheets, or equivalents, showing how you computed the credits claimed on a return or amended return.
3. Question any client if any information seems incorrect, inconsistent, or incomplete. Document your questions and the client's responses.
4. Keep all required records for the applicable retention period, including copies of any documents you relied on to determine eligibility for the benefits listed above and to compute the amount of the credits.

Letter 4858 (Rev. 1-2020)

Catalog Number 58736R

Letter 4858 (Rev. 1-2020)
Catalog Number 58736R

Letter 5364 - Missing Forms 8867 Alert



Department of the Treasury
Internal Revenue Service
Wage & Investment
NDC/EITC
4800 Buford Highway Mail Stop #50
Chamblee, GA 30341

Date: 06/02/2020
Preparer ID Number:
Contact telephone number:
866-860-4259
Contact e-mail:
w.ircpreparerresponse@irs.gov

[Recipient name]
[Address line 1]
[Address line 2]
[Address line 3]

Missing Forms 8867 Alert

Dear [Name]:

Why we're sending you this letter

We're writing to make you aware of due diligence requirements for paid preparer more tax year 2019 paper returns you prepared claiming at least one of the benefits listed below. We'll continue to monitor future Form 8867, Paid Preparer's Due Diligence Checklist:

- Head of Household (HoH) filing status
- Earned Income Tax Credit (EITC)
- American Opportunity Tax Credit (AOTC)
- Child Tax Credit (CTC) / Additional Child Tax Credit (ACTC) / Credit for Other Dependents (OCDC)

We've enclosed a list of these returns with this letter for you to review.

Paid preparers must comply with all due diligence requirements. Under IRC Section 6694, you may be liable for a penalty of \$530 per failure, with a maximum penalty of \$2,120 per return.

What you need to do

This letter is for your information only. You don't need to respond. **Do not send us a copy of any missing Forms 8867 or amend any returns to include the missing Forms 8867.** We'll continue to monitor future returns you prepare that claim these benefits to ensure you're meeting your due diligence requirements.

Where you can find more information

- Publication 4687, Paid Preparer Due Diligence, available on our website at www.irs.gov/forms-pubs.
- The preparer toolkit on our website at www.eitc.irs.gov/tax-preparer-toolkit/main.
- Visite www.eitc.irs.gov e ingrese las palabras claves "Letter 5364(SP)" para leer esta carta en español.

What you need to do

This letter is for your information only. You don't need to respond. **Do not send us a copy of any missing Forms 8867 or amend any returns to include the missing Forms 8867.** We'll continue to monitor future returns you prepare that claim these benefits to ensure you're meeting your due diligence requirements.

Where you can find more information

- Publication 4687, Paid Preparer Due Diligence, available on our website at www.irs.gov/forms-pubs.
- The preparer toolkit on our website at www.eitc.irs.gov/tax-preparer-toolkit/main.
- Visite www.eitc.irs.gov e ingrese las palabras claves "Letter 5364(SP)" para leer esta carta en español.

Letter 5364 (Rev. 1-2020)
Catalog Number 66109G

Letter 5364 (Rev. 1-2020)
Catalog Number 66109G



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What Should You Do if You Receive a Letter?

- Don't Panic
- Take action
- Review due diligence requirements
- Review your office procedures

Is it *really* the IRS? Educational Phone Calls

IRS representative will:

- not demand any payments
- provide an IRS employee ID number
- refer to previous IRS contact
- ask security questions to confirm appropriate preparer on the line
- provide educational information

Educational Office Visit





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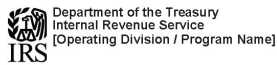
Preparer Notification



The Exam



Examination Report - Letter 1125



Date:
09/03/2020
Taxpayer ID number:
Form:
Tax period ended:
Person to contact:
Employee ID number:
Contact telephone number:
Response due date:

Dear []:

We have enclosed a copy of our examination report explaining why we are proposing a tax return preparer penalty. Please review this proposed assessment and let us know whether or not you agree by following the directions provided in this letter.

What to Do If You Agree

If you agree to the assessment and collection of the one copy of the enclosed Form 5816, *Report of Tax*. Make your check or money order payable to the **U**. If you agree but cannot pay in full, pay what you ca you a bill for the remaining amount with informatio

What to Do If You Disagree

If you don't agree with our findings, you may requ the person whose name is shown above. If you still a conference with our Appeals Office. You may req

1. If the total penalties shown in our report are \$2 consideration, indicating what you don't agree v
2. If the total penalties shown in our report are mo requirements for a formal protest are explained *How to Prepare a Protest If You Don't Agree*.

What Will Happen If You Do Nothing

If you do not take any action by the response date n **collection actions**.

What Will Happen If You Do Nothing

If you do not take any action by the response date noted above, we will assess the penalty and begin **enforced collection actions**.

Letter 1125 (Rev. 8-2016)
Catalog Number 13620Y

Letter 1125 (Rev. 8-2016)
Catalog Number 13620Y

Due Diligence Penalties and Next Steps

Form **5816**
(December 2019)

Department of the Treasury - Internal Revenue Service
Report of Tax Return Preparer Penalty Case

Preparer's name _____ Preparer's PTIN, SSN, or EIN _____
 Street address _____ City _____ State _____ ZIP code _____
 Select one box: Preparer is Employer preparer Self-employed preparer Employee preparer
 Examining Area/Function _____ Agreement Full None In reply refer to _____
 Name and title of person with whom penalty was discussed _____ Date of report _____

The following information identifies the tax return or claim for which penalty is being charged

Taxpayer's name _____ Taxpayer's SSN or EIN _____
 Street address _____ City _____ State _____ ZIP code _____
 Tax period _____ Master file tax code _____

Kind of Preparer Penalty Charged	Amount
A. Understatement of tax due to an unreasonable position. (IRC Sec. 6694(a))	
B. Understatement of tax due to willful or reckless conduct. (IRC Sec. 6694(b))	
C. Failure to furnish a copy of the return or claim to the taxpayer. (IRC Sec. 6695(a))	
D. Failure to sign return or claim. (IRC Sec. 6695(b))	
E. Failure to furnish identifying number on return or claim. (IRC Sec. 6695(c))	
F. Failure to keep a copy or list of the returns or claims prepared. (IRC Sec. 6695(d))	
G. Failure to file certain information returns. (IRC Sec. 6695(e))	
H. Negotiating or endorsing a refund check issued to a taxpayer (other than the preparer). (IRC Sec. 6695(f))	
I. Failure to comply with due diligence requirements. (IRC Sec. 6695(g))	
J. Disclosure or use of information, other than to prepare or assist in preparing returns. (IRC Sec. 6713)	
Total penalties	0

Examiner's signature _____

Other information _____

Note - Examiner Remove Appeals Message on Unagreed Cases

I have read the information on the back of this form that explains these penalties as they relate to tax return preparers. I agree to comply with those provisions in the future.

Consent to Assessment and Collection - I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States District Court the findings in this report, therefore, I give my consent to the immediate assessment and collection of the tax return preparer penalty.

Preparer's signature _____

Catalog Number 24295B www.irs.gov **Form 5816** (Rev. 12-2019)

Part 1

Remove Appeals Message on Unagreed Cases

on the back of this form that explains these penalties as they relate to tax return preparers. I agree to comply with those provisions in the future.

Consent to Collection - I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States District Court the findings in this report, therefore, I give my consent to the immediate assessment and collection of the tax return preparer penalty.

Date _____

www.irs.gov

Form **5816** (Rev. 12-2019)

Correspondence Exam



Recertification

Credits subject to recertification...

- Earned Income Tax Credit (EITC)
- Child Tax Credit (CTC)/Additional Child Tax Credit (ACTC)/Credit for Other Dependents (ODC), and
- American Opportunity Tax Credit (AOTC)

8862 Information To Claim Certain Credits After Disallowance
 Form (Rev. November 2018) Department of the Treasury Internal Revenue Service
 OMB No. 1545-0074 Attachment Sequence No. **43A**

▶ Attach to your tax return. ▶ Go to www.irs.gov/Form8862 for instructions and the latest information.

Name(s) shown on return _____ Your social security number _____

You must complete Form 8862 and attach it to your tax return to claim the EIC, CTC/ACTC/ODC, or AOTC if both of the following apply.

- ✓ Your EIC, CTC/ACTC/ODC, or AOTC was previously reduced or disallowed for any reason other than a math or clerical error.
- ✓ You now want to claim the credit that was previously reduced or disallowed and you meet all the requirements for the credit.

Part I All Filers

1 Enter the tax year for which you are filing this form (for example, 2018) ▶

2 Check the box(es) that applies to the credit(s) you are claiming and complete the part(s) that matches the box(es) you marked.

Earned Income Credit (Complete Part II)	Child Tax Credit/Additional Child Tax Credit/Credit for Other Dependents (Complete Part III)	American Opportunity Tax Credit (Complete Part IV)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Part II Earned Income Credit

3 If the **only** reason your EIC was reduced or disallowed was because you incorrectly reported your earned income or investment income, check "Yes." Otherwise, check "No." ▶ Yes No

Caution: If you checked "Yes," **do not** complete the rest of Part II. Attach this form to your tax return to claim the EIC. If you checked "No," continue.

4 Could you (or your spouse if filing jointly) be claimed as a qualifying child of another taxpayer for the year entered on line 1? ▶ Yes No

Caution: See the instructions before answering. If you (or your spouse if filing jointly) answer "Yes" to question 4, you cannot claim the EIC.

If you are claiming the EIC with a qualifying child, continue to Section A. Otherwise, go to Section B.

Online Educational Resources

IRS | Earned Income Tax Credit & Other Refundable Credits

EITC Central **Tax Preparer Toolkit** Partner Toolkit Other Refundable Credits

Search

Welcome to the Tax Preparer Toolkit

IRS | Earned Income Tax Credit & Other Refundable Credits

EITC Central Tax Preparer Toolkit Partner Toolkit Other Refundable Credits

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Refundable Credit Due Diligence Best Practices Training Module

About Refundable Credits for Preparers

Hot Topics for Return Preparers

Preparer Due Diligence

Due Diligence Training Module

Nationwide Tax Forum Videos

Due Diligence Videos

Preparer Compliance - Focused and Tiered

IRS-APPROVED CONTINUING EDUCATION PROVIDER

Continuing Education Tax Law credit for enrolled agents and Registered Return Preparers. This self-study course is approved for one CE credit for enrolled agents and other tax return preparers.

CPAs, attorneys, and others licensed by state boards/organizations should check with their respective boards/organizations to determine if credit applies toward their continuing education requirements.

To receive credit, you must register using your PTIN, complete the course, and pass the test.

Alert: We respond to your request to reset your password by an email from eitc.program@irs.gov. Please set your SPAM filter, Junk mail or other mail sorting filters to accept email from eitc.program@irs.gov or the .gov domain. Our security settings will not allow us to register our email address through your provider

Tax Preparer Toolkit: <https://www.irs.gov/toolkit>

Thank you for attending

Keys to Mastering Due Diligence
Requirements and Audits