

2004 Form W-5



Department of the Treasury
Internal Revenue Service

Instructions

Purpose of Form

Use Form W-5 if you are eligible to get part of the EIC in advance with your pay and choose to do so. See **Who Is Eligible To Get Advance EIC Payments?** below. The amount you can get in advance generally depends on your wages. If you are married, the amount of your advance EIC payments also depends on whether your spouse has filed a Form W-5 with his or her employer. However, your employer cannot give you more than \$1,563 throughout 2004 with your pay. You will get the rest of any EIC you are entitled to when you file your tax return and claim the EIC.

If you do not choose to get advance payments, you can still claim the EIC on your 2004 tax return.

What Is the EIC?

The EIC is a credit for certain workers. It reduces the tax you owe. It may give you a refund even if you do not owe any tax.

Who Is Eligible To Get Advance EIC Payments?

You are eligible to get advance EIC payments if **all three** of the following apply.

1. You expect to have at least one qualifying child. If you do not expect to have a qualifying child, you may still be eligible for the EIC, but you **cannot** receive advance EIC payments. See **Who Is a Qualifying Child?** below.

2. You expect that your 2004 earned income and AGI will each be less than \$30,338 (\$31,338 if you expect to file a joint return for 2004). Include your spouse's income if you plan to file a joint return. As used on this form, **earned income** does not include amounts inmates in

penal institutions are paid for their work, amounts received as a pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan, or nontaxable earned income.

3. You expect to be able to claim the EIC for 2004. To find out if you may be able to claim the EIC, answer the questions on page 2.

How To Get Advance EIC Payments

If you are eligible to get advance EIC payments, fill in the 2004 Form W-5 at the bottom of this page. Then, detach it and give it to your employer. If you get advance payments, you **must** file a 2004 Federal income tax return.

You may have only **one** Form W-5 in effect at one time. If you and your spouse are both employed, you should file separate Forms W-5.

This Form W-5 expires on December 31, 2004. If you are eligible to get advance EIC payments for 2005, you must file a new Form W-5 next year.

TIP You may be able to get a larger credit when you file your 2004 return. For details, see **Additional Credit** on page 3.

Who Is a Qualifying Child?

Any child who meets **all three** of the following conditions is a **qualifying child**.

- The child is:
 - Your son, daughter, adopted child, stepchild, or a descendant of any of them (for example, your grandchild); or
 - Your brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, your niece or nephew), whom you cared for as you would your own child; or
 - A foster child (any child placed with you by an authorized placement agency whom you cared for as you would your own child).

(continued on page 3)

Give the bottom part to your employer; keep the top part for your records.

Detach here

Form **W-5**

Earned Income Credit Advance Payment Certificate

OMB No. 1545-1342

Department of the Treasury
Internal Revenue Service

- ▶ Use the current year's certificate only.
- ▶ Give this certificate to your employer.
- ▶ This certificate expires on December 31, 2004.

2004

Print or type your full name

Your social security number

Note: If you get advance payments of the earned income credit for 2004, you **must** file a 2004 Federal income tax return. To get advance payments, you **must** have a qualifying child and your filing status must be any status **except** married filing a separate return.

- I expect to have a qualifying child and be able to claim the earned income credit for 2004, I do not have another Form W-5 in effect with any other current employer, and I choose to get advance EIC payments. Yes No
- Check the box that shows your expected filing status for 2004:
 - Single, head of household, or qualifying widow(er) Married filing jointly
- If you are married, does your spouse have a Form W-5 in effect for 2004 with any employer? Yes No

Under penalties of perjury, I declare that the information I have furnished above is, to the best of my knowledge, true, correct, and complete.

Signature ▶

Date ▶

Questions To See if You May Be Able To Claim the EIC for 2004

 You **cannot** claim the EIC if you plan to file either **Form 2555** or **Form 2555-EZ** (relating to foreign earned income) for 2004. You also **cannot** claim the EIC if you are a nonresident alien for any part of 2004 unless you are married to a U.S. citizen or resident, file a joint return, and elect to be taxed as a resident alien for all of 2004.

1 Do you expect to have a qualifying child? Read **Who Is a Qualifying Child?** that starts on page 1 before you answer this question. If the child is married, be sure you also read **Married child** on page 3.

- No.**  You may be able to claim the EIC but you **cannot** get advance EIC payments.
- Yes.** *Continue.*

 If the child meets the conditions to be a qualifying child for both you and another person, see **Qualifying child of more than one person** on page 3.

2 Do you expect your 2004 filing status to be married filing a separate return?

- Yes.**  You **cannot** claim the EIC.
- No.** *Continue.*

 If you expect to file a joint return for 2004, include your spouse's income when answering questions 3 and 4.

3 Do you expect that your 2004 earned income and AGI will each be less than: \$30,338 (\$31,338 if married filing jointly) if you expect to have 1 qualifying child; \$34,458 (\$35,458 if married filing jointly) if you expect to have 2 or more qualifying children?

- No.**  You **cannot** claim the EIC.
- Yes.** *Continue.* But remember, you **cannot** get advance EIC payments if you expect your 2004 earned income or AGI will be \$30,338 (\$31,338 or more if married filing jointly) or more.

4 Do you expect that your 2004 investment income will be more than \$2,650? For most people, investment income is the total of their taxable interest, ordinary dividends, capital gain distributions, and tax-exempt interest. However, if you plan to file a 2004 Form 1040, see the 2003 Form 1040 instructions to figure your investment income.

- Yes.**  You **cannot** claim the EIC.
- No.** *Continue.*

5 Do you expect that you, or your spouse if filing a joint return, will be a qualifying child of another person for 2004?

- No.** You may be able to claim the EIC.
- Yes.** You **cannot** claim the EIC.
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Note: An **adopted child** is always treated as your own child. An adopted child includes a child placed with you by an authorized placement agency for legal adoption even if the adoption is not final. An authorized placement agency includes any person or court authorized by state law to place children for legal adoption.

2. At the end of 2004, the child is under age 19, or under age 24 and a full-time student, or any age and permanently and totally disabled.

3. The child lives with you in the United States for over half of 2004.

Exception to "Time Lived With You" Condition. The child does not have to live with you for over half of 2004 if either of the following applies.

1. The child was born or died during the year and your home was this child's home for the entire time he or she was alive in 2004.

2. The child is presumed by law enforcement authorities to have been kidnapped by someone who is not a family member and the child lived with you for over half of the part of the year before he or she was kidnapped.

Note: Temporary absences, such as for school, vacation, medical care, or detention in a juvenile facility, count as time lived at home. Members of the military on extended active duty outside the United States are considered to be living in the United States.

Married child. A child who is married at the end of 2004 is a qualifying child only if you may claim him or her as your dependent, or the following **Exception** applies to you.

Exception. You are the custodial parent and would be able to claim the child as your dependent, but the noncustodial parent claims the child as a dependent because—

1. You signed **Form 8332**, Release of Claim to Exemption for Child of Divorced or Separated Parents, or a similar statement, agreeing not to claim the child for 2004 or

2. You have a pre-1985 divorce decree or separation agreement that allows the noncustodial parent to claim the child and he or she gives at least \$600 for the child's support in 2004.

Other rules may apply. See **Pub. 501**, Exemptions, Standard Deduction, and Filing Information, for more information on children of divorced or separated parents.

Qualifying child of more than one person. If the child meets the conditions to be a qualifying child of more than one person, only one person may treat that child as a qualifying child for 2004. If you and the other person(s) cannot agree on who will treat that child as a qualifying child for 2004, special rules apply to determine who may do so. For details, see the 2003 revision of **Pub. 596**, Earned Income Credit (EIC). However, these rules do not apply if the only other person is your spouse and you plan to file a joint return for 2004.

Reminder. A qualifying child must have a social security number unless he or she was born and died in 2004.

What if My Situation Changes?

If your situation changes after you give Form W-5 to your employer, you will probably need to file a new Form W-5. For example, you must file a new Form W-5 if any of the following applies for 2004.

- You no longer expect to have a qualifying child. Check "**No**" on line 1 of your new Form W-5.

- You no longer expect to be able to claim the EIC for 2004. Check "**No**" on line 1 of your new Form W-5.
- You no longer want advance payments. Check "**No**" on line 1 of your new Form W-5.
- Your spouse files Form W-5 with his or her employer. Check "**Yes**" on line 3 of your new Form W-5.

Note: If you get the EIC with your pay and find you are not eligible, you must pay it back when you file your 2004 Federal income tax return.

Additional Information

How To Claim the EIC

If you are eligible, claim the EIC on your 2004 tax return. See your 2004 tax return instruction booklet.

Additional Credit

You may be able to claim a larger credit when you file your 2004 Form 1040 or Form 1040A because your employer cannot give you more than \$1,563 throughout the year with your pay. You may also be able to claim a larger credit if you have more than one qualifying child. But you must file your 2004 tax return to claim any additional credit.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. Internal Revenue Code sections 3507 and 6109 and their regulations require you to provide the information requested on Form W-5 and to give it to your employer if you want advance payment of the EIC. As provided by law, we may give the information to the Department of Justice and other Federal agencies. In addition, we may give it to cities, states, and the District of Columbia so they may carry out their tax laws. We may also disclose this information to other countries under a tax treaty or to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism. Failure to provide the requested information may prevent your employer from processing this form; providing false information may subject you to penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 6 min.; **Learning about the law or the form**, 12 min.; and **Preparing the form**, 25 min.

We welcome comments on forms. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send Form W-5 to this address. Instead, give it to your employer.

