

Instructions for Form 8862



Department of the Treasury
Internal Revenue Service

(Rev. November 2003)

Information To Claim Earned Income Credit After Disallowance

General Instructions



Do not use these instructions for a year prior to 2002. Instead, use the November 2000 revision of the Instructions for Form 8862.

Purpose of Form

You **must** complete Form 8862 and attach it to your tax return if **both** of the following apply.

1. Your EIC was reduced or disallowed for any reason other than a math or clerical error for a year after 1996.
2. You now want to claim the EIC.

But **do not** file Form 8862 if either of the following applies.

- After your EIC was reduced or disallowed in an earlier year **(a)** you filed Form 8862 (or other documents) and your EIC was then allowed and **(b)** your EIC has not been reduced or disallowed again for any reason other than a math or clerical error.
- You are taking the EIC without a qualifying child and the only reason your EIC was reduced or disallowed in the earlier year was because it was determined that a child listed on **Schedule EIC** was not your qualifying child.

Also, do not file Form 8862 or take the credit:

- For 2 years if it was determined that your error was due to reckless or intentional disregard of the EIC rules **or**
- For 10 years if it was determined that you fraudulently claimed the EIC.



You must also attach Schedule EIC to your return if you have a qualifying child or children. In addition to filing Form 8862 and, if required, Schedule EIC, you may be asked to provide other information before any refund claimed on your return is issued. The process of establishing your eligibility to take the EIC will delay your refund.

Additional Information

For more details on the EIC, including the definition of a qualifying child and who is eligible to take the EIC, see your tax return instructions or **Pub. 596**, Earned Income Credit, for the year for which you are filing Form 8862.

Specific Instructions

Need More Space for an Item?

If you do, attach a statement that is the same size as Form 8862. Number each entry on the statement to correspond with the line number on Form 8862. Put your name and social security number on the statement and attach it at the end of your return.

Lines 3a and 3b

Enter the information in the following order: month, day, year—month, day, year.

Example. You are single and are filing Form 8862 for 2003. Your home was in the United States for all of 2003. On line 3a, you would enter 01/01/2003—12/31/2003.

Members of the Military. If you were on extended active duty outside the United States, your home is considered to be in the United States during that duty period. Include your active duty time on line 3a and your spouse's, if applicable, on line 3b. See Pub. 596 for the definition of extended active duty.

Line 6a

Temporary absences, such as for school, vacation, medical care, or detention in a juvenile facility, count as time lived at home.

Line 7b

A **student** is a person who during any 5 months of the year entered on line 1—

- Was enrolled as a full-time student at a school or
- Took a full-time, on-farm training course given by a school or a state, county, or local government agency.

A **school** includes technical, trade, and mechanical schools. It does not include on-the-job training courses, correspondence schools, or night schools.

Line 7c

If the child attended more than one school or training course, attach a statement to your return with the name(s) of the school or government agency.

Line 7d

A person is **permanently and totally disabled** if **both** of the following apply.

1. He or she cannot 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.

Line 7e

Enter the name of the child's health care provider (such as a physician, registered nurse, clinic, etc.) or social worker.

Line 8a

Check "No" if the only other person is your spouse and you are filing a joint return for the year entered on line 1.

If you checked "**Yes**" on line 8a and the child meets the requirements to be a qualifying child of more than one other person, complete lines 8b and 8c for each additional person. Show the required information on an attached statement. See **Need More Space for an Item?**

on page 1 for details. Also, enter “see attached” next to line 8a.

Line 8d

If you checked “Yes” on line 8a, the child meets the conditions to be a qualifying child of at least one other person. However, only one person can take the EIC based on that child. The other person(s) cannot take the EIC for people who do not have a qualifying child, but may take the EIC based on a different qualifying child. You and the other person(s) can decide who will take the EIC based on that qualifying child.

Tie-Breaker Rules. If you and the other person(s) cannot agree on who will take the EIC, the following rules apply.

- If only one of the persons is the child’s parent, the child will be treated as the qualifying child of the parent.
- If both persons are the child’s parents, the child will be treated as the qualifying child of the parent with whom the child lived for the longer period of time during the year entered on line 1. If the child lived with each parent for the same amount of time, the child will be treated as the qualifying child of the parent who had the **higher** adjusted gross income (AGI) for the year entered on line 1.
- If none of the persons is the child’s parent, the child will be treated as the qualifying child of the person who had the highest AGI for the year entered on line 1.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

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 Internal Revenue Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	45 min.
Learning about the law or the form	7 min.
Preparing the form	56 min.
Copying, assembling, and sending the form to the IRS	31 min.

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. See the instructions for the tax return with which this form is filed.
