



Department of the Treasury
Internal Revenue Service

Notice 797

(Rev. December 2010)

Possible Federal Tax Refund Due to the Earned Income Credit (EIC)

What Is the EIC?

The EIC is a refundable tax credit for certain workers.

Who May Claim the EIC?

You may be able to claim the EIC for 2010 if you worked and all four of the following conditions apply.

1. You (and your spouse, if filing a joint return) have a valid social security number (SSN) issued by the Social Security Administration. For more information on valid SSNs, see Pub. 596, Earned Income Credit (EIC).
2. Your 2010 earned income and adjusted gross income are both under \$35,535 (\$40,545 if married filing jointly) if you have one qualifying child; under \$40,363 (\$45,373 if married filing jointly) if you have two qualifying children; under \$43,352 (\$48,362 if married filing jointly) if you have three or more qualifying children; or under \$13,460 (\$18,470 if married filing jointly) if you do not have a qualifying child. For a definition of earned income, see the 2010 instructions for Form 1040, 1040A, or 1040EZ.
3. Your filing status on your 2010 tax return is any status except married filing a separate return.
4. You, and your spouse if filing a joint return, were not a qualifying child of another person in 2010.

If you **do not** have a qualifying child, you must also meet these conditions.

- a. You, or your spouse if filing a joint return, were at least age 25 but under age 65 at the end of 2010.
- b. You, and your spouse if filing a joint return, cannot be claimed as a dependent on someone else's 2010 tax return.
- c. Your home, and your spouse's if filing a joint return, was in the United States for over half of 2010.

Note. If you are in the military on extended active duty outside the United States, your home is considered to be in the United States during that duty period and you may be able to claim the EIC.

You **cannot** claim EIC if any of the following conditions apply.

1. Your 2010 investment income (such as interest and dividends) is over \$3,100. See your 2010 income tax return instructions for more details.
2. You file either Form 2555 or Form 2555-EZ (relating to foreign earned income).
3. You were a nonresident alien for any part of 2010 unless you were married to a U.S. citizen or resident and elected to be taxed as a resident alien for the entire year. See Pub. 519, U.S. Tax Guide for Aliens, for more information.

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Who Is a Qualifying Child?

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

1. The child is your son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them (for example, your grandchild, niece, or nephew). An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption. A foster child is any child placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

2. At the end of 2010, the child was under age 19 and younger than you (or your spouse, if filing jointly); or under age 24, a student, and younger than you (or your spouse, if filing jointly); or any age and permanently and totally disabled.

3. The child lived with you in the United States for over half of 2010. If the child did not live with you for the required time, there are exceptions if the child was born or died during the year, the child is presumed to have been kidnapped by someone who is not a family member, or there was a temporary absence.

There are additional rules if a child is married or is the qualifying child of more than one person. For details, see the 2010 instructions for Form 1040, 1040A, or 1040EZ.

How Do You Claim the EIC?

If you are eligible, claim the EIC on your 2010 income tax return. If you have a qualifying child, you must also fill in Schedule EIC and attach it to your Form 1040 or Form 1040A.

If eligible, you can claim the EIC to get a refund even if you have no tax withheld from your pay or owe no tax. For example, if you had no tax withheld in 2010 and owe no tax but are eligible for a credit of \$829, you must file a 2010 income tax return to get the \$829 refund.

Can You Get Advance Payment of EIC in 2011?

After 2010, you can no longer get advance payments of the credit in your pay during the year as you could in 2010 and earlier years. This is because the law has changed. However, if you are eligible, you will still be able to claim the credit on your 2011 return.

Also, if you expect to be able to claim the credit on your 2011 return and have federal income tax withheld throughout 2011, you may be able to reduce the tax withheld by increasing the number of withholding allowances. See *Converting Credits to Withholding Allowances* in Pub. 919. This will enable you to get the benefit of at least some of the credit during 2011. But if you do not have enough income tax withheld, you may owe tax when you file your 2011 return.

More Information

This notice provides the basic requirements to qualify for the EIC. Refer to the 2010 instructions for Forms 1040, 1040A, or 1040EZ; Pub. 596; or www.irs.gov/eitc for details. You can get IRS forms and publications at IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).