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Meeting Your EITC Due Diligence



The Due Diligence Must Do's

- Know the law
- Ask all the right questions
- Get all the facts
- Document as you go

6/17/2012



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How Does Due Diligence Benefit Everyone?

- Ensures your clients receive the correct amount of EITC
- Protects you and your clients from EITC related penalties
- Helps avoid and reduce EITC errors





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Let's Talk About Due Diligence

- What you need to know for the 2013 filing season
- Why is due diligence important
- Due diligence requirements
- Tips for meeting due diligence
- Prevention of EITC refund error
- Information on additional resources



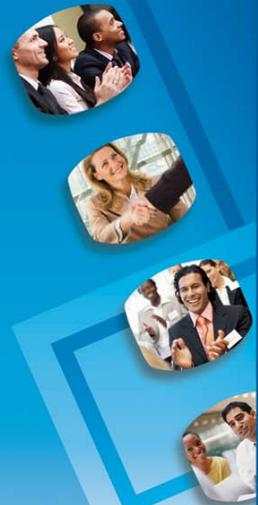


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What You Should Know for the 2013 Filing Season

- No changes to EITC tax law for 2012 filing season
- 2009 provisions set to expire at end of 2012
- Complete and submit Form 8867
- Retain pertinent documentation





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More to Know about the 2013 Filing Season

- Change in record retention period
- Real-time due diligence compliance program
- Due Diligence tax preparer penalty increased to \$500
- Assess penalties to tax preparer employers





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EITC Due Diligence Requirements

1. Complete and submit Form 8867
2. Complete computation of credit worksheet
3. Keep records
4. Knowledge requirement





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Record Keeping Requirements

- Keep the following
 - A record of who provided the information and when it was received
 - Computation and eligibility worksheets, including the Form 8867
 - Documents used to determine eligibility and computation of EITC
 - Record of any additional questions and responses





Record Retention

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- Keep pertinent records for three years
- Keep records, either paper or electronic, in a secure location
- Keep back-up in separate, secure location





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Knowledge Requirement

- Not know or have reason to know, that any information is not correct
- Ask your client additional questions if a reasonable and well-informed tax return preparer, knowledgeable in the law, would conclude the information seems incorrect, inconsistent or incomplete.
- Document the questions you asked and your client's responses as it happens





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Knowledge Requirement Tips

- Apply a common sense standard to the information provided by your client
- Evaluate whether the information is complete and gather any missing facts
- Determine if the information is consistent; recognize contradictory statements and statements you know not to be true





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Knowledge Requirement Best Practices

- Conduct a thorough, in-depth interview with every client, every year
- Ask enough questions to reasonably know the return is correct and complete
- Document in the file any questions you asked and your client's responses, as it happens





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Avoid The Most Common EITC Error Issues:

- Claiming a child that does not meet the age, relationship, or residency requirements
- Claiming single or head of household when married
- Over or under-reporting income or expenses, particularly schedule C's





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EITC and Clients with Schedule C

- Conduct a thorough and in-depth interview with your client about their business activity
- Review supporting material
- Educate clients on the need for recordkeeping and the consequences of failure to keep records
- Guide clients through a reconstruction of income and expenses, if necessary





Help Clients Reconstruct Records

- Develop a sound and reasonable estimate of your client's business income and expenses
 - Appointment books or calendars
 - Online map tools
 - Checkbook, cancelled checks, bank statements or credit card statements
 - List of regular clients
 - Partial receipts
 - Cell phone records
 - Prior years tax returns
- Guide client on using partial records to develop support for Schedule C

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Errors have Consequences for Your Client

- Your client losing EITC is bad customer service
- Your client may need to pay back the credit with interest and penalty
- Your client may be required to file Form 8862 for future EITC claims
- Your client can be banned from claiming EITC for 2 or 10 years





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Error has Consequences for You and Your Employer

- IRS can assess a \$500 penalty against both you and your employer for each failure to comply
- Minimum penalty of \$1,000 if you prepare a client return and IRS finds any part of the amount of taxes owed is due to an, unreasonable position
- A minimum penalty of \$5,000 if you prepare a client return and IRS finds any part of the amount of taxes owed is due to your reckless or intentional disregard of rules or regulations
- Losing your status as a registered return preparer
- Suspension or expulsion of you or your firm from IRS e-file
- Injunctions barring you from preparing tax returns or imposing conditions on the tax returns you may prepare





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When can IRS Penalize an Employer?

The employer or firm:

- Or principal member of management participated in or prior to the time of filing the return, knew of the failure to comply with the due diligence requirements, or
- Failed to establish reasonable and appropriate procedures to ensure compliance with EITC due diligence requirements, or
- Disregarded its compliance procedures through or failed to investigate





Examples of How Employers Can Protect Themselves

- Review current office procedures
- Review your procedures with your employees
- Conduct annual EITC due diligence training or use our online module (English and Spanish versions)
- Test your employee's knowledge of due diligence and your procedures
- Perform recurring quality review checks on your employee's work

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EITC Preparer Compliance Strategy

- Targeted

Look at returns with a high likelihood of EITC error completed by same preparer.

- Tailored

Look for cause of the errors. Is it not knowing the tax law; not applying it correctly, or, is it an intentional disregard of the tax law?

- Tiered

Our goal is to reduce preparer errors by matching our response to the risk level of the same preparer continuing to have a high level of EITC error.





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EITC Preparer Compliance Strategy

First tier—education and outreach

- Letters to new and experienced preparers
- Visiting preparers filing highly questionable returns





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EITC Preparer Compliance Strategy

Auditing for Due Diligence Compliance

- Notify preparer and set appointment
- Review selected EITC returns
- Review Software
- Make Penalty Determination





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EITC Preparer Compliance Strategy

Barring Non-Compliant EITC Return Preparers from Filing Tax Returns

- Bars a preparer from filing federal tax returns
- Imposes restrictions on preparers filing federal tax returns with EITC claims





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Real-Time EITC Preparer Pilot

- Pre-filing season certified mail letters notify preparer detailing high error rate from previous filing season and letting them know we are watching the returns they file
- Early in the filing season returns are reviewed and improvement measured twice
- Preparers who show no improvement receive immediate treatment





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New Real-Time Due Diligence Audits

- Client returns identified for audit are current year returns
- Number of returns selected for audit varies.
- Examiners contact the preparers face to face immediately
- Audit conducted immediately to promote improvement in EITC return accuracy during the current filing season.

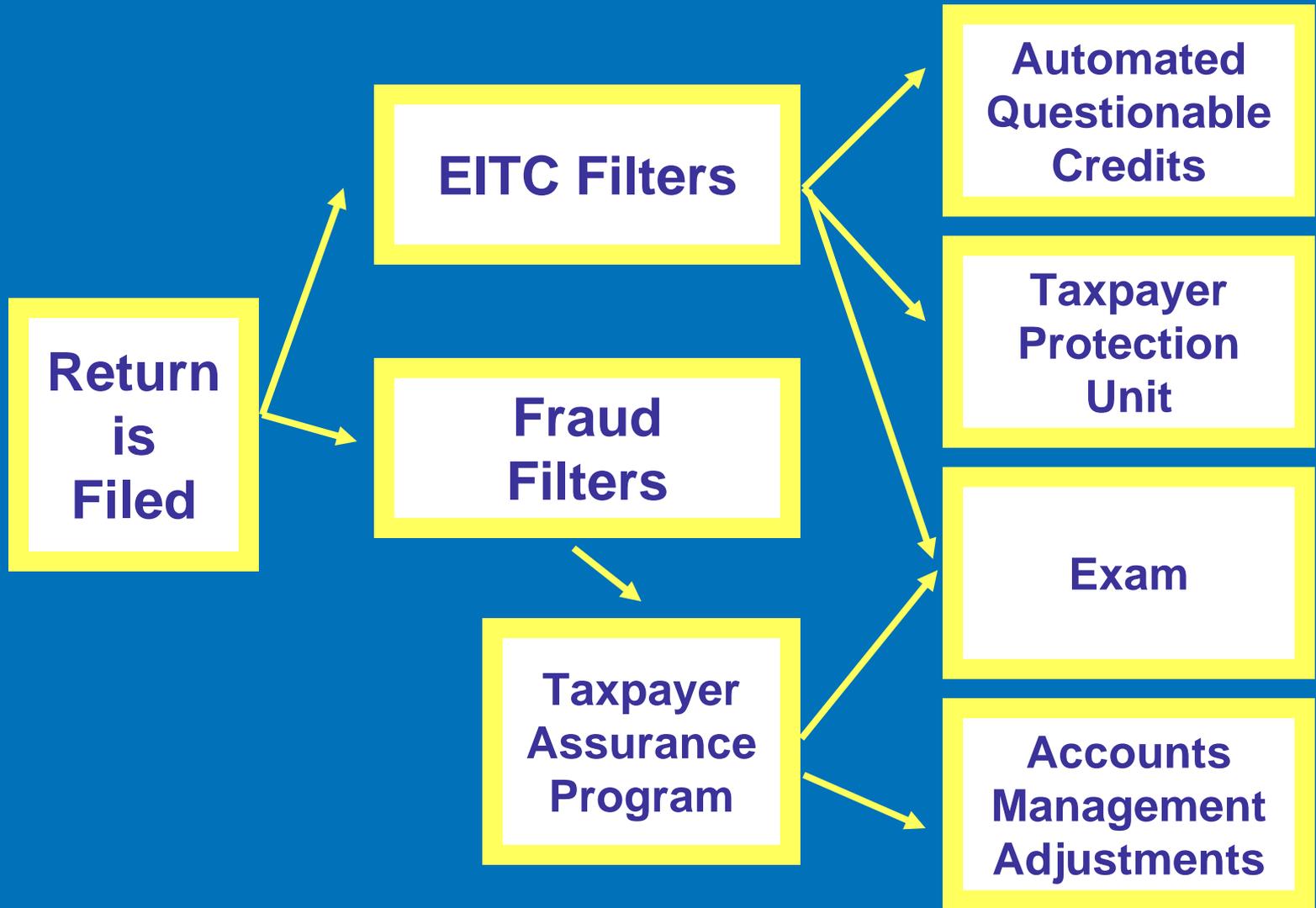




PreRefund Error Detection

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Steps to Avoid EITC Errors

- Apply EITC due diligence must do's
 - Know the law
 - Ask all the right questions
 - Get all the facts
 - Document as you go

Due Diligence is more than a check mark on a form or clicking through tax preparation software





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Due Diligence

Give your clients their due.

2012 EITC and Due Diligence
»» Made Easy





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Additional EITC Information

EITC Central

www.eitc.irs.gov

Your home for all things EITC

