



IRS
Nationwide

TaxFORUM



Your Due Diligence Requirements –

What's New for you in 2017



IRS
Nationwide

TAX
FORUM

Objectives

You will have an understanding of:

- Expanded paid preparer due diligence requirements
- Increased impact on you and your tax practice



Path Act and Due Diligence

- Expanded due diligence now includes
 - Child Tax Credit
 - American Opportunity Tax Credit
- Unchanged for EITC due diligence requirements
- Effective for tax years after 12/31/2015





IRS

Due Diligence Requirements

IRC §6695(g) due diligence requirements

1. *Complete and submit* Form 8867
2. *Complete and keep* all worksheets used to compute the credit
3. *Apply* the knowledge requirement
4. *Keep* records

IRS
Nationwide
TAXFORUM





IRS
Nationwide

TAX
FORUM



Video placeholder 1

- Overview of what is required for due diligence



Form 8867

- *Complete* Form 8867 thoroughly for ALL returns claiming EITC, CTC or AOTC
- *Submit* Form 8867 with EVERY e-file or paper return claiming EITC, CTC or AOTC
- *Keep* a copy for your records





Form 8867

Form 8867 Department of the Treasury Internal Revenue Service	Paid Preparer's Due Diligence Checklist <i>Earned Income Credit (EIC), Child Tax Credit (CTC), and American Opportunity Tax Credit (AOTC)</i>			OMB No. 1545-1629 2016 Attachment Sequence No. 177
	▶ To be completed by preparer and filed with Form 1040, 1040A, 1040EZ, 1040NR, 1040SS, or 1040PR. ▶ Information about Form 8867 and its separate instructions is at www.irs.gov/form8867 .			
Taxpayer name(s) shown on return		Taxpayer identification number		
Enter preparer's name and PTIN				
Due Diligence Requirements				
Please complete the appropriate column for all credits claimed on this return (check all that apply).				
	EIC	CTC/ACTC	AOTC	
1 Did you complete the return based on information for tax year 2016 provided by the taxpayer or reasonably obtained by you?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2 Did you complete the applicable EIC and/or CTC/ACTC worksheets found in the Form 1040, 1040A, 1040EZ, or 1040NR 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"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3 Did you satisfy the knowledge requirement? Answer "Yes" only if you can answer "Yes" to both 3a and 3b. To meet the knowledge requirement, did you:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
a Interview the taxpayer, ask adequate questions, and document the taxpayer's responses to determine that the taxpayer is eligible to claim the credit(s)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
b Review adequate information to determine that the taxpayer is eligible to claim the credit(s) and in what amount?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4 Did any information provided by the taxpayer, a third party, or reasonably known to you in connection with preparing the return appear to be incorrect, incomplete, or inconsistent? (If "Yes," answer questions 4a and 4b. If "No," go to question 5.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
a Did you make reasonable inquiries to determine the correct or complete information?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
b Did you document your inquiries? (Documentation should include the questions you asked, whom you asked, when you asked, the information that was provided, and the impact the information had on your preparation of the return.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

5 Did you satisfy the record retention requirement? To meet the record retention requirement, did you keep a copy of any document(s) provided by the taxpayer that you relied on to determine eligibility or to compute the amount for the credit(s)? In addition to your notes from the interview with the taxpayer, list those documents, if any, that you relied on. _____ _____ _____ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
6 Did you ask the taxpayer whether he/she could provide documentation to substantiate eligibility for and the amount of the credit(s) claimed on the return?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
7 Did you ask the taxpayer if any of these credits were disallowed or reduced in a previous year? (If credits were disallowed or reduced, go to question 7a; if not, go to question 8.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
a Did you complete the required recertification form(s)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
8 If the taxpayer is reporting self-employment income, did you ask adequate questions to prepare a complete and correct Form 1040, Schedule C?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 26142H **Form 8867** (2016)



DRAFT AS OF JULY 19, 2016



Form 8867

Version A, Cycle 7

Form 8867 (2016)

Page **2**

Due Diligence Questions for Returns Claiming EIC (If the return does not claim EIC, go to question 10.)

	EIC	CTC/ACTC	AOTC
9a Did you explain to the taxpayer the rules about claiming the EIC when a child is the qualifying child of more than one person (tie-breaker rules), and have you determined that this taxpayer is, in fact, eligible to claim the EIC for the number of children for whom the EIC is claimed?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
b Did you explain to the taxpayer that he/she may not claim the EIC if the taxpayer has not lived with the child for over half the year, even if the taxpayer has supported the child?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Due Diligence Questions for Returns Claiming CTC and/or additional CTC (If the return does not claim CTC or Additional CTC, go to question 11.)

10a Does the child reside with the taxpayer who is claiming the CTC/ACTC? (If "Yes," go to question 10c. If "No," answer question 10b.)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
b Did you ask if there is an active Form 8332, Release/Revocation of Claim to Exemption for Child by Custodial Parent, or a similar statement in place and, if applicable, did you attach it to the return?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
c Have you determined that the taxpayer has not released the claim to another person?		<input type="checkbox"/> Yes <input type="checkbox"/> No	

Due Diligence Questions for Returns Claiming AOTC (If the return does not claim AOTC, go to *Credit Eligibility Certification*.)

11 Did the taxpayer provide substantiation such as a Form 1098-T and receipts for the qualified tuition and related expenses for the claimed AOTC?		<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--	--

▶ You have complied with all due diligence requirements with respect to the credits claimed on the return of the taxpayer identified above if you:

▶ If you have not complied with all due diligence requirements for all credits claimed, you may have to pay a \$510 penalty for each credit for which you have failed to comply.

Credit Eligibility Certification

12 Do you certify that all of the answers on this Form 8867 are, to the best of your knowledge, true, correct and complete?		<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--	--

Form 8867 (2016)

IRS Nationwide **TAX FORUM**





Refundable Credit Worksheets

Complete and keep:

- EITC worksheet from 1040, 1040A or 1040EZ instructions
- CTC worksheets from 1040 or 1040A instructions
- AOTC worksheet from the Form 8863 instructions





Knowledge Requirement

It's not just about knowing the law, it's

- Applying a common sense standard
- Using information you know
- Determining what questions you need to ask





IRS
Nationwide

TAX
FORUM

Video Placeholder 2

- EITC, CTC/ACTC and AOTC Due Diligence Knowledge





Recordkeeping

Keep paper or electronic records of:

- Form 8867
- All applicable worksheets for credits claimed
- How, when and who provided credit eligibility information
- Any client documents you relied on to determine eligibility or compute credit
- Additional inquiries you made to meet the knowledge requirement and your client's responses





Safeguard and Keep Records

For 3 years from the later of:

- Due date of the return or
- Date the return was e-filed or
- Date the taxpayer signed the return or
- Date you gave the part you prepared to the signing preparer





Common Due Diligence Errors

- Not meeting knowledge requirement
- Not keeping records
- Not completing and submitting Form 8867
- Using “Do it Yourself” software





IRS
Nationwide

TAX
FORUM

Stackable Due Diligence Penalties

- Paid preparers
- Employers of Paid Preparers





Protect Yourself as an Employer

- Review current or develop new office procedures
- Instruct your employees on procedures and expectations
- Conduct due diligence training annually
- Test your employees knowledge
- Perform recurring quality review checks





IRS

IRS
Nationwide

TAX
FORUM

Impact on Your Clients

- Accuracy and fraud penalties
- Recertification
- Two and ten year bans





IRS
Nationwide

TAX
FORUM



Video placeholder 3

- Due Diligence steps and/or treatments



IRS

Due Diligence Preparer Compliance Treatments

- Sending educational and warning alerts or letters
- Visiting preparers
- Conducting due diligence audits
- Auditing client returns
- Barring preparers who prepare highly questionable returns
- Issuing penalty notices for missing Forms 8867

IRS
Nationwide

TAX
FORUM





IRS

Nationwide

TAX FORUM

Due Diligence Must Do's

- Know the law and apply your knowledge
- Ask all the right questions
- Get all the facts
- Document as you go
- Keep records





IRS Help

Send Your Due Diligence Questions
eitc.program@irs.gov

Visit EITC Central
eitc.irs.gov

IRS
Nationwide

TAX
FORUM

