



IRS Nationwide TaxForum | 2019

One Year Later...

Tax Cuts and Jobs Act (TCJA)

Due Diligence Update



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After This Seminar You Will Know More About:

- Expanded Due Diligence Requirements
- Child Tax Credit/Additional Child Tax Credit, CTC/ACTC
- Credit for Other Dependents, ODC
- Head of Household Filing Status, HOH
- The Tax Preparer Toolkit and other due diligence resources



Due Diligence Requirements Review

Ask all the
right
questions

Compute the
credits based
on the facts

Keep all
required
records

**Complete
and submit**
Form 8867

Due Diligence Most Common Errors



Failing to meet
the knowledge
requirement



Failing to keep
records and
documentation



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Tax Cuts and Jobs Act Highlights

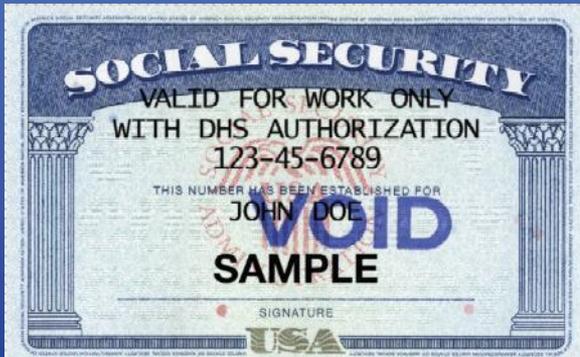
- No personal and dependent exemption deductions
- Increased CTC and refundable ACTC amounts, increased AGI limits
- Required Social Security number for CTC/ACTC qualifying children
- Created Credit for Other Dependents – ODC





Child's Social Security Number

Can claim for CTC/ACTC



Cannot claim for CTC/ACTC





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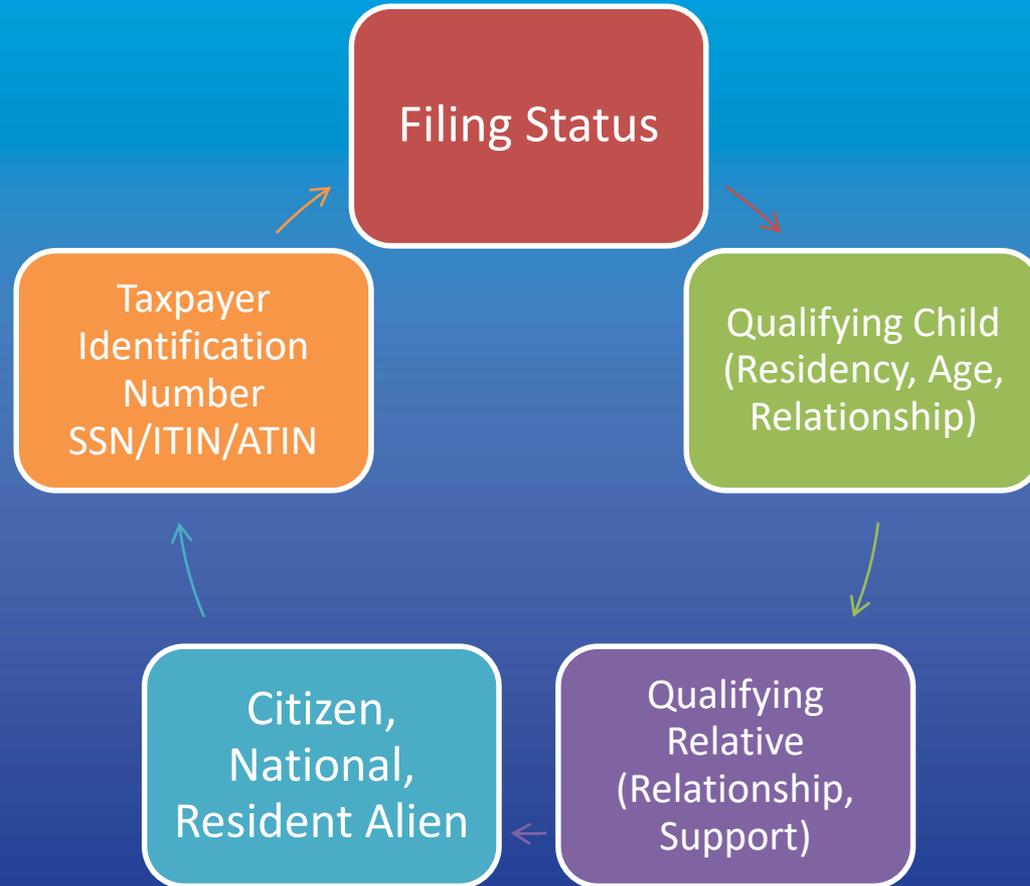
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Figuring It All Out





CTC/ACTC Qualifying Child Requirements:

- Relationship
- Age
- Residency
- Support
- Joint return
- Dependent
- Citizenship





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CTC/ACTC

Citizenship Requirements

The child must be:

- U.S. Citizen or U.S. National
- or
- U.S. Resident Alien
 - Green Card or meets Substantial Presence Test



CTC/ACTC Quiz

Can the client claim the CTC for a child who is a U.S. citizen living with her in Germany?

ANSWER: YES, since the child is a U.S. citizen, the child doesn't have to be a U.S. resident to be eligible to be claimed for the CTC.

Can the client claim the CTC for a child who is a non-U.S. citizen living in Mexico?

ANSWER: NO, since the child isn't a U.S. citizen or national, the child would have had to be a U.S. resident alien to be eligible to be claimed for the CTC.

Can the client claim the CTC for a child who is a non-U.S. citizen living in the U.S.?

ANSWER: YES, although the child isn't a U.S. citizen or national, since the child is a U.S. resident alien, the child is eligible to be claimed for the CTC. However, make sure to also check to see whether the child has the required SSN for the CTC. Some children may, and some may not.



Credit for Other Dependents (ODC)

Examples of a qualifying person for ODC...

- Dependent child over age 16
- Dependent child or relative with ITIN or ATIN
- Dependent relative including client's parent





Credit for Other Dependents:

Citizenship *and* Tax Identification Number Requirements

The dependent must be a:

- U.S. Citizen
- U.S. National
- or
- U.S. Resident Alien
 - Green Card or Substantial Presence Test

In addition, the dependent must have an:

- SSN, ITIN or ATIN issued on or before return due date, including extensions



ODC Quiz

Can the client claim ODC for a sister, who is a dependent with an ITIN, lives in Canada, and is a Canadian citizen? Yes/No/It depends?

ANSWER: No. To claim a person for the ODC, the person must be a U.S. citizen, national or resident alien.

Can the client claim ODC for a brother, who is a dependent, with an ITIN living in New York? Yes/No/It depends?

ANSWER: Yes. The brother has an ITIN and is a resident alien, residing in the U.S. (New York).

Can the client claim ODC for his parent who is a dependent, has a TIN and lives in Japan? Yes/No/It depends?

ANSWER: It depends. Remember, to claim a person for the ODC, the person must be a U.S. citizen, national or resident alien.

So you must inquire to see if the parent has a SSN or ITIN



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CTC/ACTC/ODC

Taxpayer Identification Number & Citizenship Requirements

Dependent for CTC/ACTC	Dependent for ODC
<ul style="list-style-type: none">▪ SSN▪ Valid for employment▪ Issued before return due date (including extensions)	<ul style="list-style-type: none">▪ SSN, ITIN or ATIN▪ Issued on or before return due date (including extensions)
<p>Must be either:</p> <ul style="list-style-type: none">▪ U.S. Citizen▪ U.S. National <p>or</p> <ul style="list-style-type: none">▪ U.S. Resident Alien	



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Pulling It All Together



Head of Household



Child Tax Credit



Qualifying Child or Relative



Credit for Other Dependents



Taxpayer Identification Number SSN/ITIN/ATIN



Citizenship Requirements

CTC/ACTC/ODC & HOH

Dependent for CTC/ACTC	Dependent for ODC	Dependent for HOH Filing Status
<p>Must be either:</p> <ul style="list-style-type: none">▪ U.S. Citizen▪ U.S. National <p>or</p> <ul style="list-style-type: none">▪ U.S. Resident Alien	<p>Must be either:</p> <ul style="list-style-type: none">▪ U.S. Citizen▪ U.S. National <p>or</p> <ul style="list-style-type: none">▪ U.S. Resident Alien	<p>Must be either:</p> <ul style="list-style-type: none">▪ U.S. Citizen▪ U.S. National <p>or</p> <ul style="list-style-type: none">▪ Resident of U.S., Canada or Mexico

Head of Household Requirements



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Your Client Must:

- Be unmarried or considered unmarried at the end of the year and
- Pay over half the cost of keeping up
 - A home in which the client lived with qualifying person or
 - A home for a dependent parent (can include a parent living in a separate home in the U.S., Canada, Mexico or abroad)





Dependent & HOH Requirements

U.S. Citizen, U.S. National, U.S. Resident **or...**





Head of Household Quiz

Can the client living in New York claim HOH status with a dependent parent who lives in Guatemala?

Yes/No/It depends

Answer: It Depends

If the parent is a U.S. citizen or national, client provides over half the cost to keep up the parent's home, then YES, the parent in Guatemala is a qualifying person for HOH filing status for the client.

No - If the parent isn't a U.S. citizen or national, the client's parent in Guatemala is not a qualifying person for HOH filing status for the client.

Can the client, living in Georgia, claim HOH filing status for a dependent parent who is a Mexican citizen with an ITIN and lives in Texas?

Yes/No/It depends

Answer: Yes

The client can claim a parent who is a U.S. resident alien as a qualifying person for HOH filing status as long as, he/she provides over half the cost to keep up the parent's home.

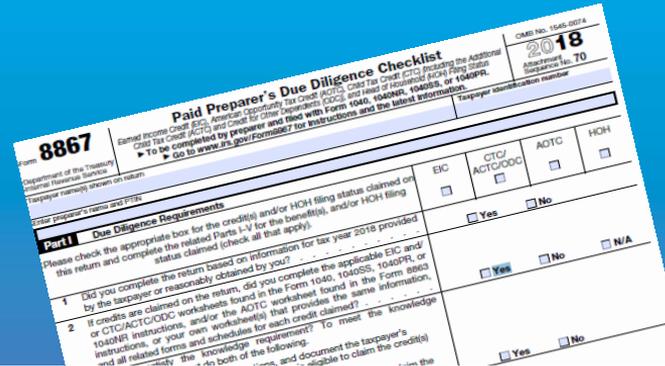


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Form 8867 & Penalties



8867 **Paid Preparer's Due Diligence Checklist**
 Earned Income Credit (EIC), American Opportunity Tax Credit (AOTC), Child Tax Credit (CTC) (including the Additional Child Tax Credit (ACTC)) and Credit for Other Dependents (ODC), and Head of Household (HOH) Filing Status
 ▶ To be completed by preparer and filed with Form 1040, 1040NR, 1040SS, or 1040PR.
 ▶ Go to www.irs.gov/Form8867 for instructions and the latest information.

OMB No. 1545-0074
2018
 Attachment Sequence No. 70

Department of the Treasury
 Internal Revenue Service

Taxpayer name(s) shown on return _____ Taxpayer identification number _____

Preparer's name and PTIN _____

Part I Due Diligence Requirements

Please check the appropriate box for the credit(s) and/or HOH filing status claimed on this return and complete the related Parts I-IV for the benefit(s), and/or HOH filing status claimed (check all that apply).

	EIC	CTC/ ACTC/ODC	AOTC	HOH
1 Did you complete the return based on information for tax year 2018 provided by the taxpayer or reasonably obtained by you?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
2 If credits are claimed on the return, did you complete the applicable EIC and/or CTC/ACTC/ODC worksheets found in the Form 1040, 1040SS, 1040PR, 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			

Form 8867-2018 Page 2

Part II Due Diligence Questions for Returns Claiming EIC (If the return does not claim EIC, go to Part III.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
9a 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, or to claim the EIC if the taxpayer has no qualifying child? (Skip 9b and 9c if the taxpayer is claiming the EIC and does not have a qualifying child.)	<input type="checkbox"/> Yes <input type="checkbox"/> No			
9b Did you ask the taxpayer if the child lived with the taxpayer for over half of the year, even if the taxpayer has supported the child the entire year?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
9c Did you explain to the taxpayer the rules about claiming the EIC when a child is the qualifying child of more than one person (breaker rules)?	<input type="checkbox"/> Yes <input type="checkbox"/> No			

Part III Due Diligence Questions for Returns Claiming CTC/ACTC/ODC (If the return does not claim CTC, ACTC, or ODC, go to Part IV.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
10 Have you determined that each qualifying person for the CTC/ACTC/ODC is the taxpayer's dependent who is a citizen, national, or resident of the United States?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
11 Did you explain to the taxpayer that he/she may not claim the CTC/ACTC if the taxpayer has not lived with the child for over half of the year, even if the taxpayer has supported the child, unless the child's custodial parent has released a claim to exemption for the child?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
12 Did you explain to the taxpayer the rules about claiming the CTC/ACTC/ODC for a child of divorced or separated parents (or parents who live apart), including any requirement to attach a Form 8332 or similar statement to the return?	<input type="checkbox"/> Yes <input type="checkbox"/> No			

Part IV Due Diligence Questions for Returns Claiming AOTC (If the return does not claim AOTC, go to Part V.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
13 Did the taxpayer provide the required substantiation for the credit, including 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			

Part V Due Diligence Questions for Claiming HOH (If the return does not claim HOH filing status, go to Part VI.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
14 Have you determined that the taxpayer was unmarried or considered unmarried on the last day of the tax year and provided more than half of the cost of keeping up a home for the year for a qualifying person?	<input type="checkbox"/> Yes <input type="checkbox"/> No			

Part VI Eligibility Certification

▶ You will have complied with all due diligence requirements for claiming the applicable credit(s) and/or HOH filing status on the return of the taxpayer identified above if you:

- Interview the taxpayer, ask adequate questions, document the taxpayer's responses on the return or in your notes, review adequate information to determine if the taxpayer is eligible to claim the credit(s) and/or HOH filing status and to determine the amount of the credit(s) claimed;
- Complete the Form 8867 truthfully and accurately and complete the actions described in this checklist for any applicable credit(s) claimed and HOH filing status, if claimed;
- Submit Form 8867 in the manner required; and
- Keep all five of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under Document Retention:
 - A copy of Form 8867;
 - The applicable worksheet(s) or your own worksheet(s) for any credit(s) claimed;
 - Copies of any documents provided by the taxpayer on which you relied to determine eligibility for the credit(s) and/or HOH filing status;
 - A record of how, when, and from whom the information used to prepare this form and the applicable worksheet(s) was obtained; and
 - A record of any additional questions you may have asked to determine eligibility to claim the credit(s), and/or HOH filing status and the amount(s) of any credit(s) claimed and the taxpayer's answers.



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Paid Preparer Resources Tax Preparer Toolkit

- Preparer Due Diligence
- Online Due Diligence Training
- Education Training Videos
- Preparer Compliance Information
- Hot Topics Update

www.eitc.irs.gov

Preparer Additional Resources

- IRS.gov
- Webinars
- Publications and Videos
- Contact U.S. - EITC Program Mailbox



EITC.program@irs.gov



4 Takeaways



Eligible child for the CTC must-have the required Social Security number



Head of Household returns need Form 8867 to meet Due Diligence Requirements



Credit for Other Dependents (ODC) can have an ITIN, can be over age 16



The Tax Preparer Toolkit offers free training, webinars, publications and other resources





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Thanks For Attending

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