



# Earned Income Tax Credit 2009

“Put some extra money in your pocket”

## What is the Earned Income Tax Credit?



The Earned Income Tax Credit (EITC) is a tax benefit for working people who earn low or moderate incomes.

When you file a tax return, you could get a refund of federal taxes withheld. You could also get an additional cash refund, known as EITC.

## Who may get EITC?

Any person who worked full-time or part-time during the year and meets certain rules could get EITC. A person claiming children must meet other rules.

### Single or married people without children may get up to \$457 if:

- You are between the ages of 25 and 64;
- You cannot be claimed as a dependent;
- You lived in the U.S. more than one-half of the year; and
- Your income is less than \$13,440 (\$18,440 if filing a joint return).

### If you have 1 qualifying child, you may get up to \$3,043 if:

- Your family income is less than \$35,463 (\$40,643 if filing a joint return); **OR**

### If you have 2 or more qualifying children, you may get up to \$5,028 if:

- Your family income is less than \$40,295 (\$45,295 if filing a joint return).

### If you have 3 or more qualifying children, you may get up to \$5,657 if:

- Your family income is less than \$43,279 (\$48,279 if filing a joint return)

## How can you qualify for EITC?



### Earned Income

You must have earned income. This includes income from wages, tips and self-employment. Earned income also includes some long-term disability payments paid by your employer. The following items are not earned income:

- unemployment benefits;
- child support;
- Social Security benefits;
- pensions;
- alimony;
- welfare benefits;
- Food Stamps;
- job training benefits; and
- interest.

### Filing Status

You must file single, married filing jointly or head of household to claim EITC. You cannot file “married filing separately.”

### Investment Income

You cannot claim EITC if you have investment income (interest, dividends, and rents) of more than \$3,100.

### Legal Status

You must be a U.S. citizen or resident alien. You are a resident alien if you have a “green card.” **OR** if you have been in the U.S. for a certain period of time. You don’t have to be a legal resident to be a resident alien for tax purposes. Nonresident aliens cannot claim EITC.

### Social Security Number

Both you and your spouse must have Social Security numbers valid for employment.

Any child you claim for EITC (qualifying child) must also have a Social Security number valid for employment.

## What if I later get a Social Security number?

Did you get a Social Security number valid for employment after you filed your tax return? Do you qualify for the EITC? Then you have up to 3 years to **file** a tax return. **OR** up to 3 years to **change** your tax return to claim the EITC. This is true even if you used to have an Individual Taxpayer Identification Number (ITIN). It is true even if you used to have an invalid Social Security number.



### Qualifying Child

A qualifying child must meet the relationship, age and residence tests.

#### 1. Relationship Test

A qualifying child includes your son, daughter, adopted child, stepchild, grandchild, and great-grandchild. It includes your brother, sister, step-brother, step-sister, niece, nephew or descendants of these relatives. It includes an eligible foster child. BUT the child must be placed with you by an authorized placement agency or court.

#### 2. Age Test

Your qualifying child must be under age 19 (at the end of the year) or a full-time student under age 24. To be a full-time student, your child must be enrolled in school full-time for at least 5 months of the year.

You can get EITC for children of any age who are totally and permanently disabled.

#### 3. Residence Test

Your child or eligible foster child must live with you in the U.S. for more than half the year.

#### Alerts:

- Does a court order say who can list your child as a dependent on tax returns? Does it give this right to your child's other parent? You still may be able to get EITC for your child on your tax return!
- You can be homeless and still claim the EITC.

- You don't have to pay for more than one-half of your child's support to claim the EITC.

## What if my child is the qualifying child of someone else?

Someone else, such as your mother, may be able to claim your child for the EITC.

## Two people can't claim the same child.

- What if 2 parents claim the same child? Then only the parent where the child lived the longest will be allowed the EITC.
- What if the child lived with both parents the same amount of time? Then who can claim the EITC? Only the parent with the highest adjusted gross income.
- What if a parent and non-parent claim the same child? Then only the parent will be allowed to claim the EITC.
- What if 2 non-parents claim the same child? Then only the non-parent with the highest adjusted gross income can claim the EITC.

## How do I qualify for the maximum EITC?

- Don't have children? Then the most EITC you can get is \$457. To get it, your income must be between \$5,950 and \$7,499 (\$5,950 - \$12,499 married).
- Have 1 child? Then the most EITC you can get is \$3,043. To get it, your income must be between \$8,950 and \$16,449 (\$8,950 - \$21,449 married).
- Have 2 or more children? Then the most EITC you can get is \$5,028. To get it, your income must be between \$12,550 and \$16,449 (\$12,550 - \$21,449 married).
- Have 3 or more children? Then the most EITC you can get is \$5,657. To get it, your income must be between \$12,550 and \$16,449 (\$12,550 - \$21,449 if married).

## Facts about EITC

- Have you been paid in cash or by personal check? You can get EITC as long as you can document these payments.

- You can get the EITC if you are self-employed.
- Does your employer **not** withhold federal income taxes from your paycheck? You can still get EITC.
- What if you failed to file a tax return or claim EITC? It may not be too late to claim the EITC. You may be able to go back and claim the EITC for the past 3 years.

### **Do I have to wait to file taxes before I can get EITC?**

No. Do you earn less than \$35,535 (\$40,545 if filing a joint return)? **And** do you have at least 1 qualifying child and can claim the EITC? Then your employer can advance your EITC in each paycheck. Your employer can pay up to \$1,830 (2010 amount) in advance EITC benefits each year. This means that you can get up to \$152.50 extra in your paycheck each month! Don't apply for the advanced EITC if you work for yourself or you plan to marry.

You can get the advance EITC by filling out a **W-5 form** and giving it to your employer. The W-5 expires on December 31. You must file a new W-5 form each year.

### **Will EITC affect my public benefits?**

EITC or advance EITC will not affect your eligibility for certain public benefits, such as Food Stamps, low-income housing, welfare, SSI and TennCare. EITC or advance EITC will not affect the amount of your public benefits. If you don't spend the EITC within a certain time period, it could affect certain public benefits.

Have you been denied public benefits or has your amount decreased because of the EITC? Then call:

**Legal Aid Society**  
**1-800-238-1443**

### **What if the IRS denies my EITC claim?**

Do you think you qualify for EITC? Then you should appeal the IRS denial. To appeal, you must say in writing why you are qualified to claim EITC. Attach any papers that support your claim.

What if you don't appeal the IRS decision? Then you may not be able to claim EITC for the next 2 years. What if the IRS decides you lied on purpose to get EITC? Then you may not be able to claim EITC for the next 10 years!

Has the IRS denied your EITC before? Then you must file IRS Form 8862 with your tax return. For more information on the EITC, see IRS Publication 596.

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## **Tennessee Taxpayer Project**

A Low Income Taxpayer Clinic  
P.O. Box 5209  
Oak Ridge, TN 37831

**1-866-481-3669**

It's a free call.

The Tennessee Taxpayer Project (TTP) is a Low Income Taxpayer Clinic funded in part by a grant from the IRS. TTP is independent from the IRS and Tennessee Department of Revenue. Legal Aid Society's staff prepared this brochure. Rev 1/10

**NOTE:** This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation on a tax matter or if you have questions.

## **Legal Aid Society**

of Middle Tennessee and the Cumberlandands

**1-800-483-8457**

It's a free call.

On the internet at: **www.las.org**