

The Earned Income Tax Credit

What is the EITC?

The earned income tax credit (EITC or EIC) is a refundable tax credit for people who work but do not earn high incomes. A tax credit usually means more money in your pocket because it reduces the amount of tax you owe. Those who qualify for a credit can reduce or eliminate their federal tax liability. Because the EITC is a refundable credit, any part of the credit which is not needed for the reduction of a tax debt will be sent to the taxpayer as a refund.

Can I Claim the EITC on my 2016 tax return?

To claim the EITC, you must satisfy several tests.

Rules for Everybody

1. Your adjusted gross income (AGI) must be less than:
 - **\$47,955** (**\$53,505** if married and filing jointly) if you have **three** or more qualifying children,
 - **\$44,648** (**\$50,198** if married filing jointly) if you have **two** qualifying children,
 - **\$39,296** (**\$44,846** if married filing jointly) if you have **one** qualifying child, or
 - **\$14,880** (**\$20,430** for married filing jointly) if you do not have a qualifying child.
2. You must have a valid Social Security number that allows you to work.
3. Your filing status cannot be "married filing separately."

4. You must be a U.S. citizen or resident alien all year.
5. You cannot be the qualifying child of another person.
6. You cannot file form 2555 or form 2555-EZ (relating to foreign earned income).
7. Your investment income must be \$3,400 or less.
8. You must have earned income.
Earned income is **salaries, wages, tips, professional fees**, and other amounts received as pay for work you perform, including income from **self-employment**. Child support, TANF benefits, and disability benefits are **not** considered income to the recipient. Therefore, they are not earned income for the EITC.

Rules if you have a qualifying child:

9. Your child must meet the age, relationship, and residency tests. (See the descriptions below.)
10. Your qualifying child cannot be used by more than one person to claim the EITC.

Qualifying Child:

Please note that the three tests described below are the parts of the Uniform Definition of a Qualifying Child that apply to the EITC. We have not included a complete discussion to save space.

Relationship Test: Your child must be your son, daughter, adopted child, grandchild, stepchild, sibling or step-sibling (or their descendants), or a foster child placed in your home by an authorized placement agency.

The child must live in your home for more than one-half of the year.

Age Test: Your child must be:

1. Under age 19 at the end of the year;
2. A full-time student, younger than you, and under age 24 at the end of the year; or
3. Permanently and totally disabled at any time during the year, regardless of age.

Residency Test: Your child must have lived with you in the United States for more than half of 2016. "In the United States" means in one of the 50 states or the District of Columbia.

Rules if you do not have a qualifying child

11. You must be at least age 25 and under age 65.
12. You cannot be the dependent of another person.

Frequently Asked Questions

How much is the credit?

The EITC varies based on your adjusted gross income and the number of qualifying children. For 2016, the **maximum** amounts of the EITC are:

- **\$6,269** for a taxpayer with three or more qualifying children
- **\$5,572** for a taxpayer with two qualifying children
- **\$3,373** for a taxpayer with one qualifying child
- **\$506** for a taxpayer with no qualifying children

My children live with me, but their other parent claims them for the EITC. The person who did my taxes says that I can't claim the EITC. Is this true?

No, it is not true. You can and should claim the EITC. **Only the custodial parent may claim the children as qualifying children for EITC eligibility.** This is true even if their

other parent pays child support and claims the children as dependents.

Claiming the EITC when someone else has already done so will lead to an audit of your tax return which will afford you the opportunity to prove your eligibility.

Contact The Community Tax Law Project for assistance with the audit. The EITC rules (especially "tiebreaker" rules) are quite complex. It is best to have an expert assisting you.

My children live with me, but I've agreed that their other parent can claim the EITC every other year. Is this a problem?

Yes, it is. **Only the parent with whom the children live for more than one-half the year may claim EITC based on those qualifying children.** Federal law prohibits parents from "taking turns" claiming the EITC unless the child actually changes residence each year.

When a non-custodial parent claims children as qualifying children for the EITC, he or she runs the risk of severe penalties as well as having to pay back all EITC amounts improperly received. A custodial parent who assists in this violation of the tax code also risks exposure to IRS penalties.

The simplest way of approaching this is to ask, "Which taxpayer has custody of the child for more than half the year?" Only that person, if

For more information, please contact

The Community Tax Law Project

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This information is not legal advice. We are providing this information as a public service. We have tried to make it accurate as of the date below, but keep in mind that tax laws change frequently.

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