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# **Refundable Credits – New Rules, New Laws - Learn What’s Changed for your Client**



**Presented by the EITC and Refundable Credit Office**



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# Refundable Credits

- EITC, Earned Income Tax Credit
- ACTC, Additional Child Tax Credit
- AOTC, American Opportunity Tax Credit



# Objectives

## You will learn about:

- Impact of PATH, Protecting Americans from Tax Hikes, Act and Trade Preferences Extension on refundable credits
- Requirements for each credit
- Interview techniques to ensure your clients get the credits they deserve
- Penalties that apply to you and your clients





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# Refundable Credit Program Integrity

- W-2s and Forms 1099 now due by January 31 after close of tax year
- No refund or credit for overpayments for EITC and ACTC no sooner than February 15



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# Expanded Due Diligence

- Due Diligence requirements now include CTC and AOTC
- Penalty for failure to comply
  - per credit, per return
  - \$505 — subject to inflation



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# Can't Claim EITC, CTC or AOTC Retroactively

- Can't file an original return after due date of return\* or amend a return to claim
  - EITC if anyone on return doesn't have SSN valid for employment
  - AOTC or CTC if anyone doesn't have valid SSN, ATIN or ITIN

\*Due date of return includes those filed under a valid extension

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# Permanent Provisions from PATH

- EITC
  - Increased credit for 3 or more qualifying children
  - Higher income threshold for MFJ
- ACTC earned income threshold \$3,000
- AOTC





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# EITC Requirements

- Earned income and AGI less than \$53,505
- SSNs for all listed before due date of return
- **File MFJ, HOH, QW or Single—No MFS**
- U. S. Citizen or Resident Alien
- Can't file Form 2555 or 2555EZ
- Meet rules for those without a qualifying child **OR** have a qualifying child





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# Placeholder VIDEO I EITC



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# Common EITC Errors

- Claiming child who does not meet residency or relationship requirements
- Reporting income or expenses, particularly Schedule C's correctly
- Filing as single or head of household when married
- Mismatching name and SSN



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# CTC/ACTC Requirements

- Your client's qualifying child must:
  - Be related and under age 17 at end of 2016
  - Be claimed as dependent on return and not have provided over half his or her own support
  - Have lived with client for more than half of 2016\*
  - Not have filed a joint return\*
  - Be U.S. citizen, national or resident alien
  - Have a SSN, ATIN or ITIN by the due date of the return
- Your client must not file a Form 2555 or 2555-EZ

\*Exception(s) may apply



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# Placeholder VIDEO II CTC/ACTC



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# Common CTC Errors

- Child does not meet residency or relationship requirements
- Child not a dependent
- Child doesn't meet substantial presence test
- SSN, ITIN and ATIN problems



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# What's New With Education Benefits

- AOTC
  - Permanent
  - Need 1098-T to claim
  - Must report School's EIN\*
  - Schools report amounts *actually paid* on 1098-T\*
- Lifetime Learning Credit
  - MAGI for reduced credit starts at \$55,000 (\$111,000 for MFJ)
  - MAGI must be less than \$65,000 (\$130,000 for joint return)
- Tuition and fees deduction extended for Tax Years 2015 and 2016

\*We will delay implementing this provision of the law



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# AOTC Requirements

- Student must have Form 1098-T
- The EIN number of the school must be reported on the Form 8863
- Student must attend an eligible school half time or more
- Student must have a SSN, ITIN or ATIN at the time return is filed
- Student must not have felony drug conviction at the end of the tax year
- Taxpayer, spouse, student or third party must pay qualified education expenses and not be non-resident alien or chose to be treated as resident
- Student is taxpayer, taxpayer's spouse or a dependent
- MAGI must be \$80,000 or less (\$160,000 for MFJ)



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# Placeholder

## VIDEO III

### Education Credits





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# Common Education Credit Errors

- Student didn't attend eligible school
- Student didn't attend more than half time
- Over claiming or under claiming expenses
- Taking more than one tax benefit for same expenses or same student



# Interview Tips

- Ask all the questions you need to get all the right information
- Use language your client understands
- Focus on where the child lived and how child is related
- Focus on finding all eligible tuition expenses and who paid them when



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# Publication 3524 and other IRS Tools Can Help You

## EITC ELIGIBILITY CHECKLIST FOR TAX YEAR 2016

You can claim the EITC if you answer YES to all the following questions:

- Do you, your spouse (if filing a joint return) and any child listed on Schedule EIC each have a SSN that is valid for employment? If any person is filing with an ITIN or ATIN, you must answer NO.
- Is your filing status married filing jointly, head of household, qualifying widow(er) or single? Answer NO, if your filing status is married filing separately. **Note:** If you are married and lived with your spouse at any time during the last six months of 2016, your only filing status options are married filing jointly or married filing separately. For more information, refer to Publication 501. **Caution:** If you are a nonresident alien or your spouse is a nonresident alien, see Publication 519, U.S. Tax Guide for Aliens, on how to answer this question.
- Answer YES if you are not filing Form 2555 or Form 2555-EZ. If you file Form 2555 or Form 2555 EZ, you must answer NO.
- Is your investment income \$3,400 or less?
- Is your total earned income\* at least \$1 and both your total earned income and adjusted gross income (AGI)\* less than:
  - \$14,880 (\$20,430 if married filing joint) if you do not have a qualifying child
  - \$39,296 (\$44,846 married filing jointly) if you have one qualifying child
  - \$44,648 (\$50,198 married filing jointly) if you have two qualifying children
  - \$47,955 (\$53,505 married filing jointly) if you have three or more qualifying children
- Answer YES if you (and your spouse if filing a joint return) are not a qualifying child of another person. If you don't know how to answer this question, go through questions 7, 8, 9, 10 and 11. Answer the questions for your relative and you (and your spouse, if filing a joint return) as the child. If you answer yes to all of the questions, answer yes here.

YES NO



**STOP** If you have a child or children you want to claim, answer questions 7, 8, 9, 10 and 11. Repeat for EACH child. NOT have a qualifying child, skip questions 7, 8, 9, 10 and 11 and answer 12, 13, and 14.

- Is the child your son, daughter, adopted child, stepchild, foster child, half brother, half sister, stepbrother, stepsister, or a descendant of any of them?\*
- Is the child younger than you (or your spouse if filing a joint return) and
  - Under age 19 at the end of the tax year or
  - Under age 24 at the end of the tax year and a full-time student\*\*?
 Also, answer yes, if the child is permanently and totally disabled.
- Did the child live with you, or your spouse if filing a joint return for more than half of 2016 in the United States. Special rules apply for temporary absence, kidnapped children and for members of the military on extended duty outside the United States.\*
- If the child is married and filed a joint tax return, answer NO. If the child and the child's spouse filed the joint return only to claim a refund and had no tax owed, answer YES. If the child did not file a joint return, answer, YES.
- Are you the only one who can claim this child?
 

If you think another person might claim the child, it is best to make sure who qualifies to claim the child and who will claim the child. If more than one person claims the same child, you could lose the credit and have to pay it back with penalties and interest. See the tie-breaker rules on the back of this form for help answering this question.

If you answered YES to questions 1 through 11, you can use the child or children as a qualifying child for EITC. Remember to fill out Schedule Income Credit, with the name and Social Security number of each child and attach it to your Form 1040 or 1040A. You cannot use Form

### \*Helpful Definitions

#### Adjusted Gross Income

AGI or adjusted gross income is the total of all your taxable income (such as wages, interest, pensions, and alimony received by you) minus some of your deductions (such as the IRA deduction, the health savings account deduction, and the deduction for alimony paid by you). Do not subtract deductions for personal or dependency exemptions, the standard deduction, or itemized deductions.

#### Adopted Child

Always treat an adopted child as your own child. This term includes a child who is lawfully placed with you for legal adoption.

#### Birth or Death of a Child during the Tax Year

The IRS treats a child who was born or died during the tax year as having the same home as you for more than half the tax year if your main home was the home of the child for more than half the time the child was alive. You consider a child's stay in a hospital or other facility as a temporary absence.

#### Combat Pay election

You can elect to include your nontaxable combat pay in earned income for

#### Who Qualifies as a Student

To qualify as a student, calendar year (does not have to be the same school year)

- Attending a school that and normally has a regular schedule of classes
- Taking a full-time course of supervision of an academic state, county, or local

#### Kidnapped Child

The IRS treats a kidnapped child for more than half the tax year as having the same home as you for more than half the tax year if your main home was the home of the child for more than half the time the child was alive. You consider a child's stay in a hospital or other facility as a temporary absence. Law enforcement author someone who is not a member of the household. This treatment applies to year this treatment applies



If you have a child or children you want to claim, answer questions 7, 8, 9, 10 and 11. Repeat for EACH child. If you do

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# The 1098-T Guides your Interview

CORRECTED

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		1 Payments received for qualified tuition and related expenses \$	OMB No. 1545-1574  <b>2016</b>  Form <b>1098-T</b>	<b>Tuition Statement</b>
		2 Amounts billed for qualified tuition and related expenses \$		
FILER'S federal identification no.	STUDENT'S taxpayer identification no.	3 If this box is checked, your educational institution has changed its reporting method for 2016 <input type="checkbox"/>		<b>Copy B For Student</b>  This is important tax information and is being furnished to the Internal Revenue Service. This form must be used to complete Form 8863 to claim education credits. Give it to the tax preparer or use it to prepare the tax return.
STUDENT'S name		4 Adjustments made for a prior year \$	5 Scholarships or grants \$	
Street address (including apt. no.)		6 Adjustments to scholarships or grants for a prior year \$	7 Checked if the amount in box 1 or 2 includes amounts for an academic period beginning January – March 2017 <input type="checkbox"/>	
City or town, state or province, country, and ZIP or foreign postal code				
Service Provider/Acct. No. (see instr.)	8 Check if at least half-time student <input type="checkbox"/>	9 Checked if a graduate student <input type="checkbox"/>	10 Ins. contract reimb./refund \$	

Form **1098-T**

(keep for your records)

[www.irs.gov/form1098t](http://www.irs.gov/form1098t)

Department of the Treasury - Internal Revenue Service





# Due Diligence

## **It's now more than EITC; it's also CTC and AOTC**

- Expanded due diligence means more potential penalties
- Expanded client recertification requirements, 2 year and 10 year bans
- Changed penalty computation and penalty relief



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# Give Your Client Top-Notch Service

- Know and practice your due diligence requirements
- Know the tax law for all credits
- Know all the special rules and exceptions to the rules
- Let IRS products and forms work for you



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# Resources to Help

## EITC Central

# [www.eitc.irs.gov](http://www.eitc.irs.gov)

## Search: Tax Forum

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# Questions/Concerns/Comments?

Reach out to us...

at

[EITC.Program@irs.gov](mailto:EITC.Program@irs.gov)