Good morning, everybody. Thank you so much for choosing this seminar. Today's presentation is going to be an overview of the recent changes to the refundable credits. I want you to think about changes for a minute as I introduce myself. I'm John Dickinson and I've worked for the Internal Revenue Service for over 30 years. Specifically, I work for a group that's called the Refundable Credit Administration. Our group has oversight for the refundable credits that we'll talk about today. Part of our group's mission is to help taxpayers and preparers better understand refundable credits and to legally maximize their benefits. Another thing we want to do is help you keep your businesses on the straight and narrow by avoiding some potential hazards that are associated with these refundable credits. Now back to changes. Let me see the hands of those who like and embrace changes. Let me see.

Okay, I see a few brave people, but probably for most of us it depends on what's changing, right?

Let me show you something about myself. Everybody see this? I get made fun of every day at work. My friends call it a slap together phone. How many of you have a slap together – hold it up and let me see it. For those of us who still have these, we are the ones who do not embrace change very well. Technology is constantly changing and is leaving some of us behind. Now what are some other things that routinely change in our lives? The weather changes every day. The seasons change four times a year and my appearance has changed drastically. I hardly recognized the old man that was staring back at me in the mirror this morning. Matter of fact, I almost called security.

Another thing that changes is my boss's mood and her priorities change every hour. How many of you are traveling at the tax forums this week with your boss? Let me see your hands. Okay. How many actually have your boss in the room with you? Let me see your hands. Okay. That explains some of the painful looks I'm seeing on some faces or either you guys had some bad breakfast. The changes that we'll talk about today, they may not sound fun or exciting, but as time tells, we'll see how effective they are in helping you file accurate claims for your clients.

The refundable credits that you see on the screen today are filed on millions of tax returns each year. They are the Earned Income Tax Credit. I'm going to do my best to get these acronyms straight. It's EITC. There's the Additional Child Tax Credit. I'll refer to it as ACTC. Then there's the American Opportunity Credit. I'll refer to it as AOTC. Why do you think Congress and the IRS focuses so much –

on these refundable credits and why do we focus so much on you? Any idea?

It's a good idea. Big money. These refundable credits are big money and you file the majority of these claims every year. Let me give you a few facts. EITC is worth up to $6200.00. In tax year 2014, there were 27 million returns claimed that claimed $67 billion in EITC. You filed over 50 percent of those claims. The Additional Child Tax Credit is worth up to $1000.00 per each eligible child. In tax year 2014, there were 20 million returns that claimed $26 billion in ACTC. AOTC is worth up to $2500.00 per each eligible student with up to $1000.00 of that being refundable. In tax year 2014, there were –

ten million returns that claimed $9 billion in the refundable part of AOTC. As you can

see, you're important to the Congress, you're important to the IRS, and you're important to your clients in filing their claims and filing them accurately.
Later, I'm going to show you a series of videos of a client that qualifies for all three credits. You're going to have clients that qualify for all three credits. In our scenario, this client will qualify for a refund of over $10,000.00 next year because of refundable credits. How many of you would like a refund next year for over $10,000.00? Let me see your hands. Okay. How many of you do not qualify for any of these refundable credits that you see on the screen? Raise your hand. Aww. Don't you feel left out? I had a bright idea, or at least I thought it was a bright idea. I'm going to invent a new refundable credit for those of us who don't qualify for any of these three.
We'll call it the Consolation Credit or the Participation Credit.
All joking aside, we do realize the difficult task that you face each year. Now you have your changing responsibilities, which we'll talk about more in a minute. You have the changes of the tax law and you have changes to your clients' family dynamics. These changes can include a marriage, a divorce. It could include a birth, a death. It could include a gain of a job or a loss of a job and the simple fact every year that your clients and your client's children have birthdays each year. Any of these things can change the eligibility for a credit. Throughout this presentation, I'm going to encourage that you interview every client every year about every child because things change.

Today, I'm going to talk about two laws that were passed last year.
They are Protecting Americans from Tax Hikes, also known as the PATH Act, and then there's the Trade Preference Extension Act. These laws included changes that apply to each refundable credit. Getting the right information about your client is going to be extremely important to determine eligibility and avoid potential hazards for you and your clients. To get the right information from your client, we'll cover the basic requirements for each credit, but only the basics. We'll see three short videos with proven interview techniques to help you determine eligibility, maximize these credits and to fulfill your new requirements. Then we'll briefly discuss penalties that can apply both to you and your client.

The PATH Act included a section to help the IRS strengthen the integrity of the refundable credit program. It requires forms W-2 and 1099 Miscellaneous to be filed on or before January 31.
The previous due date for these forms was March 31. This will provide the IRS with additional time to review claims with EITC and ACTC in order to reduce some fraud and some improper payments. We're going to hear some groaning on this, but the IRS will have to hold the entire refund for any returns that claim EITC or ACTC until February 15. That is only for early filings. What are you going to do with your returns that you get early? You're going to file them as normal. I know this is going to be hard for some of your clients to handle, but the IRS will have some products and tools to help, and we'll also send out more public service messages as we get closer to the filing season. The burden is not all going to be on you.

The PATH Act also extended due diligence requirements to returns with ACTC and AOTC.
Previously, due diligence requirements were only for EITC returns and there's a penalty for failure to comply with your due diligence requirements, and it's set for inflation. Next year, the penalty will be worth $510.00, but that penalty applies to each refundable credit. You could have a penalty as much as $1530.00 on a single return if there are issues with all three credits on your due diligence requirements.
We did revise form 8867 and it's titled, "Pay Preparer's Due Diligence Checklist," to include questions for AOTC and ACTC. The form is required to be filed with all three of these refundable credits. Please consider attending our due diligence presentations to learn more about your new requirements, and the penalties, and to take a sneak peek at this form 8867.

The PATH Act, it also bans retroactive claims for all three of these refundable credits on either an original return or an amended return. What this means is your clients and your clients' family members must have a valid taxpayer identification number before the due date of that tax return or before the due date of any extensions that you filed, or they cannot file a late return or amended return to claim any of these refundable credits. A valid taxpayer identification number depends on the credit that's being claimed. For EITC, we know that a valid taxpayer identification number must be a SSN that's valid for employment.
For AOTC and ACTC, it can be an SSN, it can be an individual taxpayer identification number also known as ITIN, or it can be an adoption taxpayer identification number known as an ATIN.

Right now, I see some people scratching their heads. You're probably wondering, "What good has come out of the PATH Act?" There is a bit of good news. We no longer need to wait each year to see if congress is going to extend some prior modifications that we've made to all three of these credits. Example – EITC is now permeant for up to three qualified children and includes the higher income threshold for the married filed joint filing status. For ACTC, the minimum earned income threshold was set at $3000.00. This means that more families can continue to claim and qualify for ACTC. Finally, AOTC was made permanent.

Let's review a few EITC requirements, but first, how many of you out there filed claims for EITC last year? Let me see your hands. Of those raising your hands, how many of you are familiar with Publication 596 that's titled, "Earned Income Credit?" Let me see your hands. Okay, good. For those of you who aren't familiar with it, you're the tax professional and you must know the laws and the requirements. Publication 596 is a great online tool. Here are a few EITC reminders. Remember the amount of earned income and AGI is limited depending on the filing status and the number of qualified children. As mentioned earlier, you must have a valid social security number before the due date of that return or before the due date of any extensions filed. Married filing separately, of course does not qualify for EITC.

If your clients file form 2555 or form 2555-EZ to exclude foreign income, they do not qualify for EITC. If your client or the spouse was a non-resident alien for any part of the tax year, they do not qualify for EITC. There is an exception to that rule and you should know the exceptions to the rules. If the clients were married and at least one of those spouses was a US citizen or a resident, there is a determination that you need to make on how to treat that non-resident alien. To find more information about that, refer to Publication 519 titled, "US Tax Guide for Aliens." This last bullet is simply stated, "You must be familiar with the rules for those with and without a qualifying child." We know this is where it gets complicated. Please refer to Publication 596 and we're going to provide you with some –
more online resource tools to help you through this EITC qualification process.
Let's watch our first video. This video is of a preparer and a client. He's going to be going through the EITC qualifications and some interview questions with his client. Let's watch this and enjoy.

[Video Plays](Video Transcript)

Denise your W-2 form shows you made 22,125 dollars last year. Did you have any other income, from working for someone or your own business, or from interest on bank accounts or capital gains? Anything else?

No, that's it. Well based on the amount of income you made, the first thing I want to do is see if you qualify for the earned income tax credit or EITC. If you do qualify it could save you a lot on your taxes. Or even get you a really good refund.
That would be good. I could certainly use anything to help me raise these four children on my own.
Now you say you're single, but were you ever married?
Yes but I got divorced 5 years ago.
Lets start then. Your information sheet lists four children. Lets go through each child, one by one. Lets start with Angie. Are you listed on her birth certificate as a parent? Also the IRS does check birth dates of everyone listed on the tax return and I want to make sure her correct date of birth is April 12th, 2008.
Yes I'm on her birth certificate as her mother and that's the correct birthdate. Do you need to see her birth certificate?
No I don't need to see it but I want to make sure if IRS audits you, you have all the information you need to support your claim and can send it to them quickly to resolve any questions.
Next I need to know how many months last year Angie lived with you.
All of it. Oh wait my ex did have her for some holidays and a month in the summer. So he had her for two weeks during Christmas, and New Years, and all of July, and she spent Father's Day with him. Should I break down the days?
No the law says the child must've lived with you for more than half the year and from what you just told me, your ex had Angie for less than two months. So we're fine there.

One more thing I need to know about. Did anyone else live with you and your four children during the year?
No, no one did.

One more thing about that, how long did you live at the address he listed?
About three years now.
Good there are four tests a child must meet for you to claim the child for EITC. Angie meets the first three. She's the right age, she lived with you, and she's related to you. The next one is the joint return test. At her age can I assume Angie isn't married?
Oh my gosh, of course she's not married. Although for Halloween, she did go as Frankenstein's bride.

Good, since she's your qualifying child for the EITC, I'll scan in her social security card you gave me earlier so I have it for my records. Next let's look at Claud. Are you listed as his parent on his birth certificate and what is his actual date of birth?
Yes his birth certificate shows me as his mother and he was born on June 12th 2003.
And how many months did Claud live with you?
About the same time as Angie. He spent some time with his father too.
And is he married?

No, but he has starting to like girls.
And I do have his social security card too which I'll scan in. Next lets look at Sasha.
Before you ask, no I'm not listed as her mother on her birth certificate. She's my step child from my first marriage, it's a long story but I kept custody over her when my first husband passed away.
That's a little more complicated to prove if IRS audits you. So do you have a copy of your marriage license to her father and her birth certificate showing him as the father?
I have her birth certificate since she needed it to get her driver's license, but I'm not sure if I still have the marriage certificate. Here's the birth certificate.

Great. Could you get a copy of the marriage certificate if you needed it to show how you're related?
I would think so. We got married right here in town and I still have his death certificate that shows we were married.
Can you check when you get home? I just want to make sure if your EITC claim is questioned by the IRS you can easily prove you qualify. And how about Sasha's mother. Could she possible claim her for her taxes?
I don't think so, I don't know where she is and she hasn't seen Sasha since she was five or six years old.
According to this birth certificate Sasha is 19. To claim her she would need to be a full time student, is she?
Yes, she graduated from high school in May and she started at a University in late August.
Did Sasha live with you for the whole year?
No she moved into the college dormitory in August.
That's ok, that's considered a temporary absence and that she actually lived with you. Is Sasha married?
No
So Sasha is also your qualifying child for EITC. Now I haven't completed your full return but it looks like you'll qualify for the maximum EITC this year.

Really? I hope your right! I could really use that money, everything is so expensive.
I think you qualify for more.
More EITC?
No more credits.

We'll recap that video as we go through this next slide. We've been talking about things that change. There's one thing that hasn't changed that the IRS would love to see changed. That is the errors around EITC eligibility. These errors represent about $15 billion a year. That's about 23 percent of the total EITC that's paid out. The number one big error is claiming a child who does not meet the residency or relationship requirement. In this video, we saw that the preparer made sure that these children were her qualified children and only her qualified children. He was knowledgeable of the rules. He verified their ages. He verified the relationships to the client –
and the residence for each dependent. You should do the same and you should interview every client every year about every child because things will change.
The next big error we see is reporting income or expenses. Over or underreporting income is usually done for two reasons. Number one, to first qualify for EITC and number two, to falsely maximize EITC. In this video, you'll remember that the very first thing in the video was the client had a form W2 for, I think it was $22,125.00, and she's got three qualified children, the maximum for EITC. Did you know that this amount is right in the sweet spot to maximize EITC? This preparer didn't just stop at looking at the W2. The preparer asked more questions to verify all of her income. He asked did she work for anybody else –
did she have another job? He also asked if she had any interest income. You should do the same. Ask those same type of questions. Some of you will have clients that have Schedule C income. Your clients must report all their income and all their allowable expenses. They cannot pick and choose which expenses to deduct in order to maximize EITC.
The third most common error we see is filing as single or head of household when in fact your clients were married. In the video, the client told the preparer that, "I'm single and I'm raising four children on my own." The client asked more questions. He asked, "Are you married? Have you ever been married? Did anyone else live in the home?" You should do the same thing. Never let your client tell you their filing status. You ask questions and you tell them what their filing status is.
Lastly, we see –
that the name or social security number of the child being claimed does not match our records. Simple thing for you to do is just make sure you physically look at the social security card. Look at the name and the number and make sure you put the right name and number on the correct form.

Let's move on to ACTC. The rules for ACTC are very similar to EITC, but be aware of the differences. To help you, we've created a chart. It's titled, "Child-related Tax Benefit Chart." It's on EITC Central at irs.gov. It shows the differences in qualifications for all of

these credits that we're talking about today and it's a great tool. Here all a few ACTC qualifications for you to keep in mind. Remember, the child must be under the age of 17 at the end of the year and there are no exceptions to this rule.
The child must be the client's dependent that is claimed on that return. The child couldn't have provided more than half of their support. The child could not have filed a joint return unless it was simply to get a refund. The child must have lived with the client for more than half the year. Unlike EITC, the child does not need a SSN. They can have an ITIN. If the child has an ITIN, you have to complete Schedule 8812 Part One to make sure that that child meets the substantial presence test. Your clients could not have filed form 2555 or 2555-EZ to exclude foreign income.
Next, we're going to see our next video clip. It's the same preparer, same client. They're moving from EITC requirements onto ACTC requirements. Let's enjoy.

The good news is I already asked most of the questions for EITC to know if you qualify for the child tax credit. So it looks like Angie and Claude qualify for that credit. But Sasha is over 17, and since none of them provided more than half their own support and are US Citizens, you can claim them as dependents.
Oh yes, you have Garth listed here. Tell me about Garth.
What about Garth?
He's my sister's child. My nephew. He was born December 4th, 2010.
Now I need to know that you can prove that relationship. Do you have his birth certificate and your sister's?
Yes I have his. I had to get it to enroll him in school and my mother must have my sister's. Or I could get it from my sister.
Good, if you're audited, you'll probably need three birth certificates. Your nephew's, your sister's, and yours to show how you are all related. How long has Garth lived with you?
He moved in with me in April. My sister's ill and couldn't work so she sent him to live with me.
Did he live with you full time since April?
Yes
Does he have a social security number?
No but he does have this other number that my sister said the IRS gave to him. It's in the file I gave to you.
Yes, this is an individual tax payer identification number and ITIN, it won't work for EITC, but it will work for child tax credit. You can claim the child tax credit for Angie, Claude, and Garth. You may also qualify for the additional child tax credit which is the refundable part, but I'll know more when I finish your return.
Are we done?
Not yet we need to talk more about Sasha.

We will review that video as we go over this next slide. As with EITC, ACTC also has errors with residency and relationship requirements. But you know it's not unusual because –
they're usually the same children claimed in error for EITC. These are the same children claimed in error for ACTC. Some other common errors include claiming a child that was

not that client's dependent and claiming a child with an ITIN that did not meet the substantial presence test. Let me give you a few facts on ITIN claims. Remember I told you for ACTC in tax year 2014 there were 20 million claims for ACTC. Of those 20 million claims, 1.6 included a dependent that had an ITIN. That represented about $3 billion. In this video, remember the preparer asked about Garth. Garth was the client's nephew and Garth had an ITIN. The preparer asked questions to verify her relationship with Garth such as birth certificates. The preparer also asked questions to confirm Garth's residence during the year. He also asked –
if the client could provide documents in case she was audited. ITINs are strongly tied to ACTC eligibility problems. Although a child with an ITIN may be your client's dependent, they can only claim ACTC if they meet the substantial presence test. To meet the substantial presence test generally means that child must have lived in the United States for more than half the year. There are some more complicated calculations that you'll have to make in some cases. In these cases, refer back to Publication 519 that's titled, "US Tax Guide for Aliens," for more information on the substantial presence test. Another error that's just like EITC is we can't match the child's name and the social security number or the ITIN number. Whether it's the social security number or an ITIN card, make sure you physically look at that card, look at the number and the name and put the right information on the tax form.

Moving on to AOTC. Let me see the hands of those that filed claims for AOTC last year. Let me see your hands. Wow, good. How many of you are familiar with publication 970 that's titled, "Tax Benefits for Education?" Okay, not as many. This publication is a great online resource. You know, as a matter of fact, all three of our refundable credits have publications that you need to refer to. These publications have things like what's new. They have your definitions. They have qualifications. They have the exceptions to the rules and they have many, many examples that's going to help you through the qualification process. Moving on, what's new for AOTC? Remember, the PATH Act, it made AOTC permanent. Now it also requires that you put the –
EIN from the school onto the form 8863. Where are you going to find the EIN for the school? On the 1098-T. We'll talk more about the 1098-T as we move on. In tax year 2017, schools will be required to only report the tuition and fees as paid. The tuition and fees deduction was also extended through tax year 2016.
The Trade Preference Act – what did the Trade Preference Act do for AOTC? It now requires that a student must receive a form 1098-T to qualify for AOTC, the lifetime learning credit, or the tuition and fees deduction. The form 1098-T is not required to be attached to the return. The taxpayer and the preparer are basically going to use the form 1098-T to complete form 8863, which is a requirement. The form 8863 is the same –
as last year, but there are plans to revise it in 2017. The modified adjusted gross income that you see on the screen for the lifetime learning credit has changed.

To recap, the new requirements for AOTC, remember that a student must have a form 1098-T. The college EIN must be reported on the form 8863 and the student's taxpayer identification number must have been received before the due date of that return or before the due date of any extensions filed. Here are some general qualifications for AOTC. A

student can only be claimed for four tax years. The student must be within their first four years of post-secondary education. This means that the student must be within their freshman and senior years of college. The student must be enrolled at least half time for at least one academic period that began –
during the year. They must be in a degree program or pursuing some other type of education credential. The student could not have been convicted of a drug felony. The student must be either the taxpayer, the spouse, or a dependent that's claimed on that return and qualified education expenses must have been paid during that year. The modified adjusted gross income for AOTC remains the same.
Now we're going to see our final video clip. Same preparer, same client. They're moving on to AOTC requirements and some AOTC questions. Enjoy.

[Video Plays]Transcript Missing

You said Sasha attended the University in town. Did she receive a form 1098-T, tuition statement from the University? The reason I'm asking is she might qualify for the American Opportunity Tax Credit AOTC, and if she does you must have this form to claim it.
She sent me a copy, of something, I didn't bring it. But let me check my email to see what it was.
Oh yeah here it is, Form 1098-T. See here it is.
Excellent. I'll have you email it to me so I can have it for my records. The form 1098-T is always a good indicator that a student is eligible for an education credit, but I have to verify a few things first. Let me look at my notes. You can claim Sasha as a dependent and I know this University is an eligible educational institution/. The social security number on the 1098-T and Sasha's address match the information I already have. You previously said Sasha attended full time starting in August of last year.
First I'd like to make sure she's an eligible student before we talk about what expenses we can take.
I see box 8 is checked. Showing she's at least a half time student, which fits with what you told me, and you already told me this is her first year of school. That's great, it is looking like she may qualify you to take the AOTC. That's the more valuable of the education credits you can get up to a $2500 credit and part of it is refundable. But I still have to ask some more questions.
I hope I can get it. Her schooling is expensive.
Tell me about it. My two are both in college. Uh I have to ask this, was Sasha ever convicted of a felony/drug charge?
No she is one of the most straight-laced young ladies you will ever meet. But why are you asking me that?
It's just part of the law. To be eligible for AOTC, you can't have a felony drug conviction before the end of the tax year.
That's really ironic since her major is criminology and she wants to work for the DEA.
Well next I need to confirm Sasha's qualified education expenses. First did Sasha receive any help to pay for school like scholarships or grants?
No, that would've been nice if she did.

Ok, next lets talk about what you paid last year. The form 1098-T shows you paid $5000.
I paid $2000 in August, and Sasha took out a loan for $3000 to pay her tuition.
The loan your daughter took out to pay for tuition counts as amounts you paid during the year. Usually my next question is if you or your daughter paid any additional expenses that aren't reported on our form 1098-T such as books or materials required for course attendance, that you already have enough expenses since the largest amount you need to maximize credit is $4000.
Wow, excellent you ask a lot of questions but I'm sure happy with the results.

We'll recap that video as we go through some common errors with AOTC.
The first error we see with AOTC is claiming a student who did not attend an eligible school. What is an eligible school? Colleges, universities, trade schools, vocational schools. I'll tell you what an eligible school is not. An eligible school is not your elementary schools. It is not your middle schools. It is not your high schools. No matter if these were private and there were some sort of tuitions that you paid. These are not eligible schools. If your clients cannot produce a form 1098-T, you've got a problem.
Let me give you a few interesting facts about some claims that we've seen in the past two years for AOTC. Tax year 2013 and tax year 2014 – both of these years, we saw claims that were – over 23,000 claims for each of these years for students that were under the age of 14.
You really think those students went to school? No, but one of the things that we're finding is sometimes the taxpayer or sometimes the preparer gets in a rush in filling out these returns and it's just the wrong dependent that we're seeing on the form. Take your time. Put the right dependent, the right SSN on the form so these things won't happen. In the video, I want you to remember that Sasha did have a form 1098-T. The 1098-T is a requirement and this preparer did ask for a copy of the 1098-T. Remember, you should do the same thing.
The second error we see is claiming a student that did not attend at least half time. The school will set the definition of at least half time and is noted in Box 8 of the form 1098-T. In this video, the preparer noted that, " Sasha is at least a half time student because Box 8 was checked."
The next error is over claiming or under claiming your expenses. Qualified education expenses are the amounts paid for tuition fees and other related expenses. To be a qualified education expense, it must have been paid during the year for an academic period that was during that year, or it can be prepaid for the first three months of the next year. In the video, the preparer saw that Sasha paid $5,000.00 from ~~her form~~ 1098-T, but he did not stop there. He verified how that $5,000.00 was paid and who paid it. In addition to that, he made sure there were no offsets to that by any scholarships that she received. You should always ask if there were any scholarships received whether or not there's amount in Box 5. Don't under claim expenses either. What I mean by that is that if your client's 1098-T shows –
less than $4,000.00 qualified education expenses, you need to ask if they had any other qualified education expenses such as books and equipment. Books in college are very expensive, so always ask if they had any other expenses if they're under the $4,000.00 limit.

Another error that we see that's not listed on the screen is claiming a student for more than four years. How are you going to know that a student claimed AOTC for more than four years? The only way you can do that is ask. Interviewer your client. IF your client has claimed AOTC for more than four years, remember, there's other education benefits for them to claim such as the lifetime learning credit or even the tuition and fees deduction

The videos that we've seen today, they're good examples of an established interview process. You should develop an interview process and make it your own.
You need to be comfortable in asking some difficult and personal questions, but let your clients know that this is your requirement and you've got to do it or you'll get penalized. Conduct an interview with every client every year about every child because things change. Also remember to use language that your clients are going to understand. Example, don't ask your client, "Are you head of household?" Most clients aren't going to understand what that means, so ask better questions. Ask, "How much did you pay for the upkeep of a home? Were the children related to you? Ask better questions and you tell them what their filing status is. Focus on where the child lives and how the child is related to the client. For education expenses, we're going to talk about the form 1098-T in a minute, but remember, maximize the credit for your client if at all possible.
Meaning if they're under the $4,000.00 tuitions paid, see if they had any other qualified expenses that you can use. Remember, keep good records, notes, and document is very important. It's going to protect you and your client.

Here's a preview of Publication 3524 that's titled, "EITC Checklist." It has qualifying child criteria and tie breaker rules for children that are the qualifying child of more than one taxpayer. The great thing about this is that it's electronic. You can print it. You can give it to your client. This is going to be especially helpful if your clients no longer qualify for EITC or they illegally claimed EITC in the past. You can provide this to them and show them why they did not qualify.

Use the form 1098-T as a guide in your interview process and in completing form 8863. The form 1098-T is a requirement so make sure you ask for a copy. Review the entire form closely, including the section that lists the student's name and their identification number. If the IRS cannot match the identification number and the student's name, they are going to run a higher risk of being audited so make sure that information is correct on the 1098-T.
Let me remind you of a few reasons why you cannot solely rely on the 1098-T to claim AOTC. Through tax year 2016, schools can still report qualified tuitions as either paid or billed, meaning either in Box 1 or Box 2. Those amounts in Box 1 or Box 2, they might be different than what your client actually paid. Remember, schools are not required to report all qualified education expenses like –
books and equipment. Schools only report the amount of scholarships in Box 5 that that school administered or process. Again, whether there is an amount in Box 5 or not, you need to ask if they received any other scholarships or grants. Box 8 – if Box 8 is checked, it indicates they were at least a half time student, but there are exceptions to this as well.

A student could have attended more than one college or university, so the sum of the 1098-Ts could qualify the student for at least a half time student as long as they met other requirements that would qualify for AOTC. Box 9 – if Box 9 is checked, it indicates that they were a graduate student or they became a graduate student at some time during that year. It is possible for a graduate student to qualify for AOTC if they are in what I call a transition year –
meaning that that student at some point – that graduate student at some point of that tax year was still a senior in college and all other qualifications were met – that student can qualify for AOTC. In addition to that, all the expenses used for the senior year and for the graduate studies can qualify for AOTC. For these reasons, the form 1098-T can only be used as a guide to determine if they're eligible for AOTC.

Back to due diligence. Earlier in the PATH, we said the PATH Act now requires due diligence for all three of these credits. If you haven't filed EITC returns, your due diligence is going to be new to you. You've got to be careful because errors can cause penalties for both you and your clients. Remember, the penalties can add up to be as much as $1530.00 –
if there are issues with all three credits. Your clients are also going to have consequences. If the IRS disallows any of these credits, your client will have to recertify by filing form 8862 before claiming the credit that was disallowed again. The form 8862 is titled, "Information to Claim Earned Income Credit, Child Tax Credit, or the American Opportunity Credit after Disallowance." If that claim was found to be reckless or fraudulent, your client could be banned from claiming the credit that was disallowed for up to two to ten years. The PATH Act also allows us to apply penalties to these credits. To add to your client's burden of either not getting that credit or having to repay that credit back, now they're going to have penalties added to that. The penalties are subject unless that taxpayer can provide some reasonable cause.

How many of you expect great service from the restaurants that you attend this week, that you go to this week, and to your hotel? How many of you expect great service from your speakers that you hear this week? Right? We all expect great service no matter where we go or what we buy and your clients are no different. Do you realize that doing due diligence for your clients is giving them that topnotch service that they deserve and that you would like applied to you? It's going to help your clients avoid the hassles of IRS notices, audits, and penalties. You've got to know your due diligence requirements in order for you to practice them.. You're the professional. You must know the tax laws – and the situations where rules and exceptions exist. Let the IRS products work for you, especially the publications that we've talked about today.
The easiest way to find all the information that I've talked about in this presentation is to go to www.eitc.irs.gov and search the words "Tax Forum."
We do want to hear from you. If you have any questions, comments, or concerns, reach out to us at eitc.program@irs.gov. I want to thank you for choosing this seminar and your attention in this presentation. You've been wonderful.
[End of Audio]

Glossary

The Additional Child Tax Credit (ACTC) - is a refundable credit that you may receive if your Child Tax Credit is greater than the total amount of income taxes you owe, as long as you had an earned income of at least $3,000.

American Opportunity Tax Credit (AOTC)– is a credit for qualified education expenses paid for an eligible student for the first four years of higher education. You can get a maximum annual credit of $2,500 per eligible student.

Earned Income Tax Credit (EITC) - is a benefit for working people who have low to moderate income. A tax credit means more money in your pocket. It reduces the amount of tax you owe and may also give you a refund. EITC is also called EIC or Earned Income Credit.

An Individual Taxpayer Identification Number (ITIN)– An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service. It is a nine-digit number that always begins with the number 9 and has a range of 70-88 in the fourth and fifth digit. Effective April 12, 2011, the range was extended to include 900-70-0000 through 999-88-9999, 900-90-0000 through 999-92-9999 and 900-94-0000 through 999-99-9999. IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN) from the Social Security Administration (SSA).

The Protecting Americans from Tax Hikes Act of 2015 (the PATH Act) - was enacted on December 18, 2015. The PATH Act contains several changes to the tax law that affect individuals, families, businesses and help safeguard against tax fraud.

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