

Notice 797

(Rev. December 2012)



Department of the Treasury
Internal Revenue Service

Possible Federal Tax Refund Due to the Earned Income Credit (EIC)

What Is the EIC?

The EIC is a refundable tax credit for certain workers.

Who May Claim the EIC?

You may be able to claim the EIC for 2012 if you worked and all four of the following conditions apply.

1. You (and your spouse, if filing a joint return) have a valid social security number (SSN) issued by the Social Security Administration. For more information on valid SSNs, see Pub. 596, Earned Income Credit (EIC).

2. Your 2012 earned income and adjusted gross income are both under \$36,920 (\$42,130 if married filing jointly) if you have one qualifying child; under \$41,952 (\$47,162 if married filing jointly) if you have two qualifying children; under \$45,060 (\$50,270 if married filing jointly) if you have three or more qualifying children; or under \$13,980 (\$19,190 if married filing jointly) if you do not have a qualifying child. For a definition of earned income, see the 2012 instructions for Forms 1040, 1040A, or 1040EZ.

3. Your filing status on your 2012 tax return is any status except married filing a separate return.

4. You were not a qualifying child of another person in 2012.

If you **do not** have a qualifying child, you must also meet these conditions.

a. You, or your spouse if filing a joint return, were at least age 25 but under age 65 at the end of 2012. (You meet this condition if you, or your spouse if filing a joint return, were born after December 31, 1947, and before January 2, 1988.) If your spouse died in 2012, see Pub. 596.

b. You cannot be claimed as a dependent on someone else's 2012 tax return.

c. Your home, and your spouse's if filing a joint return, was in the United States for over half of 2012. If you are in the military on extended active duty outside the United States, your home is considered to be in the United States during that duty period and you may be able to claim the EIC.

You **cannot** claim EIC if any of the following conditions apply.

1. Your 2012 investment income (such as interest and dividends) is over \$3,200. See Pub. 596 for more information.

2. You file either Form 2555 or Form 2555-EZ (relating to foreign earned income).

3. You were a nonresident alien for any part of 2012 unless you were married to a U.S. citizen or resident and elected to be taxed as a resident alien for the entire year. See Pub. 519, U.S. Tax Guide for Aliens, for more information.

Who Is a Qualifying Child?

Any child who meets all four of the following conditions is a qualifying child.

1. The child is your son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them (for example, your grandchild, niece, or nephew). An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption. A foster child is any child placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

2. At the end of 2012, the child was under age 19 and younger than you (or your spouse, if filing jointly); or under age 24, a student, and younger than you (or your spouse, if filing jointly); or any age and permanently and totally disabled.

3. The child lived with you in the United States for over half of 2012. If the child did not live with you for the required time, there are exceptions if the child was born or died during the year, the child is presumed to have been kidnapped by someone who is not a family member, or there was a temporary absence.

4. The child does not file a joint income tax return for 2012.

There are additional rules if a child is married or is the qualifying child of more than one person. For details, see the 2012 instructions for Form 1040, 1040A, or 1040EZ.

How Do You Claim the EIC?

If you are eligible, claim the EIC on your income tax return. If you have a qualifying child, you must also fill in Schedule EIC and attach it to your Form 1040 or Form 1040A.

If eligible, you can claim the EIC to get a refund even if you have no tax withheld from your pay or owe no tax. For example, if you had no tax withheld in 2012 and owe no tax but are eligible for a credit of \$800, you must file a 2012 income tax return to get the \$800 refund.

More Information

This notice provides the basic requirements to qualify for the EIC. Refer to the instructions for Forms 1040, 1040A, or 1040EZ; Pub. 596; or www.irs.gov/eitc for details. You can get IRS forms and publications at IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

Important: Information for Employers Regarding IRS Notice 797

If you are required to give Form W-2 and do so on time, no further notice is necessary if the Form W-2 has the required information about the EIC on the back of the employee's copy.

You must hand the notice directly to the employee or send it by first-class mail to the employee's last known address. You will not meet the notification requirements by posting Notice 797 on an employee bulletin board or sending it through office mail. However, you may want to post the notice to help inform all employees of the EIC. You can get copies of the notice from IRS.gov or by calling 1-800-829-3676.

From Notice 1015 Rev. 12-2012

QUALIFYING CHILD TESTS FOR EITC

A child must meet certain requirements to be a qualifying child for EITC. The following chart shows the four tests, relationship, age, joint return and residency. The child must meet all four tests.

1

Relationship

Son, daughter, stepchild, foster child, brother, sister, half brother, half sister, step brother, step sister or a descendant of any of them AND...

2

AGE

Be younger than the person (or spouse if filing a joint return) claiming EITC 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

or, any age and permanently and totally disabled at any time during the year AND...

4

Residency

Lived with the person (or spouse if filing a joint return) claiming EITC in the United States for more than half of 2012.

(special rules apply for members of the Military on extended duty outside the United States, visit www.irs.gov/eitc or see Publication 596 for more information)

3

Joint Return

Not filed a joint return for 2012 or filed a joint return only to claim a refund AND...

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