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Instructions for Form 8867



Department of the Treasury
Internal Revenue Service

(Rev. November 2022)

Paid Preparer's Due Diligence Checklist for the Earned Income Credit, American Opportunity Tax Credit, Child Tax Credit (including the Additional Child Tax Credit and Credit for Other Dependents), and/or Head of Household Filing Status

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 8867 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8867](https://www.irs.gov/Form8867).

What's New

New entry space. An entry space has been added for the appropriate tax year at the top of the form.

Child tax credit (CTC) enhancements changes. The changes to the CTC for 2021 implemented by the American Rescue Plan Act of 2021 have expired. Starting with tax year 2022:

- The CTC is no longer a refundable credit.
- The enhanced credit allowed for qualifying children under age 6 and children under age 18 have expired. For 2022, the initial amount of the CTC is \$2,000 and the initial amount of the ACTC is \$1,500 for each qualifying child.
- The increased age allowance for a qualifying child has expired. A child must not have attained age 17 by the end of the year to be a qualifying child.
- Bona fide residents of Puerto Rico can continue to claim the ACTC for one or more qualifying children. The ARP permanently removed the previous requirement that bona fide residents of Puerto Rico had to claim at least three qualifying children to claim the ACTC.

Special rules for taxpayers claiming the earned income credit (EIC) without a qualifying child have expired.

Taxpayers claiming the EIC without a qualifying child must be at least age 25 at the end of the year but not have attained age 65 by the end of the year.

Reminders

Multiple Forms 8867. Multiple Forms 8867 may be submitted electronically for one return. See [Multiple Forms 8867 for one return](#), later.

EIC rules for taxpayers with a qualifying child. If your client is claiming the EIC with a qualifying child, you should follow the rules that apply to filers with a qualifying child or children when determining whether your client is eligible to claim the EIC even if none of your client's qualifying children have a valid SSN issued on or before the due date of your client's return (including extensions). However, in determining the amount of the credit, only qualifying children with valid SSNs make your client eligible for an increased credit amount.

EIC rules for taxpayers without a qualifying child. Your client may be able to qualify for the EIC under the rules for taxpayers without a qualifying child even if your client has a qualifying child for the EIC who is claimed as a qualifying child by another taxpayer. For more information, see Pub. 596.

Social security number (SSN) required. Children identified by an IRS individual taxpayer identification number (ITIN) or adoption taxpayer identification number (ATIN) can no longer be claimed for the CTC or ACTC. A taxpayer must include on the

tax return the required SSN for each qualifying child for whom the CTC or the ACTC is claimed. However, children without an SSN but with an ITIN or ATIN may still qualify for the nonrefundable credit for other dependents (ODC).

Head of Household (HOH) filing status. For more information on eligibility to claim HOH filing status, see Pub. 501.

American Opportunity Tax Credit (AOTC). For information on eligibility for the AOTC, see Pub. 970.

General Instructions

Form 8867 covers the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status. You should check the boxes corresponding to all benefits that you determined the taxpayer's eligibility for that are actually claimed on the return.

Only paid tax return preparers should complete this form. If you were paid to prepare a return for any taxpayer claiming the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status, you must complete Form 8867 and meet the other due diligence requirements described later in [Purpose of Form](#).

Form 8867 must be filed with the return. Form 8867 must be filed with the taxpayer's return or amended return claiming the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status.

Signing tax return preparers.

- If you are the paid tax return preparer signing the return and you are filing the return electronically, file the completed Form 8867 electronically with the return.
- If you are the paid tax return preparer signing the return and you are **not** electronically filing the return, or mailing the return to the IRS for the taxpayer, provide the completed Form 8867 to the taxpayer with instructions to file this form with his or her return.
- If you are the paid tax return preparer signing the return and you are mailing the return to the IRS for the taxpayer (which should only be done **after** the taxpayer has reviewed and signed the paper return), mail the completed Form 8867 to the IRS with the return.

Nonsigning tax return preparers. If you are the paid tax return preparer for the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status covered by Form 8867, but you are not required to sign the return as preparer, provide the signing tax return preparer the completed form in either electronic or paper format.

You can find rules regarding who is a signing tax return preparer and a nonsigning tax return preparer in Regulations section 301.7701-15. If you are the only paid tax return preparer for the taxpayer's return, you are the signing tax return preparer and must sign the return as preparer. Failure to sign the return when required may subject you to a penalty.

Multiple Forms 8867 for one return. Form 8867 must be completed by a paid tax return preparer responsible for a taxpayer's claim of the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status; therefore, there may be multiple Forms 8867 for one return or amended return. If there are multiple Forms 8867 for a paper return, attach all Forms 8867 to the return to be submitted to the IRS. If there are multiple Forms

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8867 for an e-filed return, [e-file](#) will accept transmission of up to four Forms 8867. All Forms 8867 must be retained as provided in [Document Retention](#), later.

Example. Paid tax return preparer A determined taxpayer T's eligibility for, and the amount of, the EIC claimed on T's return. Paid preparer B determined T's eligibility for, and the amount of, the AOTC claimed on T's return and also signs the return as the signing tax return preparer. Two Forms 8867 must be completed, one prepared by A for the EIC, and one prepared by B for the AOTC. The Form 8867 completed by A as a nonsigning preparer must be provided to B to be filed along with T's return. The Form 8867 completed by B as the signing preparer should also be filed with T's return.

Purpose of Form

As a paid tax return preparer, you are required to exercise due diligence when preparing any client's return or claim for refund. As part of exercising due diligence, you must interview the client, ask adequate questions, and obtain appropriate and sufficient information to determine the correct reporting of income, claiming of tax benefits (such as deductions and credits), and compliance with the tax laws.

You must also meet specific due diligence requirements set forth in Treasury Regulations when you prepare returns and claims for refund involving the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status. To meet these due diligence requirements, you may need to ask additional questions and obtain additional information to determine your client's eligibility to claim the credit(s) and/or HOH filing status and to figure the amount(s) of any credit(s) claimed. Failure to meet the due diligence requirements could result in a penalty for each failure. See [Part VI Eligibility Certification](#), later, for more information. Also, see section 6695(g) and Regulations section 1.6695-2.

You will have complied with the due diligence requirements set forth in Treasury Regulations for the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status claimed on a return or claim for refund if you do all of the following.

1. Meet the knowledge requirement by interviewing the taxpayer, asking adequate questions, contemporaneously documenting the questions and the taxpayer's responses on the return or in your notes, reviewing adequate information to determine if the taxpayer is eligible to claim the credit(s) and/or HOH filing status, and to figure the amount(s) of the credit(s) claimed.
2. Complete Form 8867 truthfully and accurately and complete the actions described on Form 8867 for any applicable credit(s) claimed and HOH filing status, if claimed.
3. Submit Form 8867 in the manner required.
4. Keep all five of the following records for 3 years from the latest of the dates specified later in [Document Retention](#).
 - a. A copy of Form 8867.
 - b. The applicable worksheet(s) or your own worksheet(s) for any credits claimed (see [Due Diligence Requirements](#), later).
 - c. Copies of any documents provided by the taxpayer on which you relied to determine the taxpayer's eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s).
 - d. A record of how, when, and from whom the information used to prepare Form 8867 and the applicable worksheet(s) was obtained.
 - e. A record of any additional information you relied upon, including questions you asked and the taxpayer's responses, to determine the taxpayer's eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s).

Specific Instructions

Enter the taxpayer's name as it appears on the return and enter the taxpayer identification number (TIN) for the taxpayer (primary TIN, if filing a joint return).

Enter the name and preparer tax identification number (PTIN) of the paid tax return preparer who determined the taxpayer's eligibility to claim the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status for which Form 8867 is being completed and to figure the amount(s) of any credit(s) claimed, even if the preparer is not the tax return preparer signing the tax return.

Part I—Due Diligence Requirements

Complete questions 1-8 for all benefits for which you were the paid tax preparer determining the taxpayer's eligibility or the amount of the credit.

Line 1

You should prepare the return based only on information related to the applicable tax year for which you are filing the return. The information on Form 8867 should be for the year of the Form 1040, 1040-SR, 1040-NR, 1040-PR, or 1040-SS that you are filing.

Election to use prior year earned income. To see if legislation was enacted that allows an eligible taxpayer to elect to use a prior tax year earned income to figure their current tax year EIC or ACTC, go to [IRS.gov/Form8867](#). If such legislation is enacted and you prepare a tax return in which the taxpayer elects to figure the EIC, ACTC, or both credits using a prior tax year earned income, the due diligence requirements set forth in Treasury Regulations apply to the preparer's computation of earned income for 2 years. The preparer's computation of earned income for 2 years must include the following.

- The current tax year if the election requires that their prior tax year earned income be more than their current tax year earned income.
 - The prior tax year to determine the earned income used to compute each credit claimed under the election.
- If the taxpayer makes this election, answer "Yes" on line 1 of the Form 8867. You do not have to recompute the prior tax year earned income if you prepared that prior year tax return.



The election to use a prior year earned income may not apply for figuring both the EIC and ACTC. To see if such an election is enacted for a particular tax year and to see which credit(s) apply, go to [IRS.gov/Form8867](#).

Line 2

You must complete the applicable IRS worksheet for the EIC, the CTC/ACTC/ODC, and/or the AOTC (or your own worksheet that provides the same information), as well as all required forms and schedules for each credit claimed on the return for which you are the paid tax return preparer. The worksheets for the EIC and/or the CTC/ACTC/ODC can be found in the Form 1040, 1040-PR, or 1040-SS or Schedule 8812 (Form 1040) instructions. You can find the AOTC worksheet in the Instructions for Form 8863. Completion of these forms, schedules, and worksheets assists you in determining the taxpayer's eligibility for the credit and the correct amount of the credit and is required under the due diligence requirements set forth in Treasury Regulations. If the taxpayer claimed HOH filing status and did not claim any of the credits, check the "N/A" box.

Lines 3 and 4

As a paid tax return preparer, when determining the taxpayer's eligibility to claim the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status and to determine the amount of the

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credit claimed on a return or claim for refund, you must not use information that you know, or have reason to know, is incorrect. You may not ignore the implications of information provided to or known by you, and you must make reasonable inquiries if a reasonable and well-informed tax return preparer, knowledgeable in the law, would conclude that the information provided to you appears to be incorrect, inconsistent, or incomplete. You must also contemporaneously document in your files any reasonable inquiries made and the responses to these inquiries.

You must know the tax law for each credit and/or HOH filing status claimed on a return or claim for refund you prepare and use that knowledge to ask your client the right questions to get all the relevant facts to determine your client's eligibility to claim the credit(s) and/or HOH filing status and to figure the amount(s) of any credit(s) claimed.

Example 1. Taxpayer X engages Preparer C to prepare his 2022 federal income tax return. During the intake interview, Taxpayer X states he is 25 years old, has never been married, and has two sons ages 10 and 12. X also states that he was self-employed, earned \$12,000 from his lawn care business, and had no business expenses or other income. Preparer C believes that X may be eligible for the EIC and the ACTC. But the ages of the children seem inconsistent with the age of the taxpayer. Additionally, the taxpayer's claim that he has no business expenses seems inconsistent with his income. Preparer C must exercise due diligence to determine whether a credit can be claimed with respect to the children and whether Taxpayer X meets the earned income requirements to claim a credit. Because Preparer C is preparing Taxpayer X's return for the year, Preparer C would have been required to exercise due diligence with respect to those items when preparing the return, and if Preparer C made the appropriate inquiries during that process, then no additional questions would be necessary. However, if Preparer C did not previously ask about the ages of the children and the income requirements, Preparer C is required to make reasonable inquiries. Reasonable inquiries could include the following.

- Are these your foster sons or adopted sons? If so, were the children placed in your home for foster care by an authorized placement agency or court order or were they lawfully placed in your home for adoption?
- How long did the children live with you during 2022?
- If the taxpayer is not the parent, did any other relative also reside with these children for more than half the year in 2022?
- How much did you charge to care for each lawn?
- Do you have records of the amount of money you received from lawn work?
- Did you have any expenses for lawn mowing equipment, fuel, or other supplies for your business? If not, how did you provide lawn care services?
- How many lawns did you take care of?

Preparer C must contemporaneously document these inquiries in his or her files, along with the responses.

Example 2. Assume the same facts as in *Example 1*, except that Preparer C also prepared X's 2021 return and at that time Preparer C was able to verify that the two boys are X's legally adopted children. When preparing X's 2022 return, Preparer C is not required to make additional inquiries to determine X's relationship to the two boys for purposes of the requirement that a return preparer must not know, or have reason to know, that a claim for the ACTC is based on false or incorrect information.

Line 5

Keep copies of any documents provided by the taxpayer on which you relied to prepare the return, determine the taxpayer's eligibility for the benefits, and figure the amount(s) of the EIC, the CTC/ACTC/ODC, or the AOTC. List the documents provided by

the taxpayer in the space provided. See [Document Retention](#), later, for more information on the due diligence recordkeeping requirements. If you already requested documents from the taxpayer to substantiate his or her eligibility for a tax credit or HOH filing status as part of exercising due diligence when preparing the return for the particular tax year, you do not need to request those documents again.

The following are examples of documents that you may rely on to determine a taxpayer's eligibility to claim the credit(s), and/or HOH filing status, and the amount(s) of any credit(s) claimed. This list is not all-inclusive and none of these documents are specifically required to demonstrate eligibility for the credits and/or HOH filing status.

Residency of a Qualifying Child

- School records or statement.
- Landlord or a property management statement.
- Health care provider statement.
- Medical records.
- Child care provider records.
- Placement agency statement.
- Social service records or statement.
- Place of worship statement.
- Indian tribal official statement.

Disability of Qualifying Child

- Statement of medical doctor.
- Statement of other health care provider.
- Statement of social services agency or program statement.

Schedule C

- Business license.
- Forms 1099.
- Records of gross receipts provided by taxpayer.
- Taxpayer's summary of income or summary of income provided by taxpayer.
- Records of expenses provided by taxpayer.
- Taxpayer's summary of expenses or summary of expenses provided by taxpayer.
- Bank statements to show income and expenses.

Line 6

If your client's return is selected for audit, the IRS may ask your client to provide documents to show eligibility for the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status claimed on the return or claim for refund and the computation of the amount(s) of any credit(s) claimed. The credit(s) and/or HOH filing status may not be allowed without this information. You can help your clients be prepared to answer questions about their eligibility for the credit(s) claimed and the correctness of the amount(s) of any credit(s) claimed if you help them understand that the IRS may ask for underlying documentation regarding eligibility to claim the credit(s) and/or HOH filing status and the computation of the amount(s) of any credit(s) claimed.

Line 7

Unless an exception applies, if the EIC, the CTC/ACTC/ODC, and/or the AOTC claimed in a prior year was denied for a reason other than a clerical or math error, a claim for the credit on the taxpayer's return will be denied unless Form 8862 is attached to the return. See the Form 8862 instructions for more information. If the taxpayer claimed HOH filing status and did not claim any of the credits, check the "N/A" box.

Line 8

The EIC, the CTC/ACTC/ODC, and the AOTC are determined using information that includes information about the kind and source of income reported on a taxpayer's return. For self-employed individuals, this information generally is reported on Schedule C (Form 1040) as income from self-employment.

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Part V—Due Diligence Questions for Claiming HOH

As a paid tax return preparer, you must exercise due diligence to determine whether a taxpayer meets all of the eligibility requirements to qualify for HOH filing status. Although line 14 only asks about substantiation that the taxpayer was unmarried (or considered unmarried) and provided more than half of the cost of keeping up a home for the year for a qualifying person, your client must meet **all** of the eligibility requirements for claiming HOH filing status. Your client may not claim HOH filing status unless all of the eligibility requirements for HOH filing status are satisfied, even if you answer “Yes” to the question on line 14. For more information on HOH filing status, see Pub. 501.

Part VI—Eligibility Certification

Failure to meet the due diligence requirements for claiming the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status could result in a \$560 (amount for a return or claim for refund filed in 2023) penalty for each failure. For example, if you are paid to prepare a return claiming the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status, and you fail to meet the due diligence requirements for all of these credits, you could be subject to a penalty of \$2,240.

Penalty amount for returns or claims for refund filed in years after 2023. The penalty amount for failure to meet the due diligence requirements for claiming the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status is adjusted for inflation each year. To find the penalty amount for years after 2023, go to *Consequences of Not Meeting Your Due Diligence Requirements* on [IRS.gov/Form8867](https://www.irs.gov/Form8867).

Document Retention

To meet the due diligence requirements for returns or claims for refund claiming the EIC, the CTC/ACTC/ODC, the AOTC, and/or HOH filing status, you must keep all of the following records.

1. A copy of Form 8867.
2. The applicable worksheet(s) or your own worksheet(s) for any credits that are claimed that are specified in [Due Diligence Requirements](#), earlier.
3. Copies of any documents provided by the taxpayer on which you relied to determine the taxpayer’s eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s) claimed.

4. A record of how, when, and from whom the information used to prepare Form 8867 and the applicable worksheet(s) was obtained.

5. A record of any additional information you relied upon, including questions you asked and the taxpayer’s responses, to determine the taxpayer’s eligibility for the credit(s) and/or HOH filing status and to figure the amount(s) of the credit(s).

You must keep those records for 3 years from the latest of the following dates.

- The due date of the tax return (not including extensions).
- The date the return was filed (if you are a signing tax return preparer electronically filing the return).
- The date the return was presented to the taxpayer for signature (if you are a signing tax return preparer not electronically filing the return).
- The date you submitted to the signing tax return preparer the part of the return for which you were responsible (if you are a nonsigning tax return preparer).

These records may be kept on paper or electronically in the manner described in Rev. Proc. 97-22 (or later update). Rev. Proc. 97-22 is on page 9 of Internal Revenue Bulletin 1997-13, which is available at [IRS.gov/pub/irs-irbs/irb97-13.pdf](https://www.irs.gov/pub/irs-irbs/irb97-13.pdf).

Paperwork Reduction Act Notice. We ask for you to obtain the information on this form to carry out the Internal Revenue laws of the United States. You are required to obtain this information.

You are not required to obtain the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.