



## Frequently Asked Questions about the Earned Income Credit

### What is the Earned Income Credit (EIC)?

The EIC is a special tax benefit for workers who earn low or moderate incomes. It lowers their taxes, supplements their wages, and makes work more attractive and affordable. Qualifying persons who file federal and state tax returns get back some or all of income tax withheld from their pay during the year. Even workers whose earnings were too small to have taxes withheld can get the EIC.

### Am I eligible for the federal Earned Income Credit?

The EIC is available to workers with low to moderate earned income from a job (including self-employment). The income limit depends on the number of 'qualifying children' and on marital status. The limit with no children is \$12,880 (\$15,880 if married); the limit with one child is \$33,995 (\$36,995 if married); and the limit with two or more children is \$38,646 (\$41,646 if married). There are also other criteria. Your investment income must be below \$2950. You, your spouse, and your children must have Social Security Numbers. You must have lived in the country for at least half of the year and be a citizen or resident alien for the whole year. If you don't have qualifying children, you must be age 25-64.

### Am I eligible for the Wisconsin Earned Income Credit?

The state credit is available to families with children who get the federal earned income credit and who have been residents of Wisconsin for the entire year.

### Which children qualify for the Earned Income Credit?

\*\*You DO NOT have to claim a child as a dependent on your tax return for the child to be a qualifying child for the EIC. A qualifying child for the earned income credit must be under 19 years old, or under 24 if a full-time student, or any age if disabled. The child must also meet one of the following criteria:

- 1) The child is a son, daughter, stepchild, grandchild, or adopted child, and has lived with you for at least six months in 2008, **OR**
- 2) The child is a brother, sister, stepbrother or stepsister—or a descendant of these relatives—who lived with you for at least six months in 2008, **OR**
- 3) The child is a foster child placed with the taxpayer by an authorized agency who lived with you for at least six months in 2008.

### What counts as earned income?

For EIC purposes, earned income includes: salary, wages, self-employment, military pay, strike benefits, private disability pay (long-term), and cash wages. Earnings from a W-2 trial job count as earned income.

Income that does NOT count as earned income includes: Supplemental Security Income, Food Stamps, low-income housing payments, child support, alimony, social security benefits, worker's compensation, and payments from a Wisconsin Works (W-2) transitional grant or a W-2 community service job.

## **How much can I get back from the federal and state EIC?**

The amount of credit depends on your income, the number of your qualifying children, and your marital status. The maximum federal 2008 EIC credit is \$2,917 for families with one child, \$4,824 for families with two or more children, and \$438 for workers without a child. State EIC credit is 4% of federal EIC for one-child families; 14% of federal EIC for two-child families; and 43% of federal EIC for families with three or more children.

## **Will getting the EIC affect my welfare benefits?**

The EIC does not affect eligibility for benefits like W-2, Medicaid, Food Stamps, SSI or public or subsidized housing.

## **How can I get the EIC?**

You must file a tax return to receive your earned income credit even if you don't owe any taxes. To receive the federal credit, file form 1040 or 1040A and Schedule EIC. (Those without children may also file 1040EZ.) The forms have detailed instructions. Use Worksheet A in the EIC section of the instruction book to figure your credit amount. To receive the state credit, file state form 1 or 1A, and use the amount of your federal EIC to figure your state credit. If your tax return shows you owe taxes, you subtract the EIC and you will owe less or get money back. If you owe no taxes, but qualify for the EIC, you will get a refund check for your EIC amount.

## **Can I get the Earned Income Credits in advance?**

The Advance Earned Income Credit allows some workers to get part of the EIC in advance in their regular paychecks. If you expect to be eligible for the EIC and wish to receive part of it in your paychecks, you should file a W-5 form with your employer. The form must be filed again each year. Employers are obligated to honor requests for the advance EIC, and are not responsible for verifying eligibility. The State EIC is not available as an advance.

## **Can immigrant workers get the EIC?**

Many legal immigrants who are employed can get the EIC. To be eligible, an immigrant must be a "resident alien for tax purposes." They also must have their children living with them in the United States for more than six months of the tax year. The U.S. must be their main home.

## **If I didn't file for the EIC in previous years, can I do so retroactively?**

Workers can file for the EIC for the last three years. For copies of prior-year tax forms, call 1-800-TAX-FORM.

## **What if there is more than one taxpayer in the household who could claim the same child for the EIC?**

Two people cannot claim the same child for the EIC. Some households – such as three-generation households and households with two unmarried parents – have more than one adult who could be eligible to claim the same child and who file taxes separately. In these cases, the eligible adults can decide who will claim each qualifying child for the EIC. If the eligible adults cannot agree, the tie-breaker rule applies (see below).

## **When parents live apart, can both claim the EIC for their child(ren)?**

Only one parent can claim the EIC for a given child. The parent with whom the child lived for more than half the year is entitled to file for the EIC, even if the other parent claims the child as a dependent on his or her tax return. If both parents lived with the child for more than six months, and both parents meet other eligibility criteria, the parents can decide who will claim the child for the EIC. If the parents cannot agree, the tie-breaker rule applies (see below).

## **What is the tie-breaker rule?**

The tie-breaker rule determines which adult may claim the EIC, if there is more than one adult who meets the eligibility criteria and the eligible adults are unable to agree which of them should claim the credit. According to the tie-breaker rule, a parent has priority over a non-parent. If there are two eligible parents, the parent with whom the child lived for the longest period of the year has priority. If the child lived with both parents for the same amount of time, the parent with the highest adjusted gross income (AGI) has priority. Finally, if none of the eligible persons is the child's parent, the person with the highest AGI has priority.

## **How does the EIC affect my eligibility for other tax credits?**

The EIC does not affect your eligibility for other tax credits. Many workers who qualify for the EIC also qualify for the Child Tax Credit. You can claim that credit on form 1040 or 1040A as well. If you work and pay for child care, you may be eligible for the Child and Dependent Care Credit, also available on form 1040 or 1040A. If you rent or own your home, you may be eligible for the Wisconsin Homestead Credit.

## **What do I need to bring to my tax preparer or VITA site to file my taxes?**

### **Tax forms and statements:**

- Copy of last year's return, if any;
- W-2 forms from all 2008 jobs;
- All tax forms received in mail including 1099-G (unemployment), 1099-INT (bank interest), 1099-MISC (miscellaneous income), and W-2G (gambling winnings);
- Record of any estimated tax payments made for 2008;

### **Social Security numbers:**

- Social Security numbers for all household members, including children (unless born after November 2008)
- For VITA sites with electronic filing: social security cards for all on tax return

### **Additional information for Homestead Credit:**

- 2008 property tax bill (if homeowner)
- Completed rent certificate (if renter)
- Record of W-2 cash benefits received each month (if any)

### **Additional information for Child and Dependent Care Credit:**

- Name, address, and tax identification number of child care provider (Social Security number if private individual)
- Amount paid to each child care provider in 2008

### **Other information**

- Back account information if seeking direct deposit of refund

For more information on tax credits for low income families, see <http://www.uwex.edu/ces/econ>.

Judi Bartfeld, UW-Extension, 370E Human Ecology, 1300 Linden Drive, Madison, WI 53706, UW-Extension. 12/08