Department of the Treasury
Internal Revenue Service
Wage & Investment NDC/EITC
1201 North Mitsubishi Motorway
Bloomington, IL 61705

Date:
09/06/2018
Contact email address:
wi.rcpreparerresponse@irs.gov
Preparer ID number:

You may not have met your due diligence requirements

Dear [Name]:

We're writing to make you aware of the due diligence requirements for paid preparers.

You prepared tax year 2017 returns that claimed at least one of the credits listed below. Our review of these returns indicates you may not have met your due diligence requirements.

- Earned Income Tax Credit (EITC)
- Child Tax Credit (CTC)
- Additional Child Tax Credit (ACTC)
- American Opportunity Tax Credit (AOTC)

Paid preparers must comply with all due diligence requirements. Failure to do so can result in a penalty of $520 per failure for tax returns filed in 2019. The failure can also result in an audit, the suspension or termination of e-filing privileges, or a referral to the IRS's Criminal Investigation Division.

What you need to do
You don't need to respond to this letter. This letter is for your information only. We'll continue to monitor future returns you prepare claiming these credits. Please note that we can't provide you with information about the specific returns that are questionable.

Below, we list the primary issues we identified on the tax returns you prepared, tax law changes that affect you, and your due diligence requirements.

The primary issues we identified on the tax returns you prepared are: One or more of the following 5 paragraphs will be inserted.

1. Questionable EITC returns. Common errors are:

- Claiming an incorrect amount of income or expenses on Schedule C, Profit or Loss from Business, which may affect the amount of earned income.
- Claiming qualifying children for the EITC who don't appear to meet the relationship, residency, age, or joint return tests.

Note: A permanently and totally disabled child is considered to meet the age requirement. A child is considered permanently and totally disabled for claiming the EITC if the child can't engage in any substantial gainful activity because of a physical or mental condition and a doctor determined the condition has lasted, or can be expected to last, continuously for at least one year, or can be expected to lead to death.

2. Questionable high volume of returns claiming the EITC. We identified the number of returns based on your preparer tax identification number (PTIN). As the signing preparer, you're accountable for meeting your EITC due diligence requirements whether you actually prepared this number of returns or only reviewed them.

3. Questionable AOTC returns. Common errors are:

- Claiming a student who didn't attend a college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S. Department of Education
- Claiming a student who didn't pay qualifying college expenses
- Claiming room and board, medical expenses, transportation, insurance, or other expenses that aren't qualifying expenses
- Claiming the credit for a student for more than four years

4. As a paid preparer, you must take extra steps to ensure returns that you prepare claiming the AOTC are complete and correct. Keep a copy of the Form 1098-T, Tuition Statement. Ask probing questions about the student. As you ask the questions, document the questions asked and your client's responses. Ask for information such as:

- The student's age
- The name of the college or university
- The years attended
- The degree being pursued
- The types of expenses and the amounts paid
- Whether the student has been convicted of a drug felony

5. Questionable returns claiming EITC reporting income received as a household worker. A high percentage of the returns you prepared claiming the EITC did not have a matching Form W-2, Wage and Tax Statement, or Form 1099, Miscellaneous Income, from the person for whom the work was performed.

Household employees work in the home of an individual or family. The homeowner provides the necessary supplies, determines the type of work performed, and how to complete it. Examples of household employees are babysitters, caretakers, house cleaning workers, domestic workers, drivers, health aides, housekeepers, maids, nannies, private nurses, and yard workers.

If a household employee earned $2,000 or more in 2017, the employer was required to report income paid to a household employee on a Form W-2. If a household employee earned less than $2,000 from each individual household in 2017, the employee may not receive any Forms W-2. All household employees must keep records of who they worked for, for how much time, and how much and when they were paid. The records must show the names, telephone numbers, and addresses of persons for whom work was performed and the payment received. Your clients will need to provide this information in case of an audit.

A household worker may be considered self-employed, and may be required to file a Schedule C, Profit or Loss from Business.

Tax law changes for tax year 2018

Due Diligence Requirement Changes:

- Returns claiming Head of Household (HoH) filing status for tax year 2018 are now subject to the same due diligence requirements as the credits listed above.
- Failure to meet your due diligence requirements can result in a penalty of $520 per failure, with a maximum penalty of $2,080 per return.

CTC/ACTC Qualifying Child:

- A qualifying child must have a Social Security number (SSN) that is valid for employment and is issued before the due date of the tax return, including extensions.
- The taxpayer claiming the CTC/ACTC may have either an SSN or an individual taxpayer identification number (ITIN). As before, the number must have been issued on or before the due date of the return, including extensions.

New Credit for Other Dependents (ODC):

- The CTC was modified for tax years 2018-2025 to provide a $500 nonrefundable credit for qualifying dependents other than children who can be claimed for the CTC.
- Qualifying dependents for the ODC include a child who is age 17 or older.
- The dependent can have an SSN, ITIN, or Adoption Taxpayer Identification Number (ATIN) but the number must have been issued on or before the due date of the return, including extensions.
- The dependent must be a U.S. citizen, U.S. national, or U.S. resident alien.
- The due diligence requirements for the CTC also apply to the ODC.

Due diligence tips for paid preparers

- Know the tax laws.
- Advise clients about the requirements for eligibility to determine if they qualify for the benefits listed above.
- Interview clients each time you prepare a return or amended return, as their circumstances may change. You must use information relevant to the applicable tax year when determining eligibility for the benefits listed above and the amount of the credits listed above.
- Consider tax return preparation software as only a tool, not a substitute for knowledge of the tax laws.

Meet all four due diligence requirements

- Complete Form 8867, Paid Preparer's Due Diligence Checklist, and submit it with every return you prepare claiming one or more of the benefits listed above.
- Complete all worksheets, or equivalents, showing how you computed the credits, including the EITC Worksheet for the EITC, Schedule 8812, if applicable, for the CTC or ACTC, and Form 8863, Education Credits, for the AOTC, if the credits listed above are claimed on a return or amended return.
- Question the client if any information appears to be incorrect, inconsistent, or incomplete. As you question the client, document your questions and the client's responses. Failure to adequately question the client and document the responses is the most common reason we assess penalties.
- Keep all required records, including copies of any documents you relied on to determine eligibility for the credits listed above and/or HoH filing status, or to compute the amount of the credits. Obtain a copy of your client's Form 1098-T, Tuition Statement, for the AOTC.

If you don't comply, your clients can be:

- Audited after we issue their refunds. If we determine your clients don't qualify, they must repay the overpayments, plus interest.
- Prevented from claiming the credits listed above for 2 years if the claim was due to reckless or intentional disregard of the rules, or 10 years if the claim was due to fraud.
- Subject to math error procedures if they claim the credits during any banned years.
- Subject to a penalty on the erroneous amount claimed.

For additional information:

- Review Publication 4687, Refundable Credits Due Diligence.
- Visit our website at www.eitc.irs.gov/tax-preparer-toolkit/main.
- Visite www.eitc.irs.gov e ingrese las palabras claves "Letter 5025(SP)" para leer esta carta en espanol

You can get any of the forms or publications mentioned in this letter by visiting our website at www.irs.gov/ forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact us at the email address on the first page of this letter. For security purposes, if you contact us via email, don't include any personally identifying information (PII) of your clients. PII includes any information that could be used to distinguish or trace the identity of your client.

Sincerely,
Gwen M. Garren
Gwen M. Garren
Director, Refundable Credits
Policy and Program Management