EITC Tax Preparer Toolkit

Separated Spouse



Life's a little easier with

Example 1

A client, wishing to have her taxes prepared, informs you:

- She is separated from her spouse.
- Her 7 year old child lives with her.
- She wants to claim Earned Income Tax Credit.



What Issues Should You Question?

Her Filing Status

- If the client is separated from her spouse, what exactly does that mean?
- Ask questions to determine whether she must use a married status (married filing jointly or married filing separate) or can qualify for head of household or single filing status.
- Ask questions to determine if she is legally separated or did not live with her spouse for last 6 months of year (allowing her to be "considered unmarried" for head of household purposes).

And,

What Issues Should You Question?

The Qualifying Child Residency Requirement

- The father might come into play here.
- Find out whether the child lived with the client for more than half the year.
- Since there is another parent involved, the preparer should ask questions to determine if there is a possibility the father might claim the child as well. The preparer has a responsibility to inform the client what happens in a duplicate claim situation and how the IRS applies the tie breaker rules if she and her spouse both claim the child (separated parents may have qualifying child issues between them).

Questions and Answers -



Take 1

You ask - Are you still married? She says - Yes, I'm still married but separated.

- If she is still married, you know she has to file using a married status – Married Filing Jointly or Married Filing Separate unless she qualifies for Head of Household.
- You know if she files Married Filing Separate she can not claim EITC.

You ask - When did you separate from your husband? She says - January of last year.

Head of Household is possible. Find out what "separated" means to her - legal separation? Living separate?

You ask -

Did you move to separate homes, and if so, when?

She says -

Yes, in January of last year.

She meets the requirement of not living together for last 6 months of year – so she might be "considered unmarried" and qualify for Head of Household if she meets the other requirements.

You ask -

How long during the year did your child live with you?

She says -

My child lived with me every day except every other weekend and two weeks in the summer.

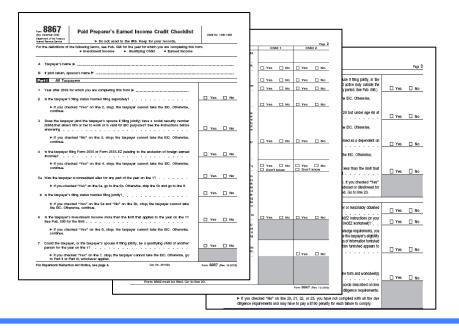
It is clear – the child lived with her for more than half the year.

You ask -Did you live with anyone else? She says -No, I did not.

She will not have a problem with someone else paying for cost of keeping up the home – a Head of Household requirement.

You Say

It looks like you may qualify for EITC. I'll go through the rest of the questions and do the computations to make sure.



Questions and Answers -



Take 2

You ask - Are you still married? She says - Yes, I'm still married but we live in separate homes.

- If she is still married, you know she has to file using a married status – Married Filing Jointly or Married Filing Separate unless she qualifies for Head of Household.
- You know if she files Married Filing Separate she can not claim EITC.

You ask -When did you separate from your husband? She says -November of last year.

If they did not stop living together prior to November, she does not meet the last 6 month test.

You ask -

When did you stop living in the same home?

She says -

I moved out when we separated in November.

She does not meet the requirement of living apart from her spouse for the last 6 months of year - so does not qualify for Head of Household.

You ask -

Are you going to file a tax return with your husband?

She says -

No, I want my own refund.

So, what do you tell her?

Does She Qualify For EITC?

No, Her filing status is: Married Filing Separate.

