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# Keeping Up with EITC Due Diligence





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# Keeping Up with EITC Due Diligence

- What you need to know for the 2014 filing season
- Benefits of due diligence
- Due diligence requirements
- Know EITC law—avoid common errors
- Tips for meeting your due diligence
- Consequences of not meeting due diligence





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# What You Need to Know for the 2014 Filing Season

- EITC tax law
- 2009 provisions expire at end of 2017
- Focus on keeping the right documentation
- \$500 penalty for not attaching or submitting Form 8867





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# How Does Due Diligence Benefit Everyone?

- Ensures your clients receive the correct amount of EITC
- Protects you and your clients from EITC related penalties
- Helps avoid and reduce EITC errors





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# EITC Due Diligence Requirements

Internal Revenue Code §6695(g) has four Due Diligence Requirements

1. Complete and submit Form 8867
2. Complete and keep all worksheets used to compute the credit
3. Keep records
4. Apply the knowledge requirement





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# Form 8867

- Paid preparers of EITC returns are required to
  - Submit Form 8867, Paid Preparer's Earned Income Credit Checklist, with every claim for EITC filed electronically
  - Attach Form 8867 to every claim for EITC presented to your client





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# Knowledge Requirement

IRS assesses most due diligence penalties for failure to comply with the knowledge requirement

- Apply common sense standard
- Evaluate the information—is it complete and gather any missing facts
- Determine if the information is consistent and recognize contradictory statements
- Don't ignore statements **you know** are not true





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# Meet the Knowledge Requirement

- Conduct a thorough interview with each client, every year
- Ask enough questions to reasonably know the return is correct and complete
- Record questions you ask and your client's answers during the interview





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# Video-Due Diligence





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# Keep these Records

- Who provided the information and when you got it
- Form 8867
- All EIC worksheets used to compute the credit
- Any additional questions you ask your client to meet your due diligence requirements and your client's answers
- Copies of any documents you use to determine eligibility for, or the amount of EITC





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# Keep these Records

- Paper or electronic format in secure environment
- Back-up in separate, secure place
- Make sure you can produce records if IRS asks for them





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# Record Retention

- Keep these records for three years from the later of:
  - Due date of the return
  - Date the claim is electronically filed
  - Date you present the return to your client for signature for paper returns
  - For a non-signing preparer, the date you give the part of the return that you are responsible for to the signing preparer





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# Due Diligence Must Do's

- Know the law
  - Know the EITC eligibility requirements
  - Know your due diligence requirements
- Ask all the right questions
  - Are answers reasonable?
- Get all the facts
  - Are you satisfied that the return correct?
- Document as you go
  - Make sure you write down your questions and answers at the time of the interview





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# Avoid Most Common EITC Errors

- Child does not meet age, relationship, or residency requirement
- Over or under-reporting income or expenses, particularly on Schedule C's
- Incorrect filing status

Visit EITC Central for tips on handling the most common errors and more





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# Knowledge Requirement Tips

- Phrase questions in terms your clients understand
- Ask enough questions to find out if the child meets **all** tests: relationship, age, residency and joint return
- Follow up on any questionable issues
- Record all additional questions you ask and your client's response during the interview





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# Your Client Losing EITC is Bad Customer Service

- May lose or need to pay back the credit with interest and penalties
- May be required to file Form 8862 for future EITC claims
- Can be banned from claiming EITC for 2 or 10 years





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# EITC Errors are Bad for Business

- \$500 per failure to meet EITC Due Diligence requirements
- \$500 per failure of employee to comply for the **employer or employing firm**
- Other professional disciplinary action
- Being barred from preparing tax returns or imposing conditions on the tax returns you prepare





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# Employer EITC Due Diligence

- An employer or a principal member of management participated in or knew of the failure
- Firm failed to establish reasonable and appropriate procedures to ensure compliance
- Firm disregarded its reasonable and appropriate compliance procedures through willfulness, recklessness, or gross indifference
- Firm ignored facts that would lead a person of reasonable prudence and competence to investigate





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# Employers Protect Yourselves

- Review current office procedures
- Review procedures with your employees
- Conduct annual EITC due diligence training or use our online module (English and Spanish versions)
- Test your employee's knowledge of due diligence and your procedures
- Perform recurring quality review checks on your employee's work





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# EITC Preparer Compliance Strategy

- Targeted
  - Look at returns with a high likelihood of EITC error completed by same preparer.
- Tailored
  - Look for cause of the errors. Is it not knowing the tax law; not applying it correctly, or, is it an intentional disregard of the tax law?
- Tiered
  - Our goal is to reduce preparer errors by matching our response to the risk level of the same preparer continuing to have a high level of EITC error.





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# What to Expect from a Due Diligence Audit

- Examiner contacts preparer
- Examiner conducts interviews
- Examiner reviews returns
- Examiner makes penalty determination





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# Recap

- Know EITC tax law and eligibility rules
- Remember, software is not a substitute for knowledge of EITC tax law
- Practice EITC due diligence
  - Complete Form 8867
  - Complete the credit computation worksheets
  - Keep all required records
  - Apply the knowledge requirement

Due Diligence is more than a *check* on a form or clicking through tax preparation software





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# For Everything EITC

## EITC Central

[www.eitc.irs.gov](http://www.eitc.irs.gov)





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# Questions?

## EITC Program Mailbox

[eitc.program@irs.gov](mailto:eitc.program@irs.gov)

