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CORNELL

School of Industrial and Labor Relations

# THE BENEFITS PLANNER

KEYS TO EFFECTIVE BENEFITS PLANNING, ASSISTANCE AND OUTREACH

## THE FEDERAL EARNED INCOME TAX CREDIT

### A Work Incentive That Puts More Money in a Paycheck and Saves on Taxes

Individuals with disabilities who work face many challenges. One challenge is making ends meet when transitioning from the world of receiving disability benefits to the world of work. A little-known federal work incentive, the Federal Earned Income Tax Credit (EITC) can help overcome that challenge. The EITC is a special tax benefit for working people who earn low or moderate incomes. While the EITC applies to *any* individual who works and has low income, it can certainly assist individuals with disabilities in the work force.

The Earned Income Tax Credit has several important purposes: to offset a portion of living expenses and FICA contributions—providing much needed support to the working poor and making work more attractive than government benefits. Individuals who qualify for the EITC and file a federal tax return can get back some or all of the federal income tax that was taken out of their pay during the

year. They may also get extra money back from the Internal Revenue Service (IRS). Even individuals whose earnings are too low to owe income tax can get the EITC, in the form of extra money in their paycheck or as a tax refund when their tax return is filed. The Earned Income Tax Credit may even offset any additional taxes individuals may otherwise owe at the end of the tax year. Amazingly, the EITC does not generally affect eligibility for Temporary Assistance to Needy Families (TANF), Medicaid, food stamps, low-income housing subsidies, or Supplemental Security Income (SSI).

This article will explain what the Earned Income Tax Credit is and how it works. It will cover who is eligible for the EITC and how much it is worth. This article will also explain how to use the EITC to get a tax refund and the logistics of using it to receive advance EITC payments and thus increase a regular paycheck.

FOR TECHNICAL ASSISTANCE IN NEW YORK STATE CALL

**1-888-224-3272**

OR CONTACT US BY EMAIL: [nywisc@nls.org](mailto:nywisc@nls.org)

This publication is sponsored in part by the NYS Developmental Disabilities Planning Council and the Social Security Administration through the NYS Department of Labor (NY Works Project), and is a collaborative publication of Cornell University's Program on Employment and Disability and Neighborhood Legal Services, Inc. (NLS) of Buffalo, NY. The editors and primary authors are James R. Sheldon, Jr. of NLS and Edwin J. López-Soto of Cornell University.

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## WHO IS ELIGIBLE FOR THE EITC?

Single or married people who worked full-time or part-time at some point in 2003 can qualify for the Earned Income Tax Credit, depending on their income. Workers who were raising one child in their home and had family income of less than \$29,666 (or \$30,666 for married workers) in 2003 can get an EITC of up to \$2,547. Workers who were raising more than one child in their home and had family income of less than \$33,692 (or \$34,692 for married workers) in 2003 can get an EITC of up to \$4,204. Even workers, between the ages of 25 and 64, who were not raising children in their home and had income below \$11,230 (or \$12,230 for married workers) can get an EITC of up to \$382.

**Example.** Jim and Nancy have two children, ages 20 and 21 in college. They earned \$29,000 in 2003 and owe the IRS \$730 in income tax, \$230 of which was withheld from their pay during the year. Their income makes them eligible for an EITC of \$1199. The EITC has eliminated the \$730 they owed in income tax and now provides them with a refund of \$699. Let's look at the calculation before and after the tax credit is applied:

### Without the EITC:

\$ 730	Taxes owed based on income
- 230	Taxes withheld from pay
\$ 500	Amount taxpayer(s) must pay to IRS

### With the EITC:

\$ 1199	Credit available based on income
- 730	Taxes ordinarily owed based on income
\$ 469	Credit remaining after deducting taxes owed
+ 230	Taxes withheld during year
\$ 699	Refund due to taxpayer(s)

## THE SPECIAL RULES

By now, you are thinking that the EITC sounds too good to be true and there must be some special qualification rules. You are right! First, there are the rules for everyone and then there are three sets of rules, depending on the individual: rules if you have a qualifying child, rules if you do not have a qualifying child, and the earnings rules.

### *Rules For Everyone*

In addition to meeting the adjusted gross income requirements, individuals filing for the EITC must meet six other rules.

**The individual must have a valid Social Security number.** In addition, the spouse if filing jointly, and the qualifying child, must have valid Social Security numbers. If the Social Security card of the individual claiming the tax credit (or the card of the spouse if filing a joint return) states "Not valid for Employment" and the Social Security card was issued so that the individual or the spouse could qualify for a federally funded benefit, like Medicaid, the individual with the notation on his or her card will not qualify for the EITC.

**The individual's filing status cannot be "married filing separately."** If the individual filing for the EITC is married, then he or she usually must file a joint return to claim the credit. The one exception is for the individual whose spouse has not lived with them at any time in the last six months of the year. Under those circumstances, the individual can file as head of the household instead of married filing separately and still qualify for the EITC.

**The individual must be a U.S. citizen or resident alien all year.** An individual who is resident alien in any part of the year cannot claim the credit unless he or she is married to a U.S. citizen or another resident alien and chooses to be treated as a resident alien for the entire year by filing a joint tax return. This means that the individual and spouse will be taxed on their worldwide income for the year.

## THE EITC IS A TAX CREDIT AND NOT A TAX DEDUCTION

As a credit, once the value of the Earned Income Tax Credit is determined the tax savings are equal to the full value of the credit. So, in the example on this page, Jim and Nancy get the full benefit of the \$1199 in combined tax savings and refund. By contrast if the \$1199 were a tax deduction (such as mortgage interest for those who itemize), the tax savings would only be a percentage of the deduction (e.g., \$119.90 for those in a 10 percent tax bracket). Also, with a deduction the greatest benefit is to reduce taxes owed to \$0; the taxpayer would never receive a refund when they owe no taxes and no federal taxes were withheld from their paycheck.

## KEY 2004 SOCIAL SECURITY AND MEDICARE CHANGES

### SSI Monthly Payment Rates for New York:

- Living alone - \$651
- Living with others - \$587
- Living in the household of another - \$399
- Couple - \$950

### Social Security Disability Insurance Thresholds:

- Substantial gainful activity - \$810 per month (\$1,350 for legally blind)
- Trial work month - \$580

### SSI Student Earned Income Exclusion Amounts:

- Up to \$1,370 per month excluded
- Up to \$5,520 per year excluded

### Section 1619(b) Eligibility Thresholds in New York:

- Base amount - \$16,664
- Title 19 or Medicaid amount - \$18,121
- Total threshold - \$34,765

### Medicare Part B Premium

- \$66.60 per month in 2004

**The individual cannot file Form 2555, *Foreign Earned Income*, or Form 2555-EZ, *Foreign Earned Income Exclusion*.** This is a follow-up to the rule above regarding taxation of worldwide income. The individual who plans to exclude income earned in foreign countries from their gross income cannot claim the EITC.

**Investment income must be \$2,600 or less.** An individual cannot claim the EITC unless the investment income (Form 1040, Form 1040A or Form 1040EZ) is \$2600 or less.

**The individual must have earned income.** This credit is called the Earned Income Tax Credit because to qualify an individual must work and have earned income. A married couple filing jointly meets this rule if one spouse works and has earned income. Earned income includes wages, salaries and tips, as well as net earnings from self-employment. Interestingly, strike benefits paid by a union to its members are treated as earned income for EITC purposes.

### *Rules If You Have A Qualifying Child*

An individual who has a qualifying child and meets all the rules for everyone must also meet three more rules to qualify for the earned income tax credit:

**A qualifying child must be the child of the individual.** To be a qualifying child, a child must be the son, daughter, adopted child, stepchild, or de-

scendant of any of them (for example, a grandchild); or an eligible foster child for whom the individual cared for as if they were their own child; or a brother, sister, stepbrother, stepsister, or descendant of any of them (for example, a niece or nephew) for whom the individual cared for as if they were their own child. A child does not have to be the dependant of the individual to be a qualifying child of the individual claiming the EITC.

**A qualifying child must be age eligible and must have lived with the individual in the United States for at least half of the year.** The child must be under age 19 at the end of the year, or a full-time student under age 24 at the end of the year, or permanently and totally disabled as defined by SSA, at any time during the year, no matter what age. The child must have lived in the United States with the individual, claiming the EITC, for at least half of the year. United States means the 50 states and the District of Columbia. It does not include Puerto Rico and Guam, which are considered U.S. possessions. A child who was born or died during the year is treated as having lived with the individual the entire year, if the individual's home was the child's home the entire time the child was alive during the year.

**A qualifying child cannot be the qualifying child of another person with a modified adjusted gross income.** Often, a child meets the rules to be a qualifying child of more than one person. Only one person,

however, can treat the child as a qualifying child and access the EITC using that child. If two individuals have the same qualifying child, the two individuals can choose who will claim the EITC using that qualifying child. Sometimes, the two individuals cannot agree and both claim the EITC using the same child. Then, the government applies the following rules to decide who can treat the child as a qualifying child.

- If only one is the child's parent, only the parent can treat the child as a qualifying child.
- If both are the child's parents, only the parent with whom the child lived the longest during the year can treat the child as a qualifying child.
- If both are the child's parents and the child lived with each parent the same amount of time during the year, only the parent with the highest adjusted gross income can treat the child as a qualifying child.
- If neither is the child's parent, only the person with the highest adjusted gross income can treat the child as a qualifying child.

An example will help illustrate the qualifying child rule. Ed and his 10-year-old son, Jay, lived with Ed's mom (i.e., Jay's grandmother) all year. Ed is 25 years old and his only income was \$12,000 from a part-time job. Ed's mom's only income was \$19,999 from her job. Jay is a qualifying child of both Ed and his mother as Jay meets the relationship, age, and residency tests for both Ed and his mother.

**CONTACT INFORMATION FOR  
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ASSISTANCE AND OUTREACH  
SERVICES**

In each region of the state, a project is available to assist SSI and SSDI recipients who need to understand how working will affect their benefits (including Medicaid or Medicare). The Benefits Planning, Assistance and Outreach (BPA&O) project for your region will also help recipients understand how they can use any of the special work incentives available to them. For BPA&O contact information in your region of the state, call the State Work Incentives Support Center, toll free, at 1-888-224-3272.

Only one of the two can use Jay to claim the EITC. Ed and his mother may choose which will treat Jay as a qualifying child to claim the credit. If they cannot agree and both use Jay to claim the EITC, Ed as Jay's parent will be the only one allowed to treat Jay as a qualifying child to claim the credit.

**The qualifying individual cannot be a qualifying child of another person.** As already noted, an individual is the qualifying child of another person if: he or she is the son, daughter, adopted child, stepchild, grandchild or eligible foster child; or if he or she is the brother, sister, stepbrother, stepsister (or the child or grandchild of that person's brother, sister, stepbrother or stepsister) and that person cared for the individual as if they were their own child. Additionally, the qualifying child must meet the age and U.S. residency criteria as described above.

If the individual (or spouse if filing a joint return) is a qualifying child of another person, the individual cannot claim the EITC. This rule applies even if the person, for whom the individual is a qualifying child, does not meet all of the rules to claim the EITC or does not claim the credit.

How does this rule work in real life? Let's look at Ed once again. Ed and Jay live with Ed's mom all year. Ed is 22 years old and attended a trade school full time. Ed also had a part-time job and earned \$5,700. Ed is a qualifying child of his mother as he meets the relationship, age, and residency tests. Ed's mom can claim the EITC if she meets all the other requirements. Ed, however, cannot claim the EITC as he is his mother's qualifying child. Ed cannot claim the EITC even if his mother cannot or does not claim it.

***Rules If You Do Not Have A Qualifying Child***

An individual who does not have a qualifying child and meets all the rules for everyone must also meet the following four rules to qualify for the EITC.

**The qualifying individual must be at least age 25 but under age 65 at the end of the year.** If married and filing a joint return, either the individual or his/her spouse must meet this requirement.

**The qualifying individual cannot be the dependent of another person.** If another person can claim the individual filing for the EITC (or their spouse if filing a joint return) as a dependent on his or her return, but does not, the individual still cannot claim the credit.

**The qualifying individual cannot be a qualifying child of another person.** The same rules that

apply to an individual with a qualifying child apply to an individual with no qualifying children. If the individual (or spouse if filing a joint return) is a qualifying child of another person, the individual cannot claim the EITC. This rule applies even if the person, for whom the individual is a qualifying child, does not meet all of the rules to claim the EITC or does not claim the EITC.

**The qualifying individual must have lived in the United States at least half the year.** The qualifying individual (and spouse, if filing jointly) must have lived in the U.S. for at least half of the year. United States means the 50 states and the District of Columbia. It does not include Puerto Rico and Guam, which are considered U.S. possessions. The home can be any location in which the individual regularly resides and need not be a traditional home. This means that if the individual lived in one or more homeless shelters for more than half the year, the individual meets this rule.

#### *Rules For Computing and Claiming The Credit*

An individual must know his or her earned income in order to determine eligibility for the credit. An individual with one qualifying child must have family income of less than \$29,666 (or \$30,666 if married, filing jointly) in 2003. An individual with more than one qualifying child must have family income of less than \$33,692 (or \$34,692 if married, filing jointly) in 2003. An individual, between the ages of 25 and 64, with no qualifying children must have income below \$11,230 (or \$12,230 if married, filing jointly).

#### *Eligibility For Advance Payments*

In March 2004, Ed tells his friend Jim that he gets \$50 added to his paycheck each month because of his Earned Income Tax Credit. Jim would like to get extra money in his paycheck and asks Ed what he is talking about. Ed explains that he receives an advance EITC payment every paycheck. What steps will Jim need to take to get an advance payment?

First, Jim needs to find out if he is eligible for advance EITC payments in 2004. Jim will need to supply the correct answers to three questions to determine if he is eligible for advance payments.

#### **Does Jim expect to have a qualifying child?**

See pages 91 and 92 of this newsletter to assist Jim in this determination. If the answer is no, the process stops. Jim cannot receive advance EITC payments in 2004. If the answer is yes, Jim then needs to answer the next question.

### **WHEN TO CALL OUR TOLL-FREE LINE FOR TECHNICAL ASSISTANCE**

Our State Work Incentives Support Center offers a statewide, toll-free number to call for information and technical assistance on a wide range of issues involving benefits and work. The staff of Neighborhood Legal Services is available to take calls concerning any of the topics you see discussed in these newsletters. For example, if a caller seeks information about any of the information discussed in this article, you can call us at 1-888-224-3272 for more information on these issues.

**Does Jim expect his adjusted gross income and earned income will each be less than about \$30,300 (\$31,300 for a joint return) in 2004?** If the answer is no, the process stops. Jim cannot receive advance EITC payments in 2004. If the answer is yes, Jim then needs to answer the next question.

**Does Jim expect to be eligible for the EITC in 2004?** This is pretty much a perfunctory step as long as Jim meets all the requirements for everyone. If the answer is no, the process stops. Jim cannot receive advance EITC payments in 2004. If the answer is yes, Jim can take steps to get his advance payments. Jim, however, cannot get advance EITC payments unless his wages are subject to federal income tax, Social Security tax, or Medicare tax withholding.

Readers will note that the three questions above all use the word "expect." This means that Jim does not have to know if he will be able to answer yes when filing his tax return. He need only make a best guess that he will be able to answer yes. This does not mean that individuals can fraudulently answer a question in the affirmative when they know the answer is incorrect.

If the IRS denies an EITC and determines that the error was due to reckless or intentional disregard of the rules, then the individual cannot claim the credit for the next two years. If the IRS determines that the error was fraudulent, then the individual cannot claim the credit for the next 10 years.

Since Jim answered yes to the three questions posed above, Jim can complete Form W-5, give the lower part of the form to his employer and keep the upper part for his records. Now Jim will be able to receive part of his EITC in advance. This is because an individual may only get part of his EITC during the year in advance payments. Jim will get the rest of the EITC when he files his tax return in 2005 and claims the credit.

Finally, an individual who receives advance EITC payments in 2004 must file a 2004 tax return (even if not otherwise required to file) to report the payments and claim any additional credit. Box 9 of the W-2 will show the amount of the advanced EITC the individual received from the employer. If Jim received advance payments and later learns he was not eligible for some or all of the payment, he must report the advance payment on his tax return. He may be responsible for paying the overpaid amounts back.

### CONCLUSION

For individuals with disabilities, every penny counts. This article provides an overview of the EITC and how an individual might qualify for it either upon filing a tax return at the end of the year or as an advance payment throughout the year. To assist benefits planners helping individuals determine

whether they might be eligible for the credit, we have reproduced in its entirety, at the end of this newsletter, the "EITC Eligibility Checklist" made available through the IRS.

Finally, the authors of this newsletter are not tax attorneys or even specialists in the tax area. An individual with tax questions should consult a tax specialist or contact the IRS Taxpayer Assistance Centers. To find the number of the Taxpayer Assistance Centers go to [www.irs.gov](http://www.irs.gov) or look in the phone book under "U.S. Government, Internal Revenue Service." An individual with unresolved tax concerns should consult either the Taxpayer Advocate or a tax specialist. The Taxpayer Advocate independently represents an individual's interests and concerns within the IRS by protecting that individual's rights and resolving problems that have not been corrected through normal channels. To contact the Taxpayer Advocate, dial 1-877-777-4778 or 1-800-829-4059 (TTY/TDD user) or visit the IRS web site at [www.irs.gov/advocate](http://www.irs.gov/advocate).

**For Technical Assistance  
in New York State Call  
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## The Technical Assistance Corner

**Question.** *I am 21 years old, have a two year old child, receive SSI benefits of \$587 per month (based on my profound deafness), and reside in an apartment where most of my rent is paid through the Section 8 Housing Choice Voucher Program. My child receives child support from his father and no other benefits. I attend college full time and have just started a part-time job that will pay \$14,000 per year. Do I qualify for the Earned Income Tax Credit and can I get advance EITC payments in my paycheck? Will the new job and the EITC affect my SSI check or my Section 8 subsidy?*

**Answer.** Based on your annual income and family composition, you should be eligible for the EITC if you meet the other criteria (see eligibility checklist on page 95). It also appears that you will be eligible for the advance payment so you will want to fill out IRS Form W-5 with your employer.

Your eligibility for the EITC should not affect your eligibility for either SSI or the Section 8 subsidy -- the EITC will not be treated as income by those programs. Also, based on your age (under 22) and student status, the SSI program may ignore the first \$1,370 that you earn each month up to a maximum of \$5,520 per year (see note below); about half the remaining wages will also be ignored under traditional SSI rules. Under the earned income disregard rules that apply to the Section 8 Housing Choice Voucher Program, if your wages qualify as new income from employment, 100 percent of the wages will be completely disregarded during your first 12 months of work (meaning your rental share would not increase at all); during months 13-24, 50 percent of the wages would be disregarded. **NOTE:** *The SSI special student earned income exclusion will not be available if you are considered a head of household.*

# EITC Eligibility Checklist For Tax Year 2003

You may claim the EITC if you answer YES to all the following questions.

	YES	NO
1. Do you, your spouse (if filing jointly) and your qualifying child listed on Schedule EIC each have a valid SSN?		
2. Is your filing status married filing jointly, head of household, qualifying widow(er) or single? Caution: If you are a nonresident alien, answer YES only if your filing status is married filing jointly and you are married to a U.S. citizen or resident alien.		
3. Answer YES if you are not filing Form 2555 or Form 2555-EZ. Otherwise answer NO.		
4. Is your investment income \$2,600 or less?		
5. Is your total earned income at least \$1 but less than: <ul style="list-style-type: none"> <li>• \$11,230 (\$12,230 if married filing jointly) if you do not have a qualifying child</li> <li>• \$29,666 (\$30,666 if married filing jointly) if you have one qualifying child, or</li> <li>• \$33,692 (\$34,692 if married filing jointly) if you have more than one qualifying child?</li> </ul>		
6. Is your adjusted gross income (AGI) less than: <ul style="list-style-type: none"> <li>• \$11,230 (\$12,230 if married filing jointly) if you do not have a qualifying child,</li> <li>• \$29,666 (\$30,666 if married filing jointly) if you have one qualifying child, or</li> <li>• \$33,692 (\$34,692 if married filing jointly) if you have more than one qualifying child?</li> </ul>		
7. Answer YES if you (and your spouse if filing a joint return) do not meet the requirements to be a qualifying child of another person. Otherwise, answer NO.*		
<b>STOP: If you have a qualifying child, ANSWER questions 8 and 9 and skip 10 through 12. If you DO NOT have a qualifying child, skip questions 8 and 9 and ANSWER 10 through 12.</b>		
8. Does your child meet the age, residency and relationship tests for a qualifying child?		
9. Is your child a qualifying child only for you? <i>Answer YES if your qualifying child also meets the tests to be a qualifying child of another person, and either a) the other person is not claiming the EITC using that child, or b) if you and the other person both claim the EITC using that child, the tie-breaker rule will allow only you to treat the child as a qualifying child. If you do not know whether the other person is claiming the EITC using that child, see Tie-Breaker Rules below.</i>		
<b>Persons with a qualifying child: If you answered YES to questions 1 through 9, you can claim the EITC. Remember to fill out Schedule EIC, Earned Income Credit, Qualifying Child Information, and attach it to your Form 1040 or 1040A. You cannot use Form 1040EZ.</b>		
10. Was your main home (and your spouse's if filing a joint return) in the United States for more than half the year?		
11. Were you (or your spouse if filing a joint return) at least age 25 but under age 65 at the end of 2003?		
12. Answer YES if you (and your spouse if filing a joint return) cannot be claimed as a dependent on anyone else's return. Answer NO if you (or your spouse if filing a joint return) can be claimed as a dependent on someone else's return.		
<b>Persons without a qualifying child: If you answered YES to questions 1 through 7, and 10 through 12, you can claim the EITC.</b>		

## Tie-Breaker Rules

Sometimes a child meets the rules to be a qualifying child of more than one person. However, only one person can treat that child as a qualifying child in order to claim the EITC. If two or more persons have the same qualifying child, they must decide who will claim the credit using that qualifying child. But if they cannot agree and more than one person actually claims the credit using the same child, the tie-breaker rule (explained in the next paragraph) applies. If the other person is a spouse and they file a joint return, this rule does not apply.

Under the tie-breaker rule, the child is treated as a qualifying child only by:

- 1) The parents, if they file a joint return,
- 2) The parent, if only one of the persons is the child's parent,
- 3) The parent with whom the child lived the longest during the tax year, if two of the persons are the child's parent and they do not file a joint return together,
- 4) The parent with the highest AGI if the child lived with each parent for the same amount of time during the tax year, and they do not file a joint return together or
- 5) The person with the highest AGI, if none of the persons is the child's parent.

The NY State Work Incentives Support Center will provide statewide services, including: training through traditional means and through use of the latest technology for distance learning; a toll-free technical assistance line, 1-888-224-3272 (English and Spanish); and a quarterly newsletter, *The Benefits Planner*. To subscribe to the Center's listserv, send your name and email address to [tpg3@cornell.edu](mailto:tpg3@cornell.edu). To request a print copy of this newsletter, contact the toll-free number above.



## In Our Upcoming Issues ...

- ◆ Public and Subsidized Housing Programs, Including a Discussion of Special Work Incentives

**If you have special needs and would like *The Benefits Planner* sent in a special format, would like our Spanish version or would like the newsletter delivered by email, please call our toll-free technical assistance line, 1-888-224-3272.**

## Welcome to *The Benefits Planner*, a Quarterly Newsletter of the NY State Work Incentives Support Center

This newsletter will provide valuable information on how work for persons with disabilities affects government benefits, with an emphasis on the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) work incentives. Each newsletter will contribute to an ongoing dialogue on topics related to benefits and work. Back issues will appear on the Cornell University website, [www.ilr.cornell.edu/ped](http://www.ilr.cornell.edu/ped) and on the Social Security section of the Neighborhood Legal Services website, [www.nls.org](http://www.nls.org).

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