



NYS Training for Tax Preparers

Credits Applicable to Federal and State Returns

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Credits Applicable to Federal and State Returns

Section 1: The Federal Earned Income Tax Credit

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Section 1

The Federal Earned Income Tax Credit



Credits Applicable to Federal and State Returns

The Federal Earned Income Credit (EITC)

The Federal EITC is used as the basis for the New York State and New York City EITC. It is a tax credit for certain people who work and have earned income under a certain amount.

To receive the federal EITC, the tax preparer must file IRS Form 8867, *Paid Preparer's Earned Income Credit Checklist*.



Credits Applicable to Federal and State Returns

Due Diligence

Tax preparers must follow EITC [due diligence](#) procedures.

- Complete and submit eligibility checklist
- Compute the credit
- Be knowledgeable
- Keep records



Credits Applicable to Federal and State Returns

1. Complete and Submit Eligibility Checklist

- Complete Form 8867, *Paid Preparer's Earned Income Credit Checklist*, to make sure you consider all EITC eligibility criteria for each claim you prepare.
- Complete checklist based on information provided by your clients.
- For EITC returns or claims for refund filed electronically, submit Form 8867 to IRS electronically with the return.
- For EITC returns or claims for refund not filed electronically, attach the completed form to any paper return you prepare and send to the IRS.
- For EITC returns or claims for refund you prepare but do not submit directly to the IRS, provide the completed Form 8867 to your client to send with the filed tax return or claim for refund.



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2. Compute the Credit

Complete the EITC worksheet from the Form 1040 instructions, or Publication 596, *Earned Income Credit*, or a form with the same information. The worksheet shows what to include in the computation:

- self-employment income,
- total earned income,
- investment income, and
- adjusted gross income.

Most professional tax preparation software includes the computation worksheet.



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3. Be Knowledgeable

- You must not know or have reason to know any information used to determine your client's eligibility for the EITC is incorrect, inconsistent, or incomplete.
- You must make additional inquiries if a reasonable and well-informed tax return preparer would know the information is incomplete, inconsistent, or incorrect
- You must know the law and use your knowledge of the law to ensure you are asking your client the right questions to get all relevant facts.
- You must document any additional questions you ask and your client's answer **at the time of the interview**.

The treasury regulations give examples of when to apply the knowledge requirement. [Find the regulations for tax return preparer due diligence requirements](#) on the Government Printing Office site.



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4. Keep Records

- Keep a copy of the Form 8867 and EITC worksheet.
- To comply with your due diligence requirements, keep a record of all additional questions you asked your client and your client's answers to those questions.
- Keep copies of any documents your client gives you that you relied on to determine eligibility for, or the amount of, the EITC.
- Verify the identity of the person giving you the return information and keep a record of who provided the information and when you got it.
- Keep your records in either paper or electronic format and make sure you can produce them if IRS asks for them.



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4. Keep Records (cont.)

Keep these records for three years from the latest date of the following that apply:

- The original due date of the tax return (this does not include any extension of time for filing),
or
- If you electronically file the return or claim for refund and sign it as the return preparer, the date the tax return or claim for refund is filed, or
- If the return or claim for refund is not filed electronically and you sign it as the return preparer, the date you present the tax return or claim for refund to your client for signature,
or
- If you prepare part of the return or claim for refund and another preparer completes and signs it you must keep the part of the return you were responsible to complete for three years from the date you submit it to the signing tax return preparer.



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Eligibility

To be eligible for the credit, primary and joint taxpayers must meet **all** of the following criteria:

- The taxpayer's filing status cannot be *Married Filing Separately*.
- The taxpayer cannot be the qualifying child of another person.
- The taxpayer **must** have earned income during the tax year.



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Earned Income

Taxable earned income includes:

- wages, salaries, tips, and other taxable employee pay
- union strike benefits
- long-term disability benefits received prior to minimum retirement age
- net earnings from self-employment if the taxpayer owns or operates a business or a farm
- income earned as a minister or member of a religious order, or as a statutory employee



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Earned Income (cont.)

The following are **not** considered earned income:

- pay received for work while an inmate in a penal institution
- interest and dividends
- retirement income
- social security
- unemployment benefits
- alimony
- child support
- workfare payments
- community property



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Earned Income (cont.)

The following are **not** considered earned income:

- workfare payments
- community property
- Nevada, Washington, and California domestic partners income*
- Conservation Reserve Program Payments
- nontaxable military pay

* In these states, the spouse/partners' income must be included in the AGI, but does not count towards earned income for the federal EITC.



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Nontaxable Combat Pay

Taxpayers may elect to have their nontaxable combat pay included in earned income for purposes of determining EITC eligibility. The amount of taxpayer's nontaxable combat pay should be shown on Form W-2, in box 12, with code Q. Electing to include nontaxable combat pay in earned income may increase or decrease the amount of the EITC.





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Earned Income Dollar Limits

To be eligible for the EITC for the 2014 tax year, [earned income](#) and adjusted gross income (AGI) must each be less than:

- three or more qualifying children - \$46,997 (\$51,427 married filing jointly)
- two qualifying children - \$43,756 (\$49,186 married filing jointly)
- one qualifying child - \$38,511 (\$43,941 married filing jointly)
- no qualifying children - \$14,590 (\$20,020 married filing jointly)

For different tax years, please check [EITC Income Limits, Maximum Credit Amounts and Tax Law Updates](#).



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Social Security Numbers

To be eligible for the EITC, the taxpayer and taxpayer's dependents **must all have** valid-for-employment social security numbers.

Taxpayers whose dependents do not yet have social security numbers have two options for getting the credit:

Amended Return

Taxpayers can file an amended return with the correct social security numbers within three years.

Extension

Taxpayers filing on extension can include the correct social security numbers on their returns.



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Citizenship

To be eligible for the EITC, the taxpayer must be:

- a US citizen or resident alien all year, or
- a nonresident alien married to a U.S. citizen or resident alien, file a joint return, and choose to be treated as a resident alien.

The taxpayer can also file Form 2555 or 2555-EZ *Foreign Earned Income*.



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Investment Income

To be eligible for the EITC, the taxpayer's investment income must be \$3,300 or less. Investment income includes all of the following:

- taxable interest
- tax-exempt interest
- ordinary dividends income
- capital gain net income



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Qualifying Children

In addition to the criteria described so far, there are differing qualifying conditions for eligibility depending on whether the taxpayer has a qualifying child.

To receive the federal EITC with a qualifying child, the qualifying child must pass **all** the following tests:

- Relationship
- Age
- Residency
- Joint restriction





Credits Applicable to Federal and State Returns

Relationship Test

The qualifying child must be:

- the taxpayer's son, daughter, adopted child, stepchild, foster child (placed by an authorized placement agency), or a descendant of any of them (such as taxpayer's grandchild), or
- the taxpayer's brother, sister, half-brother, half-sister, step-brother, step-sister or a descendant of any of them, such as a niece or nephew.





Credits Applicable to Federal and State Returns

Age Test

At the end of the filing year, the qualifying child must be:

- younger than taxpayer (or taxpayer's spouse if they file a joint return), **and**
- younger than 19.

or

- younger than taxpayer (or taxpayer's spouse if they file a joint return), **and**
- younger than 24, **and**
- a full-time student in a specified school*.

* Online universities or correspondence studies do not qualify.





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Residency Test

The qualifying child must live with the taxpayer (or taxpayer's spouse if they file a joint return) in the United States for more than half of the year.

A child is considered to have lived with the taxpayer for more than half of the year if the child was born or died during the year and the taxpayer's home was this child's home for more than half the time he or she was alive.





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Joint Restriction Test

The qualifying child cannot file a joint return for the tax year unless the child and the child's spouse:

- did not have a separate filing requirement, and
- filed the joint return only to claim a refund.

NOTE: This means that a taxpayer is allowed to claim a married dependent as an exemption if all other four tests are met and the dependent uses the married filing separately status.





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Qualifying Children of Multiple Taxpayers

A child cannot be used by more than one person to claim the EITC. If a child is the qualifying child of more than one person, **only one** person can claim the child as a qualifying child for all of the following tax benefits:

- Earned Income Tax Credit
- dependency exemption for the child
- Child Tax Credit
- *Head of Household* filing status
- Child and Dependent Care Credit
- exclusion for dependent care benefits

NOTE: Special rules apply for children of divorced or separated parents.



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Taxpayers Without Qualifying Children

To claim the credit **without** a qualifying child, the taxpayer (or taxpayer's spouse if filing a joint return) must:

- be at least age 25 but under age 65 at the end of the tax year (it does not matter which spouse meets the age test),
- not be the dependent or qualifying child of another person, and
- have lived in the United States for more than half the year.



Credits Applicable to Federal and State Returns

Special Circumstances

If the IRS denied or reduced taxpayer's EITC for any year after 1996 for any reason other than a math or clerical error, the taxpayer must qualify for the credit by attaching [Form 8862](#), *Information to Claim Earned Income Credit After Disallowance* to his/her next tax return.

The taxpayer cannot claim the EITC or use Form 8862 to claim the EITC for:

- a period of two years from the time the IRS made a final determination to reduce or disallow the taxpayer's EITC due to reckless or intentional disregard of the EITC rules, or
- a period of ten years from the time the IRS made a final determination to reduce or disallow the taxpayer's EITC due to fraud.



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Military

When calculating earned income for the purposes of determining EITC eligibility, taxpayers do not have to report their nontaxable pay received as a member of the armed forces. However, taxpayers and their spouses may each choose to have this pay included as earned income for EITC to decrease the amount of tax owed. Taxpayers who make the election must include in earned income all nontaxable combat pay received.



Credits Applicable to Federal and State Returns

Military (cont.)

Nontaxable combat pay must be entirely included or entirely excluded from qualifying earned income. That is:

- Taxpayers can include all of their nontaxable combat pay if their spouses do not include it.
- Taxpayers cannot include nontaxable combat pay if their spouses include all of it.
- Taxpayers and their spouses can both choose to include all of the taxpayer's nontaxable combat pay.
- Taxpayers and their spouses can both choose to include none of the taxpayer's nontaxable combat pay.



Credits Applicable to Federal and State Returns

Clergy

Taxpayers who are ministers or member of a religious order may have net earnings from self-employment.

Generally, the rental value of a home or a housing allowance provided to ministers as part of their pay is not subject to income tax, but is included in net earnings from self-employment. For that reason, it is included in earned income for EITC, unless the taxpayer has an approved Form 4361 or Form 4029.



Credits Applicable to Federal and State Returns

Remember

All Due Diligence Procedures Must Be Followed

“You must not know or have reason to know that any information used to determine the taxpayer’s eligibility for, and the amount of, the EITC is incorrect. You may not ignore the implications of information furnished to or known by you, and you must make reasonable inquiries if the information furnished appears to be incorrect, inconsistent, or incomplete ...”

- Treasury Reg. 1.6695-2 §



Credits Applicable to Federal and State Returns

For More Information on the Federal EITC

Consult these sources for more information:

- [EITC Home Page](#)
- [Tax Preparer EITC Toolkit](#)
- [Form 8867](#)
- [Publication 596](#)
- [Publication 501](#)



Credits Applicable to Federal and State Returns

Section 2

The New York State and New York City EITC





Credits Applicable to Federal and State Returns

New York State and New York City EITC

The taxpayer must claim the federal EITC to be eligible for both New York State and New York City EITC.

- The filing status can be *Married Filing Separate* if one spouse is a New York State resident and the other is a nonresident or part-year resident.
- In most cases, the New York State EITC is 30% of the federal EITC.
- The taxpayer must file *IT-215: Claim for Earned Income Tax Credit, New York State/New York City* with the taxpayer's New York State return.
- The taxpayer must sign the tax return to receive the EITC.



Credits Applicable to Federal and State Returns

Residency

Residents, part-year residents, and non-residents are all eligible for the New York **State** EITC. However:

- The New York State EITC is a **refundable** credit for residents and part-year residents.
- The New York State EITC is **non-refundable** for nonresidents.

Residents, part-year residents, and non-residents are all eligible for the New York **City** EITC. However:

- Unlike the New York State EITC, the New York City EITC is a refundable credit for residents, part-year residents, and nonresidents.



Credits Applicable to Federal and State Returns

EITC and the New York State Household Credit

The New York State and New York City EITC treat the New York State Household Credit differently.

- The New York State EITC **is reduced** by the amount of the New York State Household Credit.
- The New York City EITC is **not reduced** by the amount the New York City Household Credit.



Credits Applicable to Federal and State Returns

Filing a New York State Tax Return With the New York City EITC

A taxpayer must file a New York State income tax return to claim the New York City EITC, even if they are not otherwise required to file.

The image shows a New York State Resident Income Tax Return Form IT-201. The form is titled "Resident Income Tax Return" and is for the full year January 1, 2013, through December 31, 2013, or fiscal year beginning and ending. It includes sections for filing status, marital status, and residency information. The form is tilted and partially obscured by a shadow.

IT-201

New York State Department of Taxation and Finance
Resident Income Tax Return
New York State • New York City • Yonkers

For the full year January 1, 2013, through December 31, 2013, or fiscal year beginning and ending

For help completing your return, see the instructions, Form IT-201-I.

A Filing status (mark an X in one box):

- Single
- Married filing joint return (enter spouse's social security number above)
- Married filing separate return (enter spouse's social security number above)
- Head of household (with qualifying person)
- Qualifying widow(er) with dependent child

B Filing status (mark an X in one box):

- Single
- Married filing joint return (enter spouse's social security number above)
- Married filing separate return (enter spouse's social security number above)
- Head of household (with qualifying person)
- Qualifying widow(er) with dependent child

C Filing status (mark an X in one box):

- Single
- Married filing joint return (enter spouse's social security number above)
- Married filing separate return (enter spouse's social security number above)
- Head of household (with qualifying person)
- Qualifying widow(er) with dependent child

D Did you have a financial account located in a foreign country? (see page 12) Yes No

E (1) Did you or your spouse maintain living quarters in NYC during 2013? (see page 13) - Yes No
(2) Enter the number of days spent in NYC in 2013 (as part of a day spent in NYC is considered a day):

F NYC residents and NYC part-year residents only (see page 13):
(1) Number of months you lived in NYC in 2013:
(2) Number of months your spouse lived in NYC in 2013:

G Enter your 2-character special condition code if applicable (see page 13):
If applicable, also enter your second 2-character condition code:



Credits Applicable to Federal and State Returns

New York State and New York City EITC Dependents

If claiming dependents, the taxpayer must use same dependents (up to three) used on his or her federal return.

Taxpayers whose dependents have not yet been issued social security numbers have two options for getting the credit:

Amended Return

Taxpayers can file an amended return with the correct social security numbers within three years.

Extension

Taxpayers filing on extension can include the correct social security numbers on their returns.



Credits Applicable to Federal and State Returns

Documentation

Taxpayers claiming the New York State EITC who are audited will need to prove:

- residency
- dependents
- earned income



Credits Applicable to Federal and State Returns

For More Information on the New York State and New York City EITC

Consult these sources for more information:

- [New York State EITC home page](#)
- [IT-215](#)
- [IT-215 Instructions](#)

NOTE: The *Claim for Noncustodial Parent New York State Earned Income Credit* (Form IT- 209) is reviewed elsewhere in the course.



Credits Applicable to Federal and State Returns

Knowledge Check

The client does not yet have a valid for work social security number. Is this client eligible for the EITC?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check



The client does not yet have a valid for work social security number. Is this client eligible for the EITC?

- Yes
- No

What should you do if the taxpayer's child does not have a social security number?

- A) File a return timely without claiming the credit and amend the return when the SSN is available
- B) File an IT-370 for an automatic six-month extension of time to file for individuals. The taxpayer must file by October 15; but if either the taxpayer or dependents do not yet have an SSN, the taxpayer will not qualify for the EITC.
- C) Both A and B
- D) None of the above



Credits Applicable to Federal and State Returns

Knowledge Check



The client does not yet have a valid for work social security number. Is this client eligible for the EITC?

- Yes
- No



What should you do if the taxpayer's child does not have a social security number?

- A) File a return timely without claiming the credit and amend the return when the SSN is available
- B) File an IT-370 for an automatic six-month extension of time to file for individuals. The taxpayer must file by October 15; but if either the taxpayer or dependents do not yet have an SSN, the taxpayer will not qualify for the EITC.
- C) Both A and B
- D) None of the above





Credits Applicable to Federal and State Returns

Knowledge Check

The taxpayer has no dependents, his filing status is Single, and his AGI is \$14,900. Is he eligible for the New York State EITC?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check



The taxpayer has no dependents, his filing status is Single, and his AGI is \$14,900. Is he eligible for the New York State EITC?

- Yes
- No

Does the taxpayer decrease his New York State EITC by the New York State Household Credit?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check



✓ The taxpayer has no dependents, his filing status is Single, and his AGI is \$14,900. Is he eligible for the New York State EITC?

- Yes
- No

✓ Does the taxpayer decrease his New York State EITC by the New York State Household Credit?

- Yes
- No



Credits Applicable to Federal and State Returns

Section 3: Federal Child Tax Credits

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Section 3

Federal Child Tax Credits





Credits Applicable to Federal and State Returns

Federal Child Tax Credits

The federal government offers two different child tax credits:

- The Federal Child Tax Credit
- The Additional Child Tax Credit

These credits are only for taxpayers with a qualifying child. The maximum claim is \$1,000 per child. Taxpayers must file their returns to receive these credits.

Qualifying dependents are indicated in the *Exemptions* section of Form 1040 (line 6C: column 4). This box must be checked for all dependents claimed for child tax credit.

Schedule 8812, *Child Tax Credit*, must be attached to the return.



Credits Applicable to Federal and State Returns

Qualifying Children

A qualifying child is one who:

- is the taxpayer's son, daughter, step-child, foster child, brother, sister, step-brother, step-sister, or a descendant of any of them (for example, taxpayer's grandchild, niece, or nephew),
- was under age 17 at end of the tax year,
- did not provide over half of his or her support during the tax year,
- does not file a joint return for the year (or files it only to claim for refund), and
- has lived with the taxpayer for more than half the tax year
- was born or died during the tax year and the taxpayer's home was this child's home for more than half the time he or she was alive

NOTE: An adopted child is always treated as the taxpayer's child for purposes of federal tax credits.



Credits Applicable to Federal and State Returns

Exceptions for Children of Divorced or Separated Parents

The noncustodial parent may claim the exemption and the credits if:

- the custodial parent signs [Form 8332](#) or a substantially similar statement that he or she will not claim the child as a dependent, and
- the noncustodial parent includes a copy of the form or statement with his or her return.

For the special rule for qualifying child of more than one person, see [Publication 501](#).



Credits Applicable to Federal and State Returns

Income Limitations for Tax Year 2013

To be eligible for the federal child tax credits, taxpayers' income must be below certain threshold amounts.

- Married filing jointly - less than \$110,000.
- Single, Head of Household or Qualifying Widow(er) - less than \$75,000.
- Married filing separately - less than \$55,000.



Credits Applicable to Federal and State Returns

The Federal Child Tax Credit

The federal child tax credit is not a refundable credit.

If the amount on Form 1040, line 46; Form 1040A, line 28; or Form 1040NR, line 44, is less than the credit or if this amount is zero, the taxpayer cannot take this credit because there is no tax to reduce. However, the taxpayer may be able to take the additional child tax credit.



Credits Applicable to Federal and State Returns

The Additional Child Tax Credit

The additional child tax credit is a refundable credit for certain taxpayers who get less than the full amount of the child tax credit .

To calculate the additional child tax credit :

- Calculate the child tax credit.
- If the answer to line 9 or line 10 on the *Child Tax Credit Worksheet** is “yes,” the taxpayer may not claim the child tax credit.
 - The taxpayer may still be able to claim the additional child tax credit.
- Use [Schedule 8812](#) (parts II through IV) to see if the taxpayer will qualify for the credit.

*Found in the instructions for Form 1040, Form 1040A, or Form 1040NR.



Credits Applicable to Federal and State Returns

For More Information on Federal Child Tax Credits

Consult these sources for more information:

- [Publication 972](#)
- [Schedule 8812](#)





Credits Applicable to Federal and State Returns

Knowledge Check

The taxpayer is filing as Head of Household. Her AGI is \$20,000 and she has a dependent who is a student and 19 years old. Is she eligible for either federal child tax credit?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check



The taxpayer is filing as Head of Household. Her AGI is \$20,000 and she has a dependent who is a student and 19 years old. Is she eligible for either federal child tax credit?

- Yes
- No

The taxpayers (Married Filing Jointly) have a 16-year-old adopted son. Under what AGI would they be eligible for the federal child tax credit?

- \$88,000
- \$125,000
- \$1,000,000
- none of the above



Credits Applicable to Federal and State Returns

Knowledge Check



The taxpayer is filing as Head of Household. Her AGI is \$20,000 and she has a dependent who is a student and 19 years old. Is she eligible for either federal child tax credit?

- Yes
- No



The taxpayers (Married Filing Jointly) have a 16-year-old adopted son. Under what AGI would they be eligible for the federal child tax credit?

- \$88,000
- \$125,000
- \$1,000,000
- none of the above

You have figured that the federal child tax credit is \$1500 for one child. Can this be right?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check



-  The taxpayer is filing as Head of Household. Her AGI is \$20,000 and she has a dependent who is a student and 19 years old. Is she eligible for either federal child tax credit?
 - Yes
 - No

-  The taxpayers (Married Filing Jointly) have a 16-year-old adopted son. Under what AGI would they be eligible for the federal child tax credit?
 - \$88,000
 - \$125,000
 - \$1,000,000
 - none of the above

-  You have figured that the federal child tax credit is \$1500 for one child. Can this be right?
 - Yes
 - No



Credits Applicable to Federal and State Returns

Section 4

The Empire State Child Tax Credit





Credits Applicable to Federal and State Returns

Empire State Child Tax Credit

The Empire State child tax credit is a refundable credit available to taxpayers who meet certain eligibility requirements. The credit reduces tax liability, and any remainder of the credit after the tax liability is satisfied will be refunded to the taxpayer. Taxpayers who do not have a tax liability will be refunded the entire amount of the credit for which they qualify.



Credits Applicable to Federal and State Returns

Empire State Child Tax Credit

Taxpayers who wish to receive the credit must:

- File a New York State return with the form IT-213, *Empire State Child Tax Credit*.
- Be full-year New York State residents, although an exception is made for part-year spouse.
- Claim either the federal child tax credit or federal additional child tax credit and have a qualifying child.
- Have a valid social security number (SSN) or individual taxpayer identification number (ETIN).
- Have a federal adjusted gross income (FAGI) less than:
 - \$110,000 if *Married Filing Jointly*
 - \$75,000 if *Single, Head of Household, Qualifying Widow(er)*
 - \$55,000 if *Married Filing Separately*



Credits Applicable to Federal and State Returns

Empire State Child Tax Credit

To qualify for the credit, the child must:

- Be at least four but less than 17 years old.
- Be either the taxpayer's:
 - son, daughter, adopted child, step-child, foster child (placed by an authorized placement agency), or a descendant of any of them, such as taxpayer's grandchild.
 - brother, sister, half-brother, half-sister, step-brother, step-sister, or a descendant of any of them (such as a niece or nephew).
- Have lived with the taxpayer for more than half the year.
- Be a US citizen.
- Have a valid social security number (SSN) or individual taxpayer identification number (ETIN).

NOTE: If for federal income tax purposes the child is claimed as a dependent by the child's noncustodial parent, the taxpayer cannot claim that child for this credit.



Credits Applicable to Federal and State Returns

For More Information on the Empire State Child Tax Credit

Consult these sources for more information.

- [IT-213](#)
- [IT-213 Instructions](#)



Credits Applicable to Federal and State Returns

Knowledge Check

The taxpayers filing jointly have an AGI of \$48,000 and have a ten-year-old child. While the prime taxpayer lived in New York State for the tax year, the spouse just moved to New York State from Ohio in March. Are they eligible for the Empire State child tax credit?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check



The taxpayers filing jointly have an AGI of \$48,000 and have a ten-year-old child. While the prime taxpayer lived in New York State for the tax year, the spouse just moved to New York State from Ohio in March. Are they eligible for the Empire State child tax credit?

- Yes
- No

Does the taxpayer's daughter, who is three years old and qualifies for the federal child tax credit, qualify for the Empire State child tax credit?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check



✓ The taxpayers filing jointly have an AGI of \$48,000 and have a ten-year-old child. While the prime taxpayer lived in New York State for the tax year, the spouse just moved to New York State from Ohio in March. Are they eligible for the Empire State child tax credit?

- Yes
- No

✓ Does the taxpayer's daughter, who is three years old and qualifies for the federal child tax credit, qualify for the Empire State child tax credit?

- Yes
- No



Credits Applicable to Federal and State Returns

Knowledge Check

Who would be an eligible child?

- the taxpayer's granddaughter (14 years old)
- the taxpayer's half-brother (17 years old)
- the taxpayer's adopted son (six years old)
- all of the above



Credits Applicable to Federal and State Returns

Knowledge Check



Who would be an eligible child?

- the taxpayer's granddaughter (14 years old)
- the taxpayer's half-brother (17 years old)
- the taxpayer's adopted son (six years old)
- all of the above

The eligible child has lived with the taxpayers for only part of the year. How long would the child have to live with the taxpayers for them to be eligible for the Empire State child tax credit?

- six months
- five months
- four months
- none of the above



Credits Applicable to Federal and State Returns

Knowledge Check



- ✓ Who would be an eligible child?
- the taxpayer's granddaughter (14 years old)
 - the taxpayer's half-brother (17 years old)
 - the taxpayer's adopted son (six years old)
 - all of the above

- ✓ The eligible child has lived with the taxpayers for only part of the year. How long would the child have to live with the taxpayers for them to be eligible for the Empire State child tax credit?
- six months
 - five months
 - four months
 - none of the above



Credits Applicable to Federal and State Returns

Section 5

The Federal Child and Dependent Care Credit





Credits Applicable to Federal and State Returns

Federal Child and Dependent Care Credit

The federal child and dependent care credit is for taxpayers who pay someone to care for their qualifying child/person, **so they can work or look for work.**



Credits Applicable to Federal and State Returns

Eligibility

Taxpayers may be able to claim the credit if they pay someone to care for their dependent who is under age 13, or for their spouse or dependent who is incapable of self-care. The credit can be up to 35% of taxpayer's work-related expenses. The taxpayer is not eligible if their filing status is *Married Filing Separately*.



Credits Applicable to Federal and State Returns

How to Claim the Credit

To claim the federal dependent child care credit, taxpayers must file Form 1040, Form 1040A, or Form 1040NR. They cannot use Form 1040EZ or Form 1040NR-EZ. The taxpayer must meet all the qualifications for and file Form 2441, *Child and Dependent Care Expenses*.



Credits Applicable to Federal and State Returns

Child and Dependent Care Credit

To qualify for the child and dependent care credit, taxpayers must meet criteria related to:

- their own status,
- the expenses they incurred, and
- the status of the person who required the care.



Credits Applicable to Federal and State Returns

Child and Dependent Care Credit

Taxpayer's filing status

- To be eligible, taxpayers must use the *Single* filing status, or must meet the requirements to be considered unmarried.
- Taxpayers who use the *Married Filing Separately* status, but who currently meet the definition of being unmarried, are eligible to claim the credit.



Credits Applicable to Federal and State Returns

Child and Dependent Care Credit

Taxpayer requirements

In addition, to qualify for the credit, taxpayers:

- must pay the expenses of more than one qualifying person,
- must have some earned income for the year they are claiming the credit, and
- cannot claim the caregiver as a dependent.



Credits Applicable to Federal and State Returns

Child and Dependent Care Credit

Expenses

The following requirements apply to the expenses being claimed:

- The expenses must have been paid to allow the taxpayer to look for work.
- Taxpayers can only exclude or deduct up to \$3,000 in dependent care benefits.
- The payments cannot have been made to:
 - the taxpayer's spouse or the parent of any qualifying child, or
 - any child of the taxpayer who was under age 19 at the end of the year.



Credits Applicable to Federal and State Returns

Qualifying Person

The qualifying person (dependent) must:

- have a valid taxpayer identification number. This can be any of the following:
 - social security number (SSN)
 - individual taxpayer identification number (ITIN)
 - adoption taxpayer identification number (ATIN)
- be a child 13 or under, and
- have lived with the taxpayer for more than half the year.
 - A person who was born or died in the tax year is treated as living with the taxpayer if they lived with the taxpayer for more than half the time they were alive in the tax year.



Credits Applicable to Federal and State Returns

Qualifying Person (cont.)

A qualifying person may also be:

- a spouse who is incapable of self-care, or
- a person incapable of self-care who lived with the taxpayer for more than half the year, and was either taxpayer's dependent or would have been taxpayer's dependent except:
 - he or she received gross income of \$3,900 or more,
 - he or she filed a joint return, or
 - the taxpayer (and spouse if filing jointly) could be claimed as a dependent on someone else's return.



Credits Applicable to Federal and State Returns

Qualifying Person (cont.)

A child of divorced or separated parents can be a qualifying person if:

- the child was under the age of 13 or was incapable of self-care,
- the child was in the custody of one or both of the parents for more than half the year,
- the taxpayer was the child's custodial parent; i.e. the child lived with that parent for more than half the year, and
- the child received over half of his or her support during the calendar year from one or both parents who:
 - are divorced or legally separated under a decree of divorce or separate maintenance,
 - are separated under a written separation agreement, or
 - lived apart at all times during the last six months of the calendar year.



Credits Applicable to Federal and State Returns

Further Conditions for Eligibility

- The care must be provided so that the taxpayer and spouse could either work or look for work.
- The taxpayer must have earned wages or other taxable income.
- The taxpayer's spouse can be considered to have income if he or she was a full-time student or physically or mentally incapable of self-care.



Credits Applicable to Federal and State Returns

Care Providers

The care provider cannot be:

- the taxpayer's dependent
- under the age of 19. or
- the spouse or parent of the qualifying person if the qualifying person was under age 13.



Credits Applicable to Federal and State Returns

Care Providers (cont.)

As a general rule, care providers must be identified on taxpayer's return with a name, identification number, and address. However, there are some exceptions. The taxpayer does not have to provide identifying information if:

- the care is provided by the spouse or parent of a qualifying dependent who is under 13 years old,
- the care is provided by a dependent of the taxpayer, or
- the care is provided by a tax-exempt entity, such as a church or school.



Credits Applicable to Federal and State Returns

Care Providers (cont.)

Information for the care providers, including I.D. numbers and contact information, can be obtained from:

- Form W-10, *Dependent Care Provider's Identification and Certification*
- Form W-4, *Employee's Withholding Allowance Certificate* (if the care provider is a household employee)
- a copy of the employer's statement (if the care is provided through the taxpayer's employer's dependent care plan)
- a letter or invoice from the care provider

If the provider refuses to give the identifying information, a statement must be attached to the return. Include the taxpayer ID and name on all such statements.

NOTE: If the taxpayer is living abroad, the care provider may not have (nor be required to have) U.S. identification. If so, enter "LAFCP" in the ID space.



Credits Applicable to Federal and State Returns

Qualifying Expenses

A taxpayer may claim up to \$3,000.00 of expenses for one qualifying individual or \$6,000.00 for two or more qualifying individuals.

Qualifying expenses are those paid by the end of the tax year, or which have been prepaid for the current tax year (when the care was also provided for the current tax year). A taxpayer's qualifying expenses must be reduced by any dependent care credits provided by taxpayer's employer that are deducted or excluded from income.

The total amount excluded or deducted must be less than the dollar limit for the qualifying expenses.



Credits Applicable to Federal and State Returns

Home Care and Status as an Employer

If someone is paid to come to the house to care for taxpayer's dependent or spouse, the taxpayer may be a household employer. If so, the taxpayer may have to withhold and pay:

- social security,
- Medicare tax, and
- unemployment tax.

For more information, see: [Publication 926](#): *Household employer's tax guide*.



Credits Applicable to Federal and State Returns

For More Information on the Federal Child Tax Credit

Consult these sources for more information:

- [Publication 503](#)
- [Form 2441](#) (Instructions)



Credits Applicable to Federal and State Returns

Knowledge Check

When a taxpayer's employer pays a portion of the taxpayer's dependent care expenses, how does it change the dependent care credit?

- The taxpayer is not eligible if the employer pays any part of their dependent care expenses.
- The taxpayer uses the amount the employer pays as their dependent care expenses.
- The taxpayer deducts the amount he or she receives from their employer from the dependent care expenses.
- None of the above.



Credits Applicable to Federal and State Returns

Knowledge Check

When a taxpayer's employer pays a portion of the taxpayer's dependent care expenses, how does it change the dependent care credit?

-  The taxpayer is not eligible if the employer pays any part of their dependent care expenses.
- The taxpayer uses the amount the employer pays as their dependent care expenses.
- The taxpayer deducts the amount he or she receives from their employer from the dependent care expenses.
- None of the above.

How old can the qualifying dependent be?

- 12
- 14
- Not sure
- Any age



Credits Applicable to Federal and State Returns

Knowledge Check



When a taxpayer's employer pays a portion of the taxpayer's dependent care expenses, how does it change the dependent care credit?

- The taxpayer is not eligible if the employer pays any part of their dependent care expenses.
- The taxpayer uses the amount the employer pays as their dependent care expenses.
- The taxpayer deducts the amount he or she receives from their employer from the dependent care expenses.
- None of the above.

How old can the qualifying dependent be?

- 12
- 14
- Not sure
- Any age



Credits Applicable to Federal and State Returns

Knowledge Check

Can the care provider be the spouse of the taxpayer if the dependent is 15 years old, lived with them for ten months, and is incapable of self-care?

- yes
- no
- not enough information to answer the question



Credits Applicable to Federal and State Returns

Knowledge Check

Can the care provider be the spouse of the taxpayer if the dependent is 15 years old, lived with them for ten months, and is incapable of self-care?



- yes
- no
- not enough information to answer the question

Who is eligible for the Child and Dependent Care Credit?

- The taxpayer works and has an AGI of \$500,000. She has a nanny to care for her five-year-old twins, who lived with her for seven months of the year.
- The taxpayer does not work. She received alimony of \$120,000. She has a nanny to care for her seven-year-old daughter and nine-year-old son, who have lived with her all year.
- The taxpayers have decided to file Married Filing Separately. They both work and each earns about \$40,000. They have two children who lived with them all year.
- none of the above



Credits Applicable to Federal and State Returns

Knowledge Check



Can the care provider be the spouse of the taxpayer if the dependent is 15 years old, lived with them for ten months, and is incapable of self-care?



- yes
- no
- not enough information to answer the question

Who is eligible for the Child and Dependent Care Credit?



- The taxpayer works and has an AGI of \$500,000. She has a nanny to care for her five-year-old twins, who lived with her for seven months of the year.
- The taxpayer does not work. She received alimony of \$120,000. She has a nanny to care for her seven-year-old daughter and nine-year-old son, who have lived with her all year.
- The taxpayers have decided to file Married Filing Separately. They both work and each earns about \$40,000. They have two children who lived with them all year.
- none of the above



Credits Applicable to Federal and State Returns

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Section 6

The New York State Child and Dependent Care Credit





Credits Applicable to Federal and State Returns

New York State Child and Dependent Care Credit (CDCC)

The New York State CDCC is a refundable credit for resident taxpayers who pay someone to care for their qualifying child/person **so they can work or look for work**.

To receive the credit, the taxpayer must:

- file a return with Form IT-216,
- be eligible for the **Federal** Child and Dependent Care Credit, and
- be the custodial parent (in almost all cases).



Credits Applicable to Federal and State Returns

Eligibility

Taxpayers are not eligible for the New York State CDCC if their filing status is *Married Filing Separately*, unless:

- the taxpayer is considered unmarried for purposes of computing the child and dependent care credit,

or

- the taxpayer lived apart from spouse during the last six months of the tax year, and
- the qualifying person lived in taxpayer's home more than half of the tax year, and
- the taxpayer provided more than half the cost of keeping up the home.



Credits Applicable to Federal and State Returns

Married Persons Filing Joint Federal Returns, but Required to File Separate New York State Returns

If taxpayer and spouse file a married joint federal return but are required to file separate New York State returns because one spouse is a New York State resident and the other spouse is a non-resident (or part-year resident), the taxpayer may still claim the credit.

However, the credit must be claimed on the return of the spouse with the lower taxable income.



Credits Applicable to Federal and State Returns

Earned Income

To qualify for the credit, the taxpayer must have earned income during the tax year.

Earned income includes:

- wages, salaries, and tips
- union strike benefits
- long term disability benefits received before retirement age
- earnings from self-employment
- military pay earned in a combat zone
- contributions pursuant to IRC 125 and 414(h)





Credits Applicable to Federal and State Returns

Qualifying Expenses

Care expenses must have been incurred to allow taxpayer to work (or look for work) and taxpayer must have earned income. However, if there is no earned income and if the spouse was a student or disabled, the taxpayer may still be able to claim the credit.

Examples of Qualifying Expenses:

- cook
- maid
- babysitter
- housekeeper
- share of employment taxes paid on wages for care services



Credits Applicable to Federal and State Returns

Examples of Qualifying Persons

- A child who is under 13
 - if the child turns 13 during the tax year, he or she is eligible only for the part of the tax year before the 13th birthday
- A spouse who is incapable of self-care
- Any person incapable of self-care who the taxpayer can claim as a dependent (or could claim as a dependent except that the person had a gross income of more than \$3,900 or more, or filed a joint return)
- Any person who is disabled and incapable of self-care who the taxpayer could claim as a dependent except that the taxpayer (or spouse if filing a joint return) could be claimed as a dependent on someone else's return

A qualifying person must have lived in the same home with taxpayer for more than half the tax year.



Credits Applicable to Federal and State Returns

Care Providers

Care providers cannot be the spouse or parent of qualifying person, or be a dependent of taxpayer. If the taxpayer's child provided the care, he or she must have been age 19 or older by December 31 of the tax year.

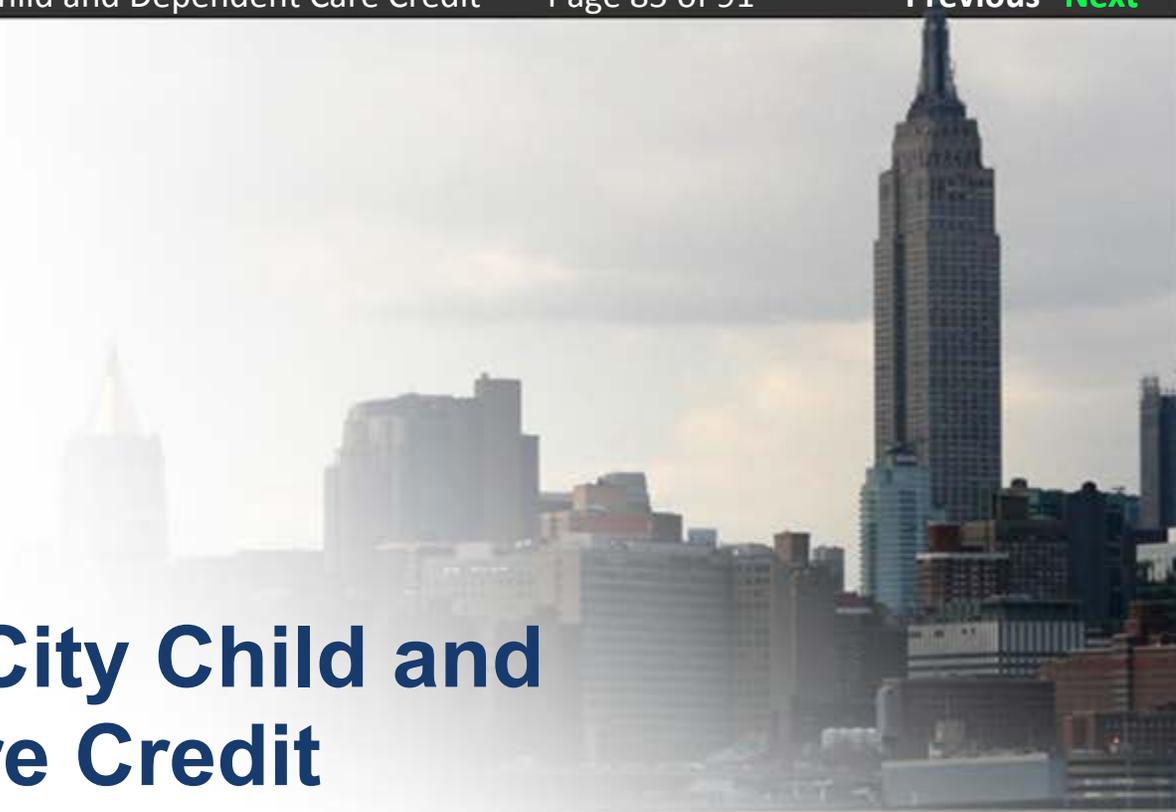
The taxpayer must report all the required information about the care provider. If the return is reviewed by New York State the taxpayer will be asked for proof of payment. If the taxpayer does not have good records, the credit will be adjusted or denied.



Credits Applicable to Federal and State Returns

Section 7

The New York City Child and Dependent Care Credit





Credits Applicable to Federal and State Returns

New York City Child and Dependent Care Credit

The New York City Child and Dependent Care Credit is for New York City taxpayers who pay someone to care for their qualifying child/person, **so they can work or look for work.**

To be eligible, the taxpayer must:

- qualify for the New York State Child and Dependent Care Credit, **and**
- have paid qualified expenses for a qualifying person who was **under age four** on December 31, **and**
- have a FAGI less than \$30,000, **and**
- have been a full-year or part-year resident of New York City.



Credits Applicable to Federal and State Returns

Married Persons Filing Joint Federal Returns, but Required to Calculate New York City Taxes Separately

If the taxpayer and spouse file jointly for federal purposes, but are required to calculate their New York City taxes separately because one spouse is a resident and the other spouse is a nonresident (or part-year resident), they may still be able to claim the credit.

In this instance, the credit must be claimed by the spouse with the lower taxable income (computed without regard to the credit). However, if the spouse with the lower taxable income is a nonresident of New York City, neither the taxpayer nor the spouse may claim the credit.



Credits Applicable to Federal and State Returns

For More Information

Consult these sources for more information:

- [IT-216](#)
- [IT-216 Instructions](#)
- [IRS Publication 501](#)
- [Recordkeeping suggestions](#)



Credits Applicable to Federal and State Returns

Knowledge Check

Which taxpayer can receive the New York State EITC?

- The taxpayer who forgot to sign the return
- The taxpayer who files Head of Household, does not receive monetary support from the dependent's other parent, and whose dependent lived with the taxpayer for five months of the year.
- The taxpayer who does not qualify for the federal dependent care credit
- None of the above



Credits Applicable to Federal and State Returns

Knowledge Check

Which taxpayer can receive the New York State EITC?

- The taxpayer who forgot to sign the return
- The taxpayer who files Head of Household, does not receive monetary support from the dependent's other parent, and whose dependent lived with the taxpayer for five months of the year.
- The taxpayer who does not qualify for the federal dependent care credit
- None of the above

What is not considered earned income?

- Strike benefits
- Tips
- Self-employment
- Social security benefits



Credits Applicable to Federal and State Returns

Knowledge Check

Which taxpayer can receive the New York State EITC?

- The taxpayer who forgot to sign the return
- The taxpayer who files Head of Household, does not receive monetary support from the dependent's other parent, and whose dependent lived with the taxpayer for five months of the year.
- The taxpayer who does not qualify for the federal dependent care credit
- None of the above

What is not considered earned income?

- Strike benefits
- Tips
- Self-employment
- Social security benefits

Which of the options below make the taxpayer eligible for the New York City EITC ?

- The taxpayer did not reside in New York City
- The taxpayer was a part-time resident of New York City
- The taxpayer's FAGI was \$49,000
- None of the above



Credits Applicable to Federal and State Returns

Knowledge Check



Which taxpayer can receive the New York State EITC?

- The taxpayer who forgot to sign the return
- The taxpayer who files Head of Household, does not receive monetary support from the dependent's other parent, and whose dependent lived with the taxpayer for five months of the year.
- The taxpayer who does not qualify for the federal dependent care credit
- None of the above

What is not considered earned income?

- Strike benefits
- Tips
- Self-employment
- Social security benefits

Which of the options below make the taxpayer eligible for the New York City EITC ?

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Credits Applicable to Federal and State Returns

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