

# Answering the Due Diligence Questions for Earned Income Credit, Child Tax Credit and American Opportunity Credit

- Volunteers are not paid preparers and are not required to complete Form 8867.
- TaxSlayer requires answers to due diligence questions to include EITC, CTC and AOTC in the return.
- Volunteers solicit information as part of the normal intake and Interview process.
- The paid preparer's due diligence standards do not apply.

### Due Diligence Checklist

Qualifying Information

Was the taxpayer (or spouse) a nonresident alien for any part of the year? \*

Yes

No

Is the taxpayer (or spouse) a qualifying child of another person? \*

Yes

No

Did you complete the return based on information for tax year 2016 provided by the taxpayer or reasonably obtained by you? \*

Yes

No

Did you interview the taxpayer, ask adequate questions, and document the taxpayer's responses to determine that the taxpayer is eligible to claim the credit(s)? \*

Yes

No

Did you review adequate information to determine that the taxpayer is eligible to claim the credit(s) and in what amount? \*

Yes

No

Did any information provided by the taxpayer, a third party, or reasonably known to you in connection with preparing the return appear to be incorrect, incomplete, or inconsistent? \*

Yes

No

Did you satisfy the record retention requirement? \*

**i** To meet the record retention requirement, did you keep a copy of any document(s) provided by the taxpayer that you relied on to determine eligibility or to compute the amount for the credit(s)?

Yes

No

In addition to your notes from the interview, list those documents, if any, that you relied on

None

Did you ask the taxpayer whether he/she could provide documentation to substantiate eligibility for and the amount of the credit(s) claimed on the return? \*

Yes

No

Did you ask the taxpayer if any credits were disallowed or reduced in a prior year? \*

Yes

No

Were any of these credits disallowed or reduced in a previous year? \*

Yes

No

Answer according to the situation.

Answer Yes if you conducted a thorough interview.

Answer No. If the information seemed inconsistent, you would have sent the taxpayer away.

Answer yes, we kept all the records we relied on, and that was "None." These answers are truthful and keep the next screen "green."

Answer No, you did not ask.

Answer Yes, you asked.

Answer according to the situation. If yes, Form 8862 must be completed.

# Answering the Due Diligence Questions for Earned Income Credit, Child Tax Credit and American Opportunity Credit (Cont.)

Qualifying Child #1 -

Is this child currently, or intended to be, a qualifying child on any other individual's tax return?

Yes

No

EIC Questions

Did you explain to the taxpayer the rules about claiming the EIC when a child is the qualifying child of more than one person (see **TIEBREAKER RULES** below), and have you determined that this taxpayer is, in fact, eligible to claim the EIC for the number of children for whom the EIC is claimed? \*

Yes

No

Did you explain to the taxpayer that he/she may not claim the EIC if the taxpayer has not lived with the child for over half the year, even if the taxpayer has supported the child? \*

Yes

No

**TIEBREAKER RULES:** To determine which person can treat the child as a qualifying child, the following tiebreaker rules apply:

1. If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
2. If the parents do not file a joint return together but both parents claim the child as a qualifying child, the IRS will treat the child as the qualifying child of the parent with whom the child lived with for the longer period of time during the year. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year.
3. If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the year.
4. If a parent can claim the child as a qualifying child but no parent does claim the child, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who can claim the child.

Do you certify that all answers on this Form 8867 are, to the best of your knowledge, true, correct and complete? \*

Yes

No

**!** You have complied with all due diligence requirements with respect to the credits claimed on the return of the taxpayer identified above if you:

1. Complete this Form 8867 truthfully and accurately and complete the actions described in this checklist for all credits claimed.
2. Submit Form 8867 in the manner required.
3. Interview the taxpayer, ask adequate questions, document the taxpayer's responses on the return or in your notes, review adequate information to determine if the taxpayer is eligible to claim the credit(s) and in what amount(s).
4. Keep all five of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under *Document Retention*.
  1. A copy of Form 8867.
  2. The applicable worksheet(s) or your own worksheet(s) for any credits claimed.
  3. Copies of any taxpayer documents you may have relied upon to determine eligibility for and the amount of the credit(s).
  4. A record of how, when, and from whom the information used to prepare this form and worksheet(s) was obtained.
  5. A record of any additional questions you may have asked to determine eligibility for and amount of the credits, and the taxpayer's answers.

If you have not complied with all due diligence requirements for all credits claimed, you may have to pay a \$510 penalty for each credit for which you have failed to comply.

✔ Continue

Answer NO even if taxpayer would win the tiebreaker. If answer would be YES, change it in Dependents Section.

Answer Yes after you have explained the rules to the taxpayer.

Answer Yes, the answers you've chosen are true.

**NOTE:** Quality Site Requirement 2 – Intake/Interview & Quality Review Process, states:  
All IRS tax law-certified volunteers are required to exercise due diligence. This means, as a volunteer, you are required to do your part when preparing or quality reviewing a tax return to ensure the information on the tax return is correct and complete. Doing your part includes: confirming a taxpayer's (and spouse, if applicable) identity and providing top-quality service by helping them understand and meet their tax responsibilities.

Generally, as an IRS tax law-certified volunteer, you can rely in good faith on information from a taxpayer without requiring documentation as verification. However, part of due diligence requires asking a taxpayer to clarify information that may appear to be inconsistent or incomplete. When reviewing information for its accuracy, you need to ask yourself if the information is unusual or questionable.