



ADVANCE EITC (EARNED INCOME TAX CREDIT)

You can get some of your EITC (Earned Income Tax Credit) in your paychecks during 2010. You do not have to wait until you file your taxes.

YOU CAN GET THE EITC IN ADVANCE IF:

- You have at least one qualifying child,
- You do not expect to file your taxes with a 'married, filing separate' status,
- You think your earned income will be less than \$35,535 (\$40,545 if you are filing a joint return for 2010)
- Your investment income will be less than \$3,100
- You are not the qualifying child or dependent of another person;
- You meet the EITC rules (see our fact sheet [T-1 Tax Refunds for People with Low Incomes](#)), and
- Your employer takes out social security and income taxes from your paycheck.

HOW DO I GET ADVANCE EITC PAYMENTS?

1. Fill out a W-5 form. You can get the form from your employer or the IRS. Call the IRS at 1-(800)-829-3676, or get it off of their website, www.irs.gov.
2. Give the completed form to your employer.
3. Your paychecks will go up by the amount of advance payment you qualify for.

If you get EITC in your paychecks, you **must** file a Federal Form 1040A or 1040 for that tax year. If you got more EITC than you should have, you must repay any overpayment. If you got less than you should have, you will get the additional EITC when you file your taxes.

If your circumstances change, file a new W-5 anytime during the tax year. Getting advance payments will not increase or decrease your total EITC.

The W-5 form runs out on December 31st each year. You must file a new W-5 form with your employer each year and meet the rules each year.



CAUTION: You must report changes!!! If your income or family situation changes, you may no longer qualify for EITC. You might have to pay everything back.

CAN I CLAIM A CHILD FOR ADVANCE EITC?

You can if you follow these rules:

- Your child by birth or adoption, your grandchild, stepchild, brother, sister, stepbrother, stepsister can be claimed. You can also claim the child of any of these relatives if you cared for the child as your own. You can claim an eligible foster child.
- The child must live with you in the U.S. for more than half of 2010.
- The child must be younger than you and:
 - Under age 19 on December 31, 2010,
 - A full-time student under age 24 on December 31, 2010, or
 - Permanently and totally disabled at any time during 2010, age doesn't matter.
- Only one taxpayer can claim the child for EITC. If the child can be claimed by a parent as a qualifying child, but neither parent claims the child NO ONE ELSE can claim the child unless their Adjusted Gross Income is higher than the AGI of either parent. This situation can happen when extended family lives together.

If a child is a qualifying child for more than one taxpayer, and they can't agree on who will claim the child, the parent who lives with the child longest that year should claim the credit. If the child lives with both parents for the same length of time, the parent with the higher income should claim the credit.

If the child

- Does not live with a parent,
- Is a qualifying child of more than one taxpayer, and
- The taxpayers can't agree on whom should claim the child,

then the taxpayer with the highest income should claim the credit.



WHO IS AN ELIGIBLE FOSTER CHILD?

An eligible foster child is a child placed with you by an authorized placement agency. S/he must live with you over 6 months of 2010 and meet the age rules.

WILL THE EITC AFFECT MY MFIP, SSI, FOOD STAMPS OR OTHER BENEFITS?

Generally, EITC payments don't count as income during the month you get the check or the next month. After 2 months, any refund left may count toward your asset limit for figuring public assistance. EITC can count as an asset right away if you get food stamps. **Keep all of your receipts- you may need to prove how you spent the money.**

To find other Legal Aid Society materials, including any fact sheets mentioned in this document, go to www.lawhelpmn.org/LASMfactsheets.