

# public benefits

for low-income individuals and families  
applying for and using  
public benefit programs

earned income tax credit

Center for  
Benefits and  
Services

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The Community Service Society of New York, a non-partisan social services agency, has been in the forefront of the fight against poverty for over 150 years. It has pioneered programs for school children, low-income tenants, health care patients, immigrants and poor people of every color and race throughout its history. At the midway point of its second century, CSS continues to do research on the causes and solutions to poverty-induced problems and to provide needy people with direct emergency help. Using advocacy and court challenges, CSS works to effect societal changes to improve the lives of those in poverty and empower them to provide better conditions for their children and communities.

Part of CSS, the Center for benefits and Services (CBS) is a single source for social service providers for information, training, and expert case assistance on the full range of government benefit and subsidized housing programs. The Center provides training on government benefits, telephone consultations to service providers, direct assistance to the general public and publications, including the *PBRC Manual*, a comprehensive guide to government benefit programs.

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# Earned Income Tax Credit

Center for Benefits and Services

A PROGRAM OF THE COMMUNITY SERVICE SOCIETY

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## Earned Income Tax Credit

### What Is The Earned Income Tax Credit?

The Earned Income Tax Credit (EITC) is a special tax benefit for people who work full or part-time. The credit either reduces the amount of tax you owe or provides you with a refund if you do not owe taxes. There is both a Federal tax credit, as well as a New York State tax credit. The EITC is also called the Earned Income Credit (EIC).

*Can I receive both the Federal and State tax credits?*

Yes, you can receive both credits.

*How much can I get from the Federal tax credit?*

Your EITC tax benefit varies, depending on the level of your income and whether you have any qualifying children. The following tells you the maximum amount of credit you can get.

- If you are a worker without a qualifying child you can receive an annual Federal tax credit of up to \$428.
- If you are a worker with one qualifying child you can receive an annual Federal tax credit of up to \$2,853.
- If you are a worker with two or more qualifying children you can receive a Federal tax credit of up to \$4,716.

*How much can I get from the New York State Tax Credit?*

The NYS tax credit is a supplement to your federal tax credit. You can receive 30% of your federal tax credit as follows:

- If you are a worker without a qualifying child you can receive an annual state tax credit of up to \$128.
- If you are a worker with a qualifying child you can receive an annual state tax credit of up to \$856.
- If you are a worker with two or more qualifying children you can

receive an annual state tax credit of up to \$1,415.

*Would my credit increase if I have more than two or more qualifying children?*

No, your benefit would not increase. The maximum federal credit for a worker with two or more qualifying children is \$4,716, and the maximum NYS credit is \$1,415.

*Would EITC have any effect on my public benefits?*

No, as long as you spend your EITC within a certain time frame, your EITC has no effect on certain benefits, such as: Public Assistance, Medicaid, Supplemental Security Income (SSI), Food Stamps, NYCHA housing or Section 8.

*What if I don't spend my EITC refund?*

If you do not spend your EITC refund by the end of the 2<sup>nd</sup> month after you received the refund, it is counted as a resource for Medicaid and federally assisted housing programs. For example, if you received your payment in April and you did not spend it by the end of May, it is counted as a resource for these programs.



For Food Stamps, if you do not spend your EITC refund within 12 months of receiving it, it will be counted as a resource. For SSI, you have 9 months to spend your EITC before it counts as a resource. For Public Assistance, it is not counted as a resource.

*Is there a way to get my EITC spread out over the year?*

Yes, you can get an advance from your EITC each month for the entire year. (At the end of this brochure is an explanation of the Advance Earned Income Credit and how to apply).

### **Who Can Get the Earned Income Tax Credit?**

You can get the Earned Income Tax Credit if you meet certain eligibility tests called eligibility criteria. These criteria are explained below.

## Do I Need to Work?

Yes, you must have worked full or part-time at some point in the past year and earned money.

## How Much Income Can I Have?

It depends on whether you are single or married. Your earned income and adjusted gross income must not exceed the guidelines below:

<b>EARNED AND ADJUSTED GROSS INCOME GUIDELINES</b>			
Marital status	No Qualifying Children	One Qualifying Child	Two or More Qualifying Children
Single adult	\$12,590	\$33,241	\$37,783
Married couple	\$14,590	\$35,241	\$39,783

### *What is earned income?*

Earned income is money you worked for: wages, salaries, tips or net earnings from self-employment.

### *What is adjusted gross income?*

Adjusted gross income includes your salary or wages before taxes, plus any unearned income you have such as Social Security benefits, SSI, pensions, or investment income.

### *What is investment income?*

Investment income is interest on your savings accounts, dividends, capital gain distributions, and tax-exempt interest. However, your annual investment income must be less than \$2,900 to be eligible for EITC.

### *Do my foster care payments count as income?*

No, your foster care payments would not count as income when determining eligibility for the EITC.

*Does my public assistance benefit count as income?*

No, your public assistance benefit is not considered income because it is not taxable. It will not be counted towards the adjusted gross income. Unemployment insurance is taxable however, and will therefore be counted as income.

**Must I have Children?**

No, you can either be a single or couple without children or a single or two-parent household with qualified children.



*What is a qualified child?*

To be a qualified child, the child must be your:

- Natural child, adopted child, stepchild, or a descendent (your grandchild) of any of them, or
- Brother, sister, stepbrother, stepsister, or a descendent (your niece or nephew) of any of them who you cared for as if he/she was your own child, or
- An eligible foster child

*Who is considered an eligible foster child?*

- The child was placed with you by an authorized placement agency, and
- You cared for the child as if he/she was your own child.

*Does my child have to be a certain age?*

Yes, your child must either be:

- Under the age of 19
- Under the age of 24 and enrolled as a full-time student during any 5 months by the end of the year
- Is permanently and totally disabled regardless of age.

*Must my child have lived with me?*

Yes, your child must have lived with you in the United States for more than half of the year.

*Can two parents claim the same child?*

No, the IRS checks to make sure that no child is claimed more than once.

*If my partner and I are living with our child but are not married, who can claim the child?*

You and your partner can determine which of you will claim the child. If you cannot agree, then only the parent with the highest income can claim the child.

*If I am divorced, can I claim the EITC for my child?*

You and ex-husband/wife can choose who will use the credit. Your ex-husband/wife cannot claim your child if you do. If you cannot agree and your child lived with you more than half the year, you can claim the credit for your child. However, if you both live with the child an equal amount of time (6 months each) only the parent with the highest income can claim the credit for the child.

*What happens to the parent of a child who cannot claim the EITC because the other parent claims it?*

The parent not claiming the child may be eligible for the EITC for workers without qualifying children.

*What if I am paying child support?*

If you are paying child support and are not claiming the child you may be eligible for an enhanced Earned Income Tax Credit. See below for the Non-custodial Parent New York State Earned Income Tax Credit

*What if I am living with my parents, who would apply, my parents or myself?*

The parent makes the decision of whether or not they want to file for the

EITC. If the parent chooses to file, no one else in the household can claim the same child on their application. Only one person in the household can claim the EITC, even if more than one family member works and has income that would qualify for the credit.

### *Can other household members apply?*

If the parent chooses not to claim their child, other working household members (such as grandparents) can include the child on their own application.

For example, you have a grandmother, mother and daughter living in the same household and the grandmother's income is \$20,000 and the mother's income is \$16,000. The mother could claim her child, but if she chooses not to, the grandmother could instead. If the mother got a new job and started making \$34,000, she would no longer be eligible to claim the EITC, but the grandmother could now claim the child instead, if she meets all other rules of the program.

### **Where Must I Live?**

You and your qualified child must have lived in the same residence in the United States for more than half the year.



### **Must I be a U.S. Citizen?**

No, you do not have to be a U.S. citizen to receive EITC.

*However, if you are an immigrant, you must:*

- Be employed and living in the country for the entire tax year, and
- Have a valid Social Security number that permits you to work legally in the United States.

### **How Can I Apply?**

You must apply either as a “single”, “married filing jointly”, or “head of household”. You cannot file as “married filing separately”.

*What form must I use to apply?*

- Federal EIC

You must file a federal income tax return.

If you have qualifying children you must complete either Form 1040 or Form 1040A. If you do not have qualifying children you must complete either Form 1040 EZ, Form 1040, or Form 1040A.

- State EIC

You must file both federal and state income tax returns. You must complete New York State's Form IT-215, *Claim for Earned Income Credit* and attach it to your state income tax return.

*When Can I Apply?*

If you do not owe taxes you can apply any time during the year.

*What if I owe taxes, when can I Apply?*

You can apply for EITC by the regular April 15<sup>th</sup> deadline.

**Deadline:  
April 15<sup>th</sup>**

*Can I apply for EITC if I am working, but also receiving Public Assistance?*

Yes, as long as you earn wages, and meet all the eligibility criteria you can apply for this credit.

*Can I apply for EITC, if am receiving disability benefits?*

If you receive Social Security Disability or an employer-paid disability benefit you can apply for this credit, as long as you meet all the other criteria.

*Can I apply if I am in the military?*

Yes, military personnel can claim the EITC, if you meet all the eligibility criteria.

*Can I apply for EITC if I am self-employed worker?*

**FORMS:**  
FEDERAL EIC  
1040 OR 1040A  
STATE EIC  
1040, 1040A OR 1040EZ

Yes, you will need to fill out a special series of forms, such as:

Schedule C and Schedule SE:

If your self-employment income is more than \$400.

Schedule EIC and Form 1040:

If you are raising children in your home.



*Must I have a valid Social Security number?*

Yes, you must have a valid Social Security number that allows you to work.

*Can I apply if I have an Individual Taxpayer Identification Number (ITIN) or a non-working Social Security number?*

No, an ITIN is issued to non-citizens, and non-working Social Security numbers are issued to applicants or recipients of federally funded benefits programs and cannot be used to claim EITC.

*Do I need my child's Social Security number to file for EITC?*



Yes, you must provide social security numbers for everyone listed on the tax return, including infants born before December 31, 2002. IRS verifies the Social Security number of every adult claiming the EITC, as well as the Social Security number of every child in families claiming EITC.

*What If I did not file for EITC in the past, can I apply for it now?*

Yes, you can claim credit for the past 3 years.

*How do I file for this?*

You must file an amended return form (Form 1040X). In addition, you must attach a transcript – a written explanation of your past tax forms, or copy of your past tax forms.

*How do I get a copy of my previous tax return?*

For copies of your past years' tax forms, call **(800) TAX-FORM**. Or you can obtain IRS Form 4506, "Request for a Copy or Transcript of Tax Form."

There is no charge for a tax return transcript but there is a **\$23.00** fee for a photocopy.

### What Is Advance Earned Income Tax Credit?



If you expect to get the EITC you can choose to have your credit in advance through a monthly payment in your paycheck, instead of waiting for one large payment once a year when you file your income tax return.

#### *Who is eligible to get Advance EITC payments?*

Any worker who meets all of the following criteria:

- You must have a qualifying child
- Your earned income and modified adjusted gross income must be less than \$33,241 for single applicants and less than \$35,241 for married applicants.
- Your wages must be subjected to federal income tax, social security tax or Medicare tax withholding.

For example, Natasha decided she would like to have extra money in her paycheck every month to help pay her bills. She decided to apply for an advance through the Earned Income Tax Credit benefit. Natasha is the head of household with a qualifying child. She expects her earned income and adjusted gross income will be less than \$29,000 for the year. She is entitled to an EITC advance.

*Can I receive an Advance EITC if I do not have a qualifying child?*

No, you must have a qualifying child to receive an advance.

*Should all workers choose advance EITC payments?*

No, some workers should not choose advance payment.



*When is it a good idea not to apply for the advance EITC?*

If you are in one of the following situations, it may not be a good idea to apply for the advance EITC.

- You hold more than one job
- You have a working spouse, unless both of you take advance payments
- You get married during the year
- Your earnings increase during the year.

*What is the maximum advance EITC I could get for the year?*

The maximum amount you could get as an advance is about half the total amount of EITC you are entitled to for the year. You will receive the difference when you file your tax return and claim the EITC.

### **How Do I Apply for the Advance Payments?**

You need to fill out an Earned Income Credit Advance Payment Certificate (W-5 form) and submit the bottom part to your employer. You can obtain the W-5 form from your employer.

*What If I have more than one job, should each employer fill out the W-5 form?*

Only one employer can fill out your W-5 form  
You can provide information about other employers when you fill out your income tax.

**W-5 Form:  
Earned Income Credit  
Advance Payment  
Certificate**

*How often can my employer submit the Form W-5?*

Your employer can submit only one form per year.

*If my family situation changes, what should I do?*

You should submit a new form to your employer and indicate the changes.

*Is my employer required to process the Advance EITC payments?*

Yes, under the federal law any eligible employee who files a W-5 with an

employer must be given advance payments. However, there are exceptions, if you are:

- A daily paid worker, or
- A worker without qualifying children, or
- A worker with no Social Security and Medicaid taxes withheld from your pay, or
- Self-employed who cannot advance the EITC to themselves.

*Do I have to pay back the advance money later if I do not qualify for EITC?*



Yes, if you were not eligible, you have to pay back the advance payment when you file your tax return for the year to the IRS.

*Do I have to report my advance EITC payments to IRS?*



Yes, if you received advance payment in 2007, you must file a 2007 tax return to report the payments. Your W-2 form will explain this.

### **What Is the Noncustodial Parent New York State Earned Income Tax Credit (NCP NYS EIC)?**

The Noncustodial Parent New York State Earned Income Tax Credit (NCP NYS EIC) is a new enhanced Earned Income Tax Credit for taxpayers who are non-custodial parents and are current with their child support payments.

*How much can I get from the NCP NYS EIC?*

If you are current with your child support payments, you may be eligible for as much as 20% of the federal EIC.

*Who is eligible to get the NCP NYS EIC?*

Any worker who meets all of the following criteria:

- You must be a full year resident taxpayer of New York State
- You must be 18 or older
- You have a minor child or children with whom you do not reside
- Your income is below \$33,241 annually
- You have a child support order in effect for at least one-half of the tax year and you are paying through the New York State Support Collection Unit (SCU)
- You must have paid 100% of the current amount of child support due in the tax year

### **How Do I Apply for the NCP NYS EIC?**

You need to complete the New York State Tax Form IT-209 and submit it with the 2007 Personal Income Tax Return. You can obtain the form and instructions on the New York State Department of Taxation and Finance website at [www.nystax.gov](http://www.nystax.gov).

### **Where Can I Turn for Help?**

#### **Retired Senior Volunteer Program (RSVP)**

#### **TCE Program**

Community Service Society  
105 East 22<sup>nd</sup> Street  
New York, New York 10017  
(212) 614-5553

#### **IRS – Volunteer Income Tax Assistance (VITA)**

(800) 829-1040

#### **IRS Website**

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

#### **Advance EITC Q & A**

<http://www.irs.gov/individuals/article/0,,id=96515,00.html#QA1>

#### **Find out if you qualify online at:**

<http://apps.irs.gov/app/eitc/SetLanguage.do?lang=en>