

Lines 64a and 64b— Earned Income Credit (EIC)

What Is the EIC?

The EIC is a credit for certain people who work. The credit may give you a refund even if you do not owe any tax.

TIP You may be able to elect to use your 2007 earned income to figure your EIC if (a) your 2007 earned income is more than your 2008 earned income, and (b) your main home was in a Midwestern disaster area. Also, special rules may apply for people who had to relocate because of the storms, tornadoes, or flooding in a Midwestern disaster area. For details, see Pub. 4492-B.

To Take the EIC:



- Follow the steps below.
- Complete the worksheet that applies to you or let the IRS figure the credit for you.
- If you have a qualifying child, complete and attach Schedule EIC.



For help in determining if you are eligible for the EIC, go to www.irs.gov/eitc and click on “EITC Assistant.” This service is available in English and Spanish.


CAUTION If you take the EIC even though you are not eligible and it is determined that your error is due to reckless or intentional disregard of the EIC rules, you will not be allowed to take the credit for 2 years even if you are otherwise eligible to do so. If you fraudulently take the EIC, you will not be allowed to take the credit for 10 years. See Form 8862, who must file, on page 49. You may also have to pay penalties.

Step 1 All Filers

- If, in 2008:
 - 2 children lived with you, is the amount on Form 1040, line 38, less than \$38,646 (\$41,646 if married filing jointly)?
 - 1 child lived with you, is the amount on Form 1040, line 38, less than \$33,995 (\$36,995 if married filing jointly)?
 - No children lived with you, is the amount on Form 1040, line 38, less than \$12,880 (\$15,880 if married filing jointly)?



Yes. Continue  **No.**  You cannot take the credit.
- Do you, and your spouse if filing a joint return, have a social security number that allows you to work or is valid for EIC purposes (see page 49)?

Yes. Continue  **No.**  You cannot take the credit. Enter “No” on the dotted line next to line 64a.
- Is your filing status married filing separately?

Yes.  **No.** Go to question 4.

You cannot take the credit.

- Are you filing Form 2555 or 2555-EZ (relating to foreign earned income)?

Yes.  You cannot take the credit. **No.** Continue 
- Were you or your spouse a nonresident alien for any part of 2008?

Yes. See *Nonresident aliens* on page 49. **No.** Go to Step 2.


Step 2 Investment Income


- Add the amounts from Form 1040:

Line 8a				
Line 8b	+			
Line 9a	+			
Line 13*	+			

Investment Income =

*If line 13 is a loss, enter -0-.
- Is your investment income more than \$2,950?

Yes. Continue  **No.** Skip question 3; go to question 4.
- Are you filing Form 4797 (relating to sales of business property)?

Yes. See *Form 4797 filers* on page 49. **No.**  You cannot take the credit.
- Do any of the following apply for 2008?
 - You are filing Schedule E.
 - You are reporting income from the rental of personal property not used in a trade or business.
 - You are reporting income on Form 1040, line 21, from Form 8814 (relating to election to report child’s interest and dividends).

Yes. You must use Worksheet 1 in Pub. 596 to see if you can take the credit. **No.** Go to Step 3.

Continued from page 46

Step 3 Qualifying Child

A qualifying child for the EIC is a child who is your...

Son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, your grandchild, niece, or nephew)

AND

was ...

Under age 19 at the end of 2008

or

Under age 24 at the end of 2008 and a student (see page 49)

or

Any age and permanently and totally disabled (see page 49)

AND

who...

Lived with you in the United States for more than half of 2008.

If the child did not live with you for the required time, see *Exception to time lived with you* on page 49.



If the child meets the conditions to be a qualifying child of any other person (other than your spouse if filing a joint return) for 2008, or the child was married, see page 49.

- Do you have at least one child who meets the conditions to be your qualifying child?
 - Yes.** The child must have a valid social security number as defined on page 49 unless the child was born and died in 2008. Go to question 2.
 - No.** Skip question 2; go to Step 4.

- Could you, or your spouse if filing a joint return, be a qualifying child of another person in 2008?
 - Yes.** You cannot take the credit. Enter "No" on the dotted line next to line 64a.
 - No.** Skip Step 4; go to Step 5 on page 48.


Step 4 Filers Without a Qualifying Child

- Is the amount on Form 1040, line 38, less than \$12,880 (\$15,880 if married filing jointly)?
 - Yes.** Continue →
 - No.** You cannot take the credit.
- Could you, or your spouse if filing a joint return, be a qualifying child of another person in 2008?
 - Yes.** You cannot take the credit. Enter "No" on the dotted line next to line 64a. →
 - No.** Continue →
- Can you, or your spouse if filing a joint return, be claimed as a dependent on someone else's 2008 tax return?
 - Yes.** You cannot take the credit. →
 - No.** Continue →
- Were you, or your spouse if filing a joint return, at least age 25 but under age 65 at the end of 2008?
 - Yes.** Continue →
 - No.** You cannot take the credit.
- Was your home, and your spouse's if filing a joint return, in the United States for more than half of 2008? Members of the military stationed outside the United States, see page 49 before you answer.
 - Yes.** Go to Step 5 on page 48.
 - No.** You cannot take the credit. Enter "No" on the dotted line next to line 64a.

Continued from page 47

Step 5 Earned Income

1. Are you filing Schedule SE because you were a member of the clergy or you had church employee income of \$108.28 or more?

- Yes.** See *Clergy or Church employees*, whichever applies, on this page. **No.** Continue 

2. Figure earned income*:

Form 1040, line 7 _____

Subtract, if included on line 7, any:

- Taxable scholarship or fellowship grant not reported on a Form W-2.
- Amount received for work performed while an inmate in a penal institution (enter "PRI" and the amount subtracted on the dotted line next to Form 1040, line 7).
- Amount received as a pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan (enter "DFC" and the amount subtracted on the dotted line next to Form 1040, line 7). This amount may be shown in box 11 of Form W-2. If you received such an amount but box 11 is blank, contact your employer for the amount received as a pension or annuity.

Add all of your nontaxable combat pay if you elect to include it in earned income. Also enter this amount on Form 1040, line 64b. See *Combat pay, nontaxable* on this page.

+ _____



Electing to include nontaxable combat pay may increase or decrease your EIC. Figure the credit with and without your nontaxable combat pay before making the election.


Earned Income =

*You may be able to elect to use your 2007 earned income instead of your 2008 earned income to figure your 2008 EIC if (a) your 2007 earned income is more than your 2008 earned income, and (b) your main home was in a Midwestern disaster area. For details, see Pub. 4492-B. If you make this election, skip questions 2 and 3 and go to question 4.




Electing to use your 2007 earned income may increase or decrease your EIC. Figure the credit using your 2008 earned income. Then figure the credit using your 2007 earned income. Compare the total of your EIC and additional child tax credit, if any, using the earned income for both 2007 and 2008 before making the election. If you elect to use your 2007 earned income, enter "PYEI" and the amount of your 2007 earned income on the dotted line next to line 64a.

3. Were you self-employed at any time in 2008, or are you filing Schedule SE because you were a member of the clergy or you had church employee income, or are you filing Schedule C or C-EZ as a statutory employee?

- Yes.** Skip question 4 and Step 6; go to Worksheet B on page 51. **No.** Continue 

4. If you have:

- 2 or more qualifying children, is your earned income less than \$38,646 (\$41,646 if married filing jointly)?
- 1 qualifying child, is your earned income less than \$33,995 (\$36,995 if married filing jointly)?
- No qualifying children, is your earned income less than \$12,880 (\$15,880 if married filing jointly)?

- Yes.** Go to Step 6. **No.**  You cannot take the credit.

Step 6 How To Figure the Credit

1. Do you want the IRS to figure the credit for you?

- Yes.** See *Credit figured by the IRS* on page 49. **No.** Go to Worksheet A on page 50.

Definitions and Special Rules

(listed in alphabetical order)

Adopted child. An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption.

Church employees. Determine how much of the amount on Form 1040, line 7, was also reported on Schedule SE, line 5a. Subtract that amount from the amount on Form 1040, line 7, and enter the result in the first space of Step 5, line 2. Be sure to answer "Yes" to question 3 in Step 5.

Clergy. The following instructions apply to ministers, members of religious orders who have not taken a vow of poverty, and Christian Science practitioners. If you are filing Schedule SE and the amount on line 2 of that schedule includes an amount that was also reported on Form 1040, line 7:

1. Enter "Clergy" on the dotted line next to Form 1040, line 64a.
2. Determine how much of the amount on Form 1040, line 7, was also reported on Schedule SE, line 2.
3. Subtract that amount from the amount on Form 1040, line 7. Enter the result in the first space of Step 5, line 2.
4. Be sure to answer "Yes" to question 3 in Step 5.

Combat pay, nontaxable. If you were a member of the U.S. Armed Forces who served in a combat zone, certain pay is excluded from your income. See *Combat Zone Exclusion* in Pub. 3. You can elect

to include this pay in your earned income when figuring the EIC. The amount of your nontaxable combat pay should be shown in box 12 of Form(s) W-2 with code Q. If you are filing a joint return and both you and your spouse received nontaxable combat pay, you can each make your own election.

Credit figured by the IRS. To have the IRS figure your EIC:

1. Enter "EIC" on the dotted line next to Form 1040, line 64a.
2. Be sure you enter the nontaxable combat pay you elect to include in earned income on Form 1040, line 64b. See *Combat pay, nontaxable* on page 48.
3. If you have a qualifying child, complete and attach Schedule EIC. If your EIC for a year after 1996 was reduced or disallowed, see *Form 8862, who must file* below.

Exception to time lived with you. Temporary absences by you or the child for special circumstances, such as school, vacation, business, medical care, military service, or detention in a juvenile facility, count as time the child lived with you. Also see *Kidnapped child* on page 19 or *Members of the military* below. A child is considered to have lived with you for all of 2008 if the child was born or died in 2008 and your home was this child's home for the entire time he or she was alive in 2008.

Form 4797 filers. If the amount on Form 1040, line 13, includes an amount from Form 4797, you must use Worksheet 1 in Pub. 596 to see if you can take the EIC. Otherwise, stop; you cannot take the EIC.

Form 8862, who must file. You must file Form 8862 if your EIC for a year after 1996 was reduced or disallowed for any reason other than a math or clerical error. But do not file Form 8862 if either of the following applies.

- You filed Form 8862 for another year, the EIC was allowed for that year, and your EIC has not been reduced or disallowed again for any reason other than a math or clerical error.
 - You are taking the EIC without a qualifying child and the only reason your EIC was reduced or disallowed in the other year was because it was determined that a child listed on Schedule EIC was not your qualifying child.
- Also, do not file Form 8862 or take the credit for the:
- 2 years after the most recent tax year for which there was a final determination that your EIC claim was due to reckless or intentional disregard of the EIC rules, or
 - 10 years after the most recent tax year for which there was a final determination that your EIC claim was due to fraud.

Foster child. A foster child is any child placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. For more details on authorized placement agencies, see Pub. 596.

Married child. A child who was married at the end of 2008 is a qualifying child only if (a) you can claim him or her as your dependent on Form 1040, line 6c, or (b) you could have claimed him or her as your dependent except for the special rule for *Children of divorced or separated parents* that begins on page 18.

Members of the military. If you were on extended active duty outside the United States, your home is considered to be in the United States during that duty period. Extended active duty is military duty ordered for an indefinite period or for a period of more than 90 days. Once you begin serving extended active duty, you are considered to be on extended active duty even if you do not serve more than 90 days.

Nonresident aliens. If your filing status is married filing jointly, go to Step 2 on page 46. Otherwise, stop; you cannot take the EIC. Enter "No" on the dotted line next to line 64a.

Permanently and totally disabled. A person is permanently and totally disabled if, at any time in 2008, the person cannot engage in any substantial gainful activity because of a physical or mental

condition and a doctor has determined that this condition (a) has lasted or can be expected to last continuously for at least a year, or (b) can be expected to lead to death.

Qualifying child of more than one person. If the 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, unless the special rule for *Children of divorced or separated parents* beginning on page 18 applies.

1. Dependency exemption (line 6c).
2. Child tax credits (lines 52 and 66).
3. Head of household filing status (line 4).
4. Credit for child and dependent care expenses (line 48).
5. Exclusion for dependent care benefits (Form 2441, Part III).
6. Earned income credit (lines 64a and 64b).

No other person can take any of the six tax benefits listed above unless he or she has a different qualifying child. If you and any other person claim the child as a qualifying child, the IRS will apply the following rules.

- If only one of the persons is the child's parent, the child will be treated as the qualifying child of the parent.
- If two of the persons are the child's parents, the child will be treated as the qualifying child of the parent with whom the child lived for the longer period of time in 2008. If the child lived with each parent for the same amount of time, the child will be treated as the qualifying child of the parent who had the higher adjusted gross income (AGI) for 2008.
- If none of the persons is the child's parent, the child will be treated as the qualifying child of the person who had the highest AGI for 2008.

Example. Your daughter meets the conditions to be a qualifying child for both you and your mother. If you and your mother both claim tax benefits based on the child, the rules above apply. Under these rules, you are entitled to treat your daughter as a qualifying child for all of the six tax benefits listed on this page for which you otherwise qualify. Your mother would not be entitled to take any of the six tax benefits listed on this page unless she has a different qualifying child.

If you will not be taking the EIC with a qualifying child, enter "No" on the dotted line next to line 64a. Otherwise, go to Step 3, question 1, on page 47.

Social security number (SSN). For the EIC, a valid SSN is a number issued by the Social Security Administration unless "Not Valid for Employment" is printed on the social security card and the number was issued solely to apply for or receive a federally funded benefit.

To find out how to get an SSN, see page 14. If you will not have an SSN by the date your return is due, see *What if You Cannot File on Time?* on page 7.

Student. A student is a child who during any part of 5 calendar months of 2008 was enrolled as a full-time student at a school, or took a full-time, on-farm training course given by a school or a state, county, or local government agency. A school includes a technical, trade, or mechanical school. It does not include an on-the-job training course, correspondence school, or school offering courses only through the Internet.

Welfare benefits, effect of credit on. Any refund you receive as a result of taking the EIC will not be used to determine if you are eligible for the following programs or how much you can receive from them. But if the refund you receive because of the EIC is not spent within a certain period of time, it can count as an asset (or resource) and affect your eligibility.

- Temporary Assistance for Needy Families (TANF).
- Medicaid and supplemental security income (SSI).
- Food stamps and low-income housing.



Before you begin: ✓ Be sure you are using the correct worksheet. Use this worksheet only if you answered “No” to Step 5, question 3, on page 48 or you elect to use your 2007 earned income to figure your EIC (see page 48). Otherwise, use Worksheet B that begins on page 51.

Part 1
All Filers Using Worksheet A

1. Enter your earned income from Step 5 on page 48. 1

2. Look up the amount on line 1 above in the EIC Table on pages 53–60 to find the credit. Be sure you use the correct column for your filing status and the number of children you have. Enter the credit here. 2

If line 2 is zero, You cannot take the credit. Enter “No” on the dotted line next to line 64a.

3. Enter the amount from Form 1040, line 38. 3

4. Are the amounts on lines 3 and 1 the same?

Yes. Skip line 5; enter the amount from line 2 on line 6.

No. Go to line 5.

Part 2
Filers Who Answered “No” on Line 4

5. If you have:

- No qualifying children, is the amount on line 3 less than \$7,200 (\$10,200 if married filing jointly)?
- 1 or more qualifying children, is the amount on line 3 less than \$15,750 (\$18,750 if married filing jointly)?

Yes. Leave line 5 blank; enter the amount from line 2 on line 6.

No. Look up the amount on line 3 in the EIC Table on pages 53–60 to find the credit. Be sure you use the correct column for your filing status and the number of children you have. Enter the credit here. 5

Look at the amounts on lines 5 and 2. Then, enter the **smaller** amount on line 6.

Part 3
Your Earned Income Credit

6. **This is your earned income credit.** 6

Enter this amount on Form 1040, line 64a. ⋮

Reminder—

✓ If you have a qualifying child, complete and attach Schedule EIC.

If your EIC for a year after 1996 was reduced or disallowed, see page 49 to find out if you must file Form 8862 to take the credit for 2008.



Use this worksheet if you answered “Yes” to Step 5, question 3, on page 48, and you do not elect to use your 2007 earned income to figure your EIC (see page 48).

- ✓ Complete the parts below (Parts 1 through 3) that apply to you. Then, continue to Part 4.
- ✓ If you are married filing a joint return, include your spouse’s amounts, if any, with yours to figure the amounts to enter in Parts 1 through 3.

Part 1 Self-Employed, Members of the Clergy, and People With Church Employee Income Filing Schedule SE	1a. Enter the amount from Schedule SE, Section A, line 3, or Section B, line 3, whichever applies.	1a	
	b. Enter any amount from Schedule SE, Section B, line 4b, and line 5a.	+	1b
	c. Combine lines 1a and 1b.	=	1c
	d. Enter the amount from Schedule SE, Section A, line 6, or Section B, line 13, whichever applies.	-	1d
	e. Subtract line 1d from 1c.	=	1e

Part 2 Self-Employed NOT Required To File Schedule SE <small>For example, your net earnings from self-employment were less than \$400.</small>	2. Do not include on these lines any statutory employee income, any net profit from services performed as a notary public, or any amount exempt from self-employment tax as the result of the filing and approval of Form 4029 or Form 4361.		
	a. Enter any net farm profit or (loss) from Schedule F, line 36, and from farm partnerships, Schedule K-1 (Form 1065), box 14, code A*.	2a	
	b. Enter any net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), box 14, code A (other than farming); and Schedule K-1 (Form 1065-B), box 9, code J1*.	+	2b
	c. Combine lines 2a and 2b.	=	2c

*Reduce any Schedule K-1 amounts by any partnership section 179 expense deduction claimed, unreimbursed partnership expenses claimed, and depletion claimed on oil and gas properties. If you have any Schedule K-1 amounts, complete the appropriate line(s) of Schedule SE, Section A. Enter your name and social security number on Schedule SE and attach it to your return.

Part 3 Statutory Employees Filing Schedule C or C-EZ	3. Enter the amount from Schedule C, line 1, or Schedule C-EZ, line 1, that you are filing as a statutory employee.	3	
---	---	---	--

Part 4 All Filers Using Worksheet B <small>Note. If line 4b includes income on which you should have paid self-employment tax but did not, we may reduce your credit by the amount of self-employment tax not paid.</small>	4a. Enter your earned income from Step 5 on page 48.	4a	
	b. Combine lines 1e, 2c, 3, and 4a. This is your total earned income.	4b	

If line 4b is zero or less, You cannot take the credit. Enter “No” on the dotted line next to line 64a.

5. If you have:

- 2 or more qualifying children, is line 4b less than \$38,646 (\$41,646 if married filing jointly)?
- 1 qualifying child, is line 4b less than \$33,995 (\$36,995 if married filing jointly)?
- No qualifying children, is line 4b less than \$12,880 (\$15,880 if married filing jointly)?

Yes. If you want the IRS to figure your credit, see page 48. If you want to figure the credit yourself, enter the amount from line 4b on line 6 (page 52).

No. You cannot take the credit. Enter “No” on the dotted line next to line 64a.



Part 5

All Filers Using Worksheet B

6. Enter your total earned income from Part 4, line 4b, on page 51. 6

7. Look up the amount on line 6 above in the EIC Table on pages 53–60 to find the credit. Be sure you use the correct column for your filing status and the number of children you have. Enter the credit here. 7

If line 7 is zero, You cannot take the credit. Enter “No” on the dotted line next to line 64a.

8. Enter the amount from Form 1040, line 38. 8

9. Are the amounts on lines 8 and 6 the same?
- Yes.** Skip line 10; enter the amount from line 7 on line 11.
- No.** Go to line 10.

Part 6

Filers Who Answered “No” on Line 9

10. If you have:

- No qualifying children, is the amount on line 8 less than \$7,200 (\$10,200 if married filing jointly)?
- 1 or more qualifying children, is the amount on line 8 less than \$15,750 (\$18,750 if married filing jointly)?

Yes. Leave line 10 blank; enter the amount from line 7 on line 11.

No. Look up the amount on line 8 in the EIC Table on pages 53–60 to find the credit. Be sure you use the correct column for your filing status and the number of children you have. Enter the credit here. 10

Look at the amounts on lines 10 and 7. Then, enter the **smaller** amount on line 11.

Part 7

Your Earned Income Credit

This is your earned income credit. 11

Reminder—

✓ If you have a qualifying child, complete and attach Schedule EIC.



Enter this amount on Form 1040, line 64a.



If your EIC for a year after 1996 was reduced or disallowed, see page 49 to find out if you must file Form 8862 to take the credit for 2008.