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Understanding Paid Preparer Due Diligence Requirements



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(the moderator is speaking now)

- Audio is available through your computer only. There is no call in number.
- **Make sure your computer sound is not muted.**
- See Technical Help document posted to "Materials" on viewing screen for tips and required settings.
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 - Click gear icon ⚙ top right corner of slide and photo boxes on viewing screen.
 - Select "Flash" instead of "HLS."




Welcome to Today's IRS Webinar

Understanding Paid Preparer Due Diligence Requirements






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 Denise Helland
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IRS

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January 16, 2020

Understanding Paid Preparer Due Diligence Requirements




This Webinar Will Focus On:

- Tax Cuts and Jobs Act credits due diligence requirements
- Tax identification number requirements for CTC/ACTC/ODC and head of household filing status
- Client's tax return preparation-when to ask for documents
- IRS Due Diligence and compliance activities
- Tax Preparers Resources



Tax Cuts and Jobs Act Highlights

- Eliminated personal and dependent exemption deductions
- Increased CTC and refundable ACTC amounts, increased AGI limits
- Required Social Security number for CTC/ACTC qualifying children
- Created Credit for Other Dependents – ODC



Child Tax Credit Social Security Number Requirement

Can claim for CTC/ACTC



Cannot claim for CTC/ACTC



CTC/ACTC Qualifying Child Requirements

- Relationship
- Age
- Residency
- Support
- Joint return
- Dependent
- Citizenship



CTC/ACTC Citizenship Requirements

The child must be:

- U.S. Citizen or U.S. National

OR

- U.S. Resident Alien – Green Card or meets Substantial Presence Test

Polling Question

Can the client claim the Child Tax Credit for a child who is a non-U.S. citizen living in the U.S.?

- a. Yes, the child is a U.S. resident
- b. No, the child is not a U.S. citizen
- c. It depends on the client's tax identification number
- d. Both a and c



Credit for Other Dependents (ODC)

Examples of a qualifying person for ODC...

- Dependent child over age 16
- Dependent child or relative with ITIN or ATIN
- Dependent relative – including client's parent



Credit for Other Dependents – cont'd

Citizenship *and* Tax Identification Number Requirements

The dependent must be a:

- U.S. Citizen
- U.S. National
- or
- U.S. Resident Alien – Green Card or Substantial Presence Test



**Credit for Other Dependents –
cont'd**

Citizenship *and* Tax Identification Number Requirements

In addition, the dependent must have a:

- SSN, ITIN or ATIN issued on or before return due date, including extensions

Polling Question

Can the client claim ODC for a sister, who is a dependent with an ITIN, lives in Canada, and is a Canadian citizen?

- a. Yes, the sister has ITIN
- b. Yes, the sister lives in Canada
- c. No, the sister is not a U.S. Citizen, National or Resident Alien
- d. Both a and b

CTC/ACTC/ODC Taxpayer Identification Number & Citizenship Requirements	
Dependent for CTC/ACTC	Dependent for ODC
SSN Valid for employment Issued before return due date (including extensions)	<ul style="list-style-type: none"> SSN, ITIN or ATIN Issued on or before return due date (including extensions)
Must be either: <ul style="list-style-type: none"> U.S. Citizen U.S. National or U.S. Resident Alien 	

Head of Household Requirements

Your Client Must:

- Be unmarried or considered unmarried at the end of the year and

Pay over half the cost of keeping up

- A home in which the client lived with qualifying person or
- A home for a dependent parent (can include a parent living in a separate home in the U.S., Canada, Mexico or abroad)



Dependent & HOH Requirements U.S. Citizen, U.S. National, U.S. Resident or...



Polling Question

Can the client living in New York claim Head of Household status with a dependent parent who lives in Guatemala?

- No, the parent doesn't live with the client
- No, the parent doesn't live in Canada or Mexico
- No, because the parent is not living in the U.S.
- It depends whether the parent is a U.S. Citizen or National



Citizenship Requirements CTC/ACTC/ODC & HOH		
Dependent for CTC/ACTC	Dependent for ODC	Dependent for HOH Filing Status
Must be either: <ul style="list-style-type: none"> • U.S. Citizen • U.S. National or • U.S. Resident Alien 	Must be either: <ul style="list-style-type: none"> • U.S. Citizen • U.S. National or • U.S. Resident Alien 	Must be either: <ul style="list-style-type: none"> • U.S. Citizen • U.S. National or • Resident of U.S., Canada or Mexico

Most Important Points: TCJA

Eligible child for the CTC must have the required Social Security number

Head of Household returns need Form 8867 to meet Due Diligence Requirements

Credit for Other Dependents (ODC) can have an ITIN, can be over age 16

The Tax Preparer Toolkit offers free training, webinars, publications and other resources

Polling Question

Can the client claim Credit for Other Dependents for his parent who is a dependent, has a TIN and lives in Japan?

- Yes, the parent is a qualifying relative
- Yes, the parent's residency is not an issue
- No, the parent must reside in Canada, Mexico or the U.S.
- It depends on the parent's TIN

IRS Due Diligence Compliance Focused and Tiered

- Due Diligence Overview and Common Errors
- When to Document
- Educational Letters
- Education Calls
- Knock and Talk Visits
- Office Exam
- Correspondence Exam



Due Diligence Requirements Review

Ask all the
right
questions

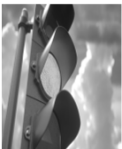
Compute
the credits
based on
the facts

Keep all
required
records

Complete
and
submit
Form 8867



Due Diligence Most Common Errors



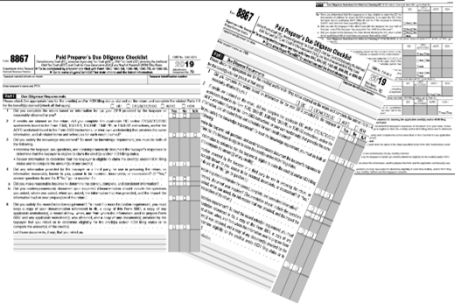
Failing to meet
the knowledge
requirement



Failing to keep
records and
documentation



Form 8867 & Penalties



When are Client Documents Needed?



Request documentation when additional information is needed to verify a claim for:

- EITC
- CTC/ACTC
- ODC, or
- AOTC


Be sure to keep a paper or electronic copy

Polling Question

Should a paid tax preparer require documentation if the client is a grandparent claiming Earned Income Tax Credit for her qualifying grandchild?


- Yes, documentation is always required
- No, if responses to probing questions are documented and appear to be correct, consistent and complete
- No, if the grandparent has or can get the supporting documents if requested by IRS
- Both b and c

Contact Methods



Department of the Treasury
Internal Revenue Service
Wage & Investment NDC/EITC
1201 North Minnesota Motorway
Bloomington, IL 61705

Date: 06/06/2018
Contact email address: wt.rprp@irs.gov
Preparer ID number:



You may not have met your due diligence requirements

Dear [Name]:


We're writing to make you aware of the due diligence requirements for paid preparers.

You prepared tax year 2017 returns that claimed at least one of the credits listed below. Our review of the returns indicates you may not have met your due diligence requirements.

- Earned Income Tax Credit (EITC)
- Child Tax Credit (CTC)
- Additional Child Tax Credit (ACTC)
- American Opportunity Tax Credit (AOTC)


Paid preparers must comply with all due diligence requirements. Failure to do so can result in a penalty of \$520 per failure for tax returns filed in 2019. The failure can also result in an audit, the suspension or termination of e-filing privileges, or a referral to the IRS's Criminal Investigation Division.

Letter 5025 – You may not have met due diligence requirements



Department of the Treasury
Internal Revenue Service
Wage & Investment NDC/EITC
1201 North Minnesota Motorway
Bloomington, IL 61705

Date: 06/06/2018
Contact email address: wt.rprp@irs.gov
Preparer ID number:



You may not have met your due diligence requirements

Dear [Name]:


We're writing to make you aware of the due diligence requirements for paid preparers.

You prepared tax year 2017 returns that claimed at least one of the credits listed below. Our review of these returns indicates you may not have met your due diligence requirements.

- Earned Income Tax Credit (EITC)
- Child Tax Credit (CTC)
- Additional Child Tax Credit (ACTC)
- American Opportunity Tax Credit (AOTC)


Paid preparers must comply with all due diligence requirements. Failure to do so can result in a penalty of \$520 per failure for tax returns filed in 2019. The failure can also result in an audit, the suspension or termination of e-filing privileges, or a referral to the IRS's Criminal Investigation Division.

Letter 4858 - Alert to Return Preparers



Department of the Treasury
Internal Revenue Service
Wage & Investment NDC/EITC
1201 North Minnesota Motorway
Bloomington, IL 61705

Date: 03/16/2018
Contact email address: wt.rprp@irs.gov
Preparer ID number:



You may not have met your due diligence requirements

Dear [Name]:

We're writing to make you aware of due diligence requirements for paid preparers.


You prepared tax year 2018 returns claiming at least one of the benefits listed below. Our review of these returns indicates you may not have met your due diligence requirements.

- Head of Household (HoH) filing status
- Earned Income Tax Credit (EITC)
- American Opportunity Tax Credit (AOTC)
- Child Tax Credit (CTC)
- Additional Child Tax Credit (ACTC)
- Credit for Other Dependents (ODC)

Please note that the Tax Cuts and Jobs Act expanded the due diligence requirements to cover eligibility to file as HoH. Beginning with tax year 2018 returns, Internal Revenue Code Section 6095(g). Failure to be diligent in determining eligibility for certain tax benefits, applies to paid preparers of returns and claims for refund claiming HoH filing status. The Tax Cuts and Jobs Act also modified the CTC to provide a \$500 nonrefundable credit for tax years 2018 through 2025. This new ODC can be claimed for qualifying dependents other than children who can be claimed for the CTC. The due diligence requirements for the CTC also apply to the ODC.

Paid preparers must comply with all due diligence requirements. Failure to do so can result in a penalty of \$520 per failure for tax returns filed in 2019.

Letter 5364 - Missing Form 8867



Department of the Treasury

Internal Revenue Service

Wage & Investment NDCEITC

1201 N. Mitsubishi Motorway

Bloomington, IL 61705

Date:

02/28/2019

Contact us by e-mail at:

wt.rspresponse@irs.gov

Preparer ID Number:

Missing Forms 8867 Alert

Dear (enter Name):

We're writing to make you aware of due diligence requirements for paid preparers because we received two or more tax year 2018 paper returns you prepared claiming at least one of the benefits listed below without a Form 8867, Paid Preparer's Due Diligence Checklist. We've enclosed a list of these returns with this letter for you to review.

- Head of Household (HoH) filing status
- Earned Income Tax Credit (EITC)
- American Opportunity Tax Credit (AOTC)
- Child Tax Credit (CTC)
- Additional Child Tax Credit (ACTC)
- Credit for Other Dependents (ODC)

605(g), you must include

to do so any result as a

not send us a copy of any

it'll continue to monitor


a diligence requirements.

Letter 5364 (Rev. 9-2018)

Gen. Inv. 51029

If you receive one of these letters...


- Don't ignore!
- Review your procedures
- Additional steps



Is it really the IRS?

Educational Phone Calls

- IRS caller will provide IRS ID number
- IRS caller will refer to previous written correspondence
- IRS caller will ask security questions to confirm appropriate preparer on the line
- IRS caller will provide educational information



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Educational Office Visit




Preparer Notification



Preparer Office Visit Exam



Exam Closing – Letter 1125

	Department of the Treasury Internal Revenue Service (Operating Division / Program Name)	Date: US/14251259
		Employee ID number:
		Form:
		Tax period ended:
		Person to contact:
		Employee ID number:
	Contact telephone number:	
	Response due date:	

Due []

I assess the penalty and begin enforced

We have enclosed a copy of our examination report explaining why we are proposing a tax return preparer penalty. Please review this proposed assessment and let us know whether or not you agree by following the directions provided in this letter.

What to Do If You Agree

You agree to the assessment and collection of the proposed penalty or penalties, please sign, date, and return one copy of the enclosed Form 5816, *Report of Tax Return Preparer Penalty Case*, in the envelope provided. Make your check or money order payable to the **United States Treasury** for the amount indicated on the form. You agree but cannot pay in full, pay that amount within 30 days from receipt of this notice and we will send you a bill for the remaining amount with information about your payment options.

Letter 1125 (Rev. 8-2015)
Caching Number 136227


What to Do If You Disagree

If you don't agree with our findings, you may request a meeting or a telephone conference with the supervisor of the person whose name is shown above. If you still do not agree with our findings, you have the right to request a conference with our Appeals Office. You may request an appeals conference as follows.

Exam Question – Penalties and Next Steps

Form 5816 4/18/2016 (2016)		Department of the Treasury - Internal Revenue Service	
Report of Tax Return Preparer Penalty Case			
Preparer's name		Preparer's PTIN, SSN, or EIN	
Street address	City	State	ZIP code
I filed one last. Preparer is <input type="checkbox"/> Employer preparer <input type="checkbox"/> Self-employed preparer <input type="checkbox"/> Employee preparer Examining Area/Function <input type="checkbox"/> Agreement <input type="checkbox"/> Full <input type="checkbox"/> None			
Name and title of person with whom penalty was discussed		Date of report	
The following information identifies the tax return or claim for which penalty is being charged Taxpayer's name _____ Preparer's SSN or EIN _____			
Street address	City	State	ZIP code
Tax period	Master file tax code		Date
Kind of Penalties (Penalty Charged)		Amount	
A. Understatement of tax due to an unreasonable position. (IRC Sec. 6654(d)) B. Understatement of tax due to willful or reckless conduct. (IRC Sec. 6654(b)) C. Failure to furnish a copy of the return or claim to the taxpayer. (IRC Sec. 6655(b)) D. Failure to sign return or claim. (IRC Sec. 6655(b)) E. Failure to furnish identifying number on return or claim. (IRC Sec. 6655(c)) F. Failure to keep a copy of a full of the return or claim prepared. (IRC Sec. 6655(d)) G. Failure to file certain information returns. (IRC Sec. 6655(a)) H. Negligence in preparing a related document submitted to a taxpayer (other than the preparer). (IRC Sec. 6655(h)) I. Failure to comply with due diligence requirements. (IRC Sec. 6655(g)) J. Disclosure or use of information, other than to prepare or assist in preparing returns, (IRC Sec. 6712) -Use penalty _____			
I agree that the preparer has agreed to the penalty and that the preparer is not aware of any other penalties that may apply to the preparer.		Date is go Form 5816 (Rev. 3/2016)	

Correspondence Due Diligence Exam



A collage of three black and white images. The top image shows a hand holding a pen, writing on a document. The bottom left image shows a calculator. The bottom right image shows a 1040 U.S. Individual Income Tax Return form, with the title '1040 U.S. Individual Income Tax Return' clearly visible.

Most Important Points: DD Compliance

- Remember to do your due diligence!
- The IRS uses various methods to contact paid tax preparers.
- There are consequences for failing to meet your due diligence requirements.



Paid Preparer Resources – Tax Preparer Toolkit

- Preparer Due Diligence
- Online Due Diligence Training
- Education Training Videos
- Preparer Compliance Information
- Hot Topics Update

www.eitc.irs.gov



Preparer Additional Resources

- IRS.gov
- Webinars
- Publications and Videos
- Contact U.S. – EITC Program Mailbox



EITC.program@irs.gov



Key Points

- Eligible child for the CTC must have the required Social Security Number
- Head of Household returns need Form 8867 to meet Due Diligence Requirements
- Credit for Other Dependents (ODC) can have an ITIN and can be over age 16
- The Tax Preparer Toolkit offers free training, webinars, publications and other resources



Key Points

- Remember to do your Due Diligence
- The IRS uses various methods to contact paid tax preparers
- There are consequences for failing to meet your due diligence requirements



Upcoming Webinars

- For information on future webinars, visit IRS.gov and use keyword search "webinars."
- Visit the IRS Video Portal for a variety of video and audio topics.
- www.irsvideos.gov



Certificates & Continuing Education

- Certificates of Completion will be emailed within the next few weeks.
- If you are eligible for Continuing Education from the IRS, the credit will be posted in your PTIN account.
- If you have not received your certificate and/or credit by February 6th, please email us:

SBSE.SL.Web.Conference.Team@IRS.gov



Thank You!