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# The Earned Income Tax Credit

## WHAT IS THE EARNED INCOME TAX CREDIT?

The Earned Income Tax Credit (EITC) is a benefit for working people who have low to moderate income. It reduces the amount of taxes you owe and may also give you a refund, **even if you do not owe any taxes**. It is also called the Earned Income Credit or EIC.

You can receive the EITC if:

1. you have earned income, even if you are also receiving public assistance or disability benefits such as Supplemental Security Income (SSI) and Social Security Disability (SSD);
2. you receive public assistance or disability benefits and your spouse has earned income; or
3. you have a qualifying child who receives public assistance or disability benefits and you have earned income.

## HOW CAN I CLAIM THE EITC?

There is a Federal EITC, a New York State (NYS) EITC, and New York City (NYC) EITC. To claim any of these benefits, you must meet **all** the following factors:

<p><b>You are eligible for the Federal EITC if:</b></p>	<ol style="list-style-type: none"> <li>1. You, your spouse (if you file a joint return), and all others listed on the EITC form, have a Social Security Number that is valid for employment purposes;</li> <li>2. You have earned income from working for someone else, (typically salary, wages or tips) or self-employment income from operating your own business or farm;             <ol style="list-style-type: none"> <li>a. Earned income does not include unemployment benefits, social security, retirement income, alimony, or child support.</li> </ol> </li> <li>3. Your filing status is single or married filing jointly (status cannot be married filing separately);</li> <li>4. You are a U.S. citizen or resident alien for the full year, or a nonresident alien married to a U.S. citizen or resident alien and filing a joint return for any part of the year;</li> <li>5. You <b>cannot</b> be a qualifying child of another person for tax purposes (See “Who counts as a qualifying child?” below);</li> </ol>
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	<p>6. You:</p> <ol style="list-style-type: none"> <li>a. Have a qualifying child; or</li> <li>b. If you do not have a qualifying child, you are: <ol style="list-style-type: none"> <li>i. Between age 25 and 64 years old at the end of the year,</li> <li>ii. live in the United States for more than half the year, and</li> <li>iii. do not qualify as a dependent of another person.</li> </ol> </li> </ol> <p>7. You <b>cannot</b> file Form 2555 or Form 2555 EZ (related to foreign earned income);</p> <ol style="list-style-type: none"> <li>a. You <b>cannot</b> have investment income greater than \$3,400; and</li> </ol> <p>8. You meet the earned income and adjusted gross income limits set forth below.</p>
<p><b>You are eligible for the NYS EITC if:</b></p>	<ol style="list-style-type: none"> <li>1. You qualified for and claimed the Federal EITC in your Federal Income Tax return;</li> <li>2. You filed a New York State Income Tax return; and</li> <li>3. You <b>did not</b> claim the Noncustodial Parent New York State Earned Income Credit.</li> </ol>
<p><b>You are eligible for the NYC EITC if:</b></p>	<ol style="list-style-type: none"> <li>1. You qualified for and claimed the Federal EITC in your Federal Income Tax return;</li> <li>2. You filed a New York State Income Tax return; <b>and</b></li> <li>3. You have been a full-year or part-year resident of New York City.</li> </ol>

**WHAT ARE THE INCOME LIMITS FOR FILING A 2016 EITC FORM?**

The income levels are the same when calculating the Federal, NYS, and NYC EITC. Your annual earned income and adjusted gross income (AGI) for the 2015 tax year must be below:

- \$47,747 (\$53,267 married filing jointly) with three or more qualifying children
- \$44,454 (\$49,974 married filing jointly) with two qualifying children
- \$39,131 (\$44,651 married filing jointly) with one qualifying child
- \$14,820 (\$20,330 married filing jointly) with no qualifying children

## WHO COUNTS AS A QUALIFYING CHILD?

To be a qualifying child, your child must meet **all** of the following tests:

<b>Age</b>	Your child must be: <ul style="list-style-type: none"><li>• Under age 19 at the end of the year and younger than you or your spouse, if you file a joint return;</li><li>• A full-time student under age 24 at the end of the year and younger than you or your spouse, if you file a joint return; or</li><li>• Permanently and totally disabled at any time during the year and any age.</li></ul>
<b>Relationship</b>	The child must be your: <ul style="list-style-type: none"><li>• Son, daughter, stepchild, eligible foster child, or a descendant of any of them (for example, if you are a grandparent who earns income, and you meet all of the EITC eligibility factors, you can claim the credit for a grandchild who receives public assistance or disability benefits);</li><li>• Brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them (for example, your niece or nephew);</li><li>• Adopted child; or</li><li>• Eligible Foster Child.</li></ul>
<b>Residency</b>	Your child must have lived with you, or your spouse if you file a joint return, in the United States for more than half of the year.
<b>Joint Return</b>	Your child must not have filed a joint return. However, if your child filed a joint return, your child and his/or her spouse must show that they filed only to claim a refund and were not required to file.

## WILL EITC REFUNDS BE COUNTED AS INCOME OR A RESOURCE FOR GOVERNMENT BENEFITS PROGRAMS?

Any refund you receive because of the EITC cannot be counted as **income** when figuring out whether you or anyone in your household would be eligible to receive Public Assistance, Medicaid, SSI, or SNAP benefits.

However, different rules apply for whether the EITC can count as a **resource**, depending on the type of benefits you are receiving and how long you plan to keep the EITC credits:

<b>Public Assistance</b>	The EITC does not count as income in the month when it is received and does not count as a resource thereafter.
<b>SNAP Benefits</b>	The EITC does not count as income in the month when it is received and does not count as a resource thereafter.
<b>SSI</b>	The EITC does not count as income in the month when it is received and does not count as a resource for 12 months following the month when you receive it.  However, if you keep the EITC past this resource period, and the amount places you over the resource limit, your benefits could be reduced or discontinued.
<b>Medicaid</b>	The EITC does not count as income or as a resource in both the month received and the following month.  However, if the EITC is kept past this resource period, and the amount places you over the resource limit, your benefits could be discontinued.

### UP TO HOW MUCH CAN I RECEIVE IF I QUALIFY FOR THE EITC?

The maximum credit that a household can receive for tax year 2015 is the following:

<b>Federal EITC</b>	<ul style="list-style-type: none"> <li>• \$6,242 with three or more qualifying children</li> <li>• \$5,548 with two qualifying children</li> <li>• \$3,359 with one qualifying child</li> <li>• \$503 without children</li> </ul>
<b>NYS EITC</b>	Up to 30% of your allowable Federal EITC for tax year 2015
<b>NYC EITC</b>	Up to 5% of you allowable Federal EITC for tax year 2015

For part-year NYC residents, the amount of EITC is adjusted based on the amount of income you received during the time you lived in NYC.

**IS THERE A WAY TO GET A RETROACTIVE EITC FOR PRIOR TAX YEARS EVEN THOUGH I DID NOT CLAIM IT?**

Yes. Individuals who did not claim Federal, NYS, and NYC EITC during previous tax years may be eligible for retroactive EITC payments and may claim for up to **three years** prior to the current tax year (i.e., tax years 2014, 2013, and 2012). In order to do this, you must file a specific Federal, NYS, and NYC EITC income tax return for each retroactive year.

<b>Federal EITC</b>	If you filed a Federal tax return, but you did not claim the Federal EITC for the tax year(s) in question, you must:  <ol style="list-style-type: none"><li>1. File an Amended U.S. Individual Income Tax Return (Form 1040X); and</li><li>2. Attach it to the copy of the tax return from the year for which the credit is being claimed.</li></ol>
<b>NYS and NYC EITC</b>	To claim retroactive NYS and NYC EITC's individuals must:  <ol style="list-style-type: none"><li>1. File the Claim for Earned Income Credit (Form IT-215); and</li><li>2. Attach a copy of the NYS income tax return from the tax year(s) for which the EITC's are being claimed</li></ol>

**HOW DO I APPLY FOR THE EITC?**

To apply for the Federal EITC you must complete Line 64 on Form 1040, Line 38a on Form 1040A, or Line 8a on Form 1040EZ. You can find these forms either online at <http://www.irs.gov> or at your local library or post office.

To apply for NYS and NYC EITC, you must complete your NYS income tax return and the NYS Claim for Earned Income Credit (IT-215) Form. You can find these forms either online at <http://www.tax.ny.gov> or at your local library or post office.

**WHO CAN I CONTACT IF I HAVE QUESTIONS?**

You may call MFY Legal Services, Inc.'s Government Benefits Project at 212-417-3732 on Mondays from 10:00 a.m. to 12:00 p.m.

**DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.**