# EITC

# Knowledge is everything

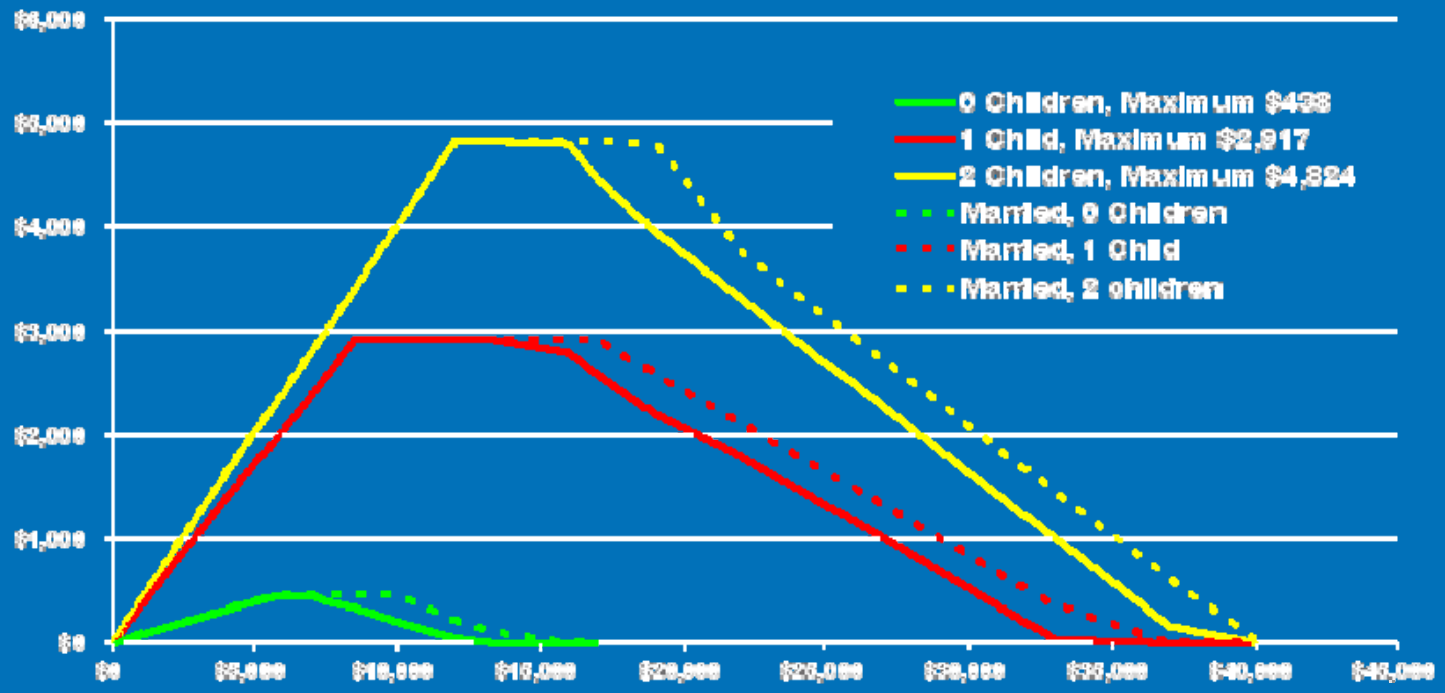
# We've got a lot to cover…

- Due Diligence Requirements
- Eligibility Requirements
- Who is a Qualifying Child?
- Online Tools

# EITC Facts

- For 2006, 22.4M returns were credited with $43.7B in EITC
- Although the number of individuals claiming EITC is high, erroneous payments are also high
  - Participation is estimated at 75 to 80%
  - 23 to 28% error rate according to current estimates

# For 2008 the maximum EITC credit is $4,824




- ✓Credit phases out as income increases
- ✓Claiming children raises the limit on income eligibility and increases the value of the credit
- ✓If married, income eligibility increases up to $3,000

IRS Nationwide 2008 Tax FORUM
Partners in Tax Administration

# Not as easy as it looks

1 Must have earned income

2 Must have a valid Social Security number

3 Cannot file as married filing separately

4 Generally cannot be a nonresident alien

5 Cannot be a qualifying child of another person

6 Cannot be filing Form 2555 or Form 2555-EZ

7 Investment income amount is limited

4 Incorrect Social Security Numbers

# Qualifying children

RELATIONSHIP

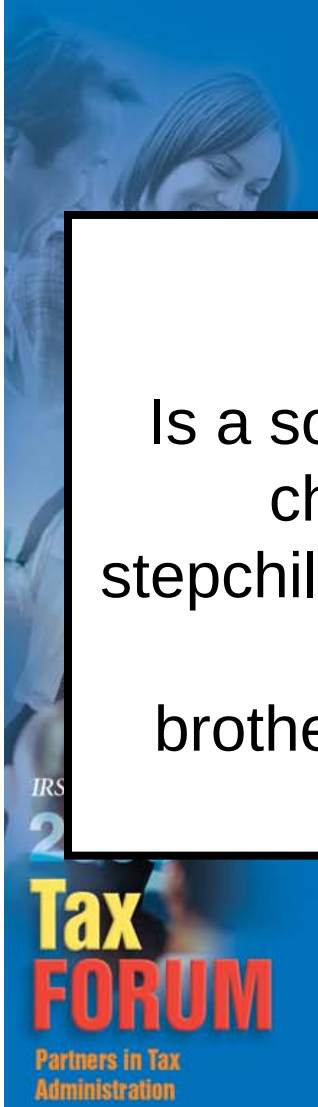
Is a son or daughter (including an adopted child or child placed for adoption), stepchild, foster child placed by an authorized placement agency or court, brother, sister, stepbrother, stepsister or a descendant of any of them

RESIDENCY

Lived with the claimant in the United States for more than half of the year

AGE

At the end of the filing year was:
Younger than 19, or
younger than 24 and a full-time student, or
any age if permanently and totally disabled at any time during the year



# Three Issues Count for more than 60% of EITC Overclaims

- **Qualifying Child:**
  - **Taxpayers claimed a child that did not meet the residency, age or relationship requirements**
- **Filing Status:**
  - **Taxpayers filed as single or head of household when they should have filed as married**
- **Misreported Income:**
  - **Taxpayers over-reported or under-reported earned income, modified adjusted gross income or under-reported investment income**

# Who Can Claim the EITC?

STEPFATHER

EARNED INCOME - $10,000

MOTHER

EARNED INCOME - $15,000

CHILD, 7 YEARS OLD, LIVED WITH STEPFATHER 7 MONTHS AND MOTHER 5 MONTHS

# Who Can Claim the EITC?

**ANSWER: THE STEPFATHER**

**THE MOTHER OF THE CHILD DOES NOT MEET THE RESIDENCY TEST.**

**RULE: CHILD MUST HAVE LIVED WITH THE CLAIMANT IN THE UNITED STATES FOR MORE THAN HALF THE YEAR.**

# Who Can Claim the EITC?

GRANDMOTHER

EARNED INC. - $10,000

MOTHER IS 18 YEARS OLD

EARNED INC. - $10,000

BABY LIVED WITH BOTH

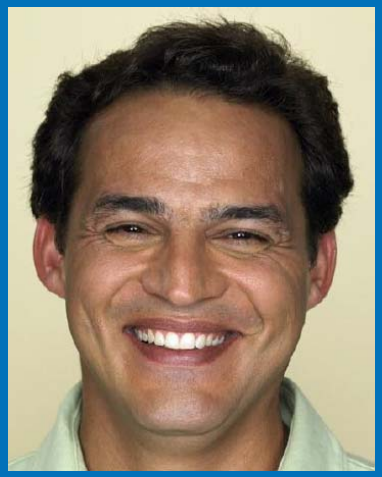
# Who Can Claim the EITC?

**ANSWER: THE GRANDMOTHER**

**THE MOTHER OF THE BABY IS A QUALIFYING CHILD.**

**RULE: CANNOT BE THE QUALIFYING CHILD OF ANOTHER PERSON.**

# Who Can Claim the EITC?



STEPFATHER

EARNED INCOME - $10,000

MOTHER

EARNED INCOME - $15,000

CHILD. 6 YEARS OLD, LIVED OVER HALF THE YEAR WITH EACH

# Who Can Claim the EITC?

**ANSWER:**
**EITHER ONE. THEY DECIDE.**

**IF BOTH ARE ELIGIBLE AND WANT TO CLAIM THE CHILD; THEN, THE TIE-BREAKER RULES WILL APPLY.**

# Tie Breaker Rules

- ***IF*** only one of the persons is the child's parent
  - ***THEN*** only the parent can treat the child as a qualifying child.
- ***IF*** two of the persons are parents of the child, and they do not file a joint return together
  - ***THEN*** only the parent with whom the child lived the longest during the year can treat the child as a qualifying child.
- ***IF*** two of the persons are parents of the child, the child lived with each parent the same amount of time during the year, and the parents do not file a joint return together
  - ***THEN*** only the parent with the highest adjusted gross income (AGI) can treat the child as a qualifying child.
- ***IF*** none of the persons are the child's parent
  - ***THEN*** only the person with the highest AGI can treat the child as a qualifying child.

# Due diligence requirements

## Checklist Completion

1

## Credit Computation

2

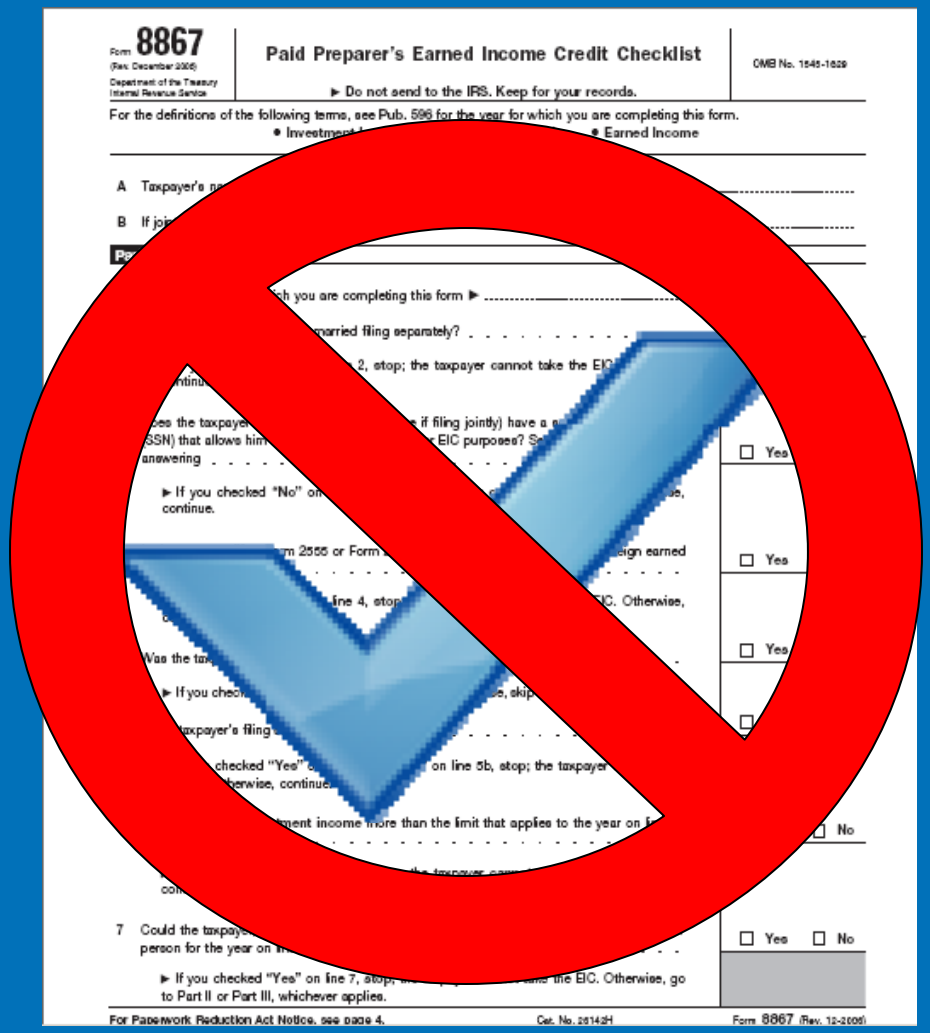
## Knowledge of Correct Taxpayer Information

3

## Record Retention

4

# Form 8867 – It is not just a check mark



Form **8867** (Rev. December 2006) Department of the Treasury Internal Revenue Service

**Paid Preparer's Earned Income Credit Checklist**

▶ Do not send to the IRS. Keep for your records.

OMB No. 1545-1629

For the definitions of the following terms, see Pub. 596 for the year for which you are completing this form.

• Investment • Earned Income

A Taxpayer's na

B If joi

Pa

h you are completing this form ▶

married filing separately?

2, stop; the taxpayer cannot take the EIC

ntinu

oes the taxpayer if filing jointly) have a

SSN) that allows him EIC purposes? S

answering

▶ If you checked "No" on

continue.

m 2555 or Form sign earned

line 4, stop IC. Otherwise,

Was the tax

▶ If you check

taxpayer's filing

checked "Yes" on line 5b, stop; the taxpayer

herwise, continue

ment income more than the limit that applies to the year on

co

7 Could the taxpay

person for the year on

▶ If you checked "Yes" on line 7, stop; the EIC. Otherwise, go to Part II or Part III, whichever applies.

☐ Yes

☐ Yes

☐ Yes

☐ No

☐ Yes ☐ No

For Paperwork Reduction Act Notice, see page 4. Cat. No. 26142H Form 8867 (Rev. 12-2006)

# Addressing egregious preparers

- Visits with possible civil penalties
- Referrals to Criminal Investigation for criminal penalties

# Who we're missing…

- Childless workers
- Rural taxpayers
- Non-traditional families
- New citizens with English as a second language

# Online tools at IRS.gov/eitc

- Tax Practitioner Toolkit
  (access directly at www.eitcfortaxpreparers.com)
- EITC Assistant
- Publications and worksheets
- Special rules

# In a nutshell

- Know the law
- Ask if in doubt
- Maximize the tools
- Reach out to qualifying taxpayers