

2015 Instructions for Form FTB 3596

Paid Preparer's California Earned Income Tax Credit Checklist

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2015, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the IRC as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to ftb.ca.gov and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

Registered Domestic Partners (RDPs) For purposes of California income tax, references to a spouse/RDP, husband, or wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Purpose

Paid preparers of California income tax returns or claims for refund involving the EITC must meet due diligence requirements in determining the taxpayer's eligibility for, and the amount of, the EITC. Failure to do so could result in a \$500 penalty for each failure. See California R&TC Section 19167(a)(5) and Part IV of this form.

Only paid preparers have to complete this form. If you were paid to complete a tax return for any taxpayer claiming the California earned income tax credit (EITC), attach the completed form FTB 3596, Paid Preparer's California Earned Income Tax Credit Checklist to Form 540 or Form 540 2EZ, California Resident Income Tax Return, or Long or Short Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.

Specific Line Instructions

Part I – All Taxpayers

Line 1a and 1b: Enter the name and preparer tax identification number (PTIN) of the preparer who determined the taxpayer's eligibility for, or the amount of, the EITC, even if that preparer is not the signing preparer.

Line 1c and 1d: Enter the state where the tax preparer was licensed, registered or enrolled; and provide the tax preparer's license, registration or enrollment number.

Line 3

Valid SSN. For the EITC, 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 allow the recipient of the SSN to apply for or receive a federally funded benefit. However, if "Valid for Work Only With DHS Authorization" is printed on the social security card, the SSN is valid for EITC purposes only as long as the DHS (Department of Homeland Security) authorization is still valid.

An ITIN, Individual Taxpayer Identification Number or ATIN, Adoption Taxpayer Identification Number cannot be used to claim EITC.

Line 6

For Form 540 2EZ and Short Form 540 NR filers, investment income is the total of the taxpayer's California source taxable interest income, tax-exempt interest income, ordinary dividends, and capital gain or loss. However, see the instructions for form FTB 3514, California Earned Income Tax Credit, Worksheet 2, Investment Income Form 540 and Long Form 540NR Filers to figure investment income if the taxpayer:

- Files form FTB 3803, Parents' Election to Report Child's Interest and Dividends, or
- Files Schedule D-1, Sale of Business Property, or
- Has income or loss from a passive activity, or
- Reports income on Schedule CA (540), California Adjustments – Residents, or Schedule CA (540NR), California Adjustments – Nonresidents, line 21 from the rental of personal property not used in a trade or business, or
- Reports expenses on Schedule CA (540), or Schedule CA (540NR), line 36 from the rental of personal property not used in a trade or business.

Line 7

If the taxpayer is a qualifying child of another taxpayer, the taxpayer cannot claim the EITC. This is true even if the person for whom the taxpayer is a qualifying child does not claim the EITC or meet all of the rules to claim the EITC.

The taxpayer is a qualifying child of another taxpayer (the taxpayer's parent, guardian, foster parent, etc.) if all of the following statements are true:

1. The taxpayer is that person's son, daughter, stepchild, foster child, or a descendant of any of them. Or, the taxpayer is that person's brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them.
2. The taxpayer was:
 - a. Under age 19 at the end of the year and younger than that person (or that person's spouse/RDP, if the person files jointly),
 - b. Under age 24 at the end of the year, a student, and younger than that person (or that person's spouse/RDP, if the person files jointly), or
 - c. Permanently and totally disabled, regardless of age.
3. The taxpayer lived with that person in California for more than half of the year.
4. The taxpayer is not filing a joint return for the year (or is filing a joint return only to claim a refund of withheld income tax or estimated tax paid).

However, the taxpayer is not the qualifying child of another taxpayer (and so may qualify to claim the EITC) if the person for whom the taxpayer meets the relationship, age, residency, and joint return tests described is not required to file an income tax return, and either:

- Does not file an income tax return, or
- Files a return only to get a refund of income tax withheld or estimated tax paid.

For examples and more details, get federal Publication 596, Earned Income Credit (EIC).

Part II – Taxpayers With a Child

Line 8

Enter only the child's first name unless more than one child has the same first name. In that case, enter other identifying information to distinguish between the two children.

Line 9

An **adopted child** is treated as the taxpayer's child by blood. An adopted child is a legally adopted child of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer.

A **descendant** usually refers to a grandchild or great-grandchild of the taxpayer, or to a child, grandchild, or great-grandchild of the taxpayer's brother, sister, stepbrother, stepsister, half brother, or half sister.

A **foster child** is a child placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. An authorized placement agency includes:

- A state or local government agency,
- A tax-exempt organization licensed by a state, and
- An Indian tribal government or an organization authorized by an Indian tribal government to place Indian children.

Line 10

Check "Yes" if the child was not married at the end of 2015.

In general, check "No" if the child was married at the end of 2015. However, check "Yes" if a married child is not filing a 2015 joint return (or is filing it only to claim a refund of income tax withheld or estimated tax paid), and either:

- Taxpayer can claim the child as a dependent, or
- The reason taxpayer cannot claim the child as a dependent is that taxpayer let the child's other parent claim him or her as a dependent under the special rules for children of divorced or separated parents.

For details and examples, get federal Publication 596.

Line 11

To qualify, the child must have the same principal place of residence in California as the taxpayer for more than half of 2015, defined as 183 days or more. Check "Yes" if the child was born or died during 2015 and the taxpayer's home was the child's home for more than half the time the child was alive in 2015.

Temporary absences may count as time lived at home. For more information get federal Publication 596.

Line 12

Student. To qualify as a student, a child must be, during some part of each of any 5 calendar months during the calendar year:

1. A full-time student at a school that has a regular teaching staff, course of study, and regular student body at the school, or
2. A student taking a full-time, on-farm training course given by a school described in (1), or the state, county, or local government.

The 5 calendar months don't have to be consecutive.

A full-time student is a student who is enrolled for the number of hours or courses the school considers to be full-time attendance.

A school can be an elementary school, junior or senior high school, college, university, or technical, trade, or mechanical school. However, on-the-job training courses, correspondence schools, and schools offering courses only through the Internet do not count.

Students who work in co-op jobs in private industry as a part of a school's regular course of classroom and practical training are considered full-time students.

More than one child. If you checked "No" on line 9, 10, 11, or 12, but there is more than one child, complete lines 8 through 14 for the other child(ren) (but for no more than three qualifying children). If the taxpayer does not have a qualifying child, go to Part III to see if the taxpayer can take the EITC for taxpayers who does not have a qualifying child.

Line 13a

Check "No" if the taxpayer is filing a joint return and the only other person who could check "Yes" on lines 9, 10, 11, and 12 for the child is the taxpayer's spouse/RDP.

Line 13c

If you checked "Yes" on line 13a, the child meets the conditions to be a qualifying child of both the taxpayer and at least one other person. However, only one of those persons can treat the child as a qualifying child and take, if otherwise eligible, all of the following tax benefits using that child: the child's dependency exemption, head of household filing status, the credit for child and dependent care expenses, the exclusion for dependent care benefits, and the EITC. The other person(s) cannot take the EITC for people who don't have a qualifying child. In addition, the other person cannot take any of the five tax benefits just listed unless he or she has a different qualifying child.

Tiebreaker rules. To determine which person can treat the child as a qualifying child, the following tiebreaker rules apply.

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
- If the parents file a joint return together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
- If the parents don't file a joint return together but both parents claim the child as a qualifying child, the child is treated as the qualifying child of the parent with whom the child lived for the longer period of time during the year. If the child lived with each parent for the same amount of time, the child is treated as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year.
- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the year.
- If a parent can claim the child as a qualifying child but no parent does so claim the child, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who can claim the child.

Subject to the rules just described, the taxpayer and the other person(s) may be able to choose which of them treats the child as a qualifying child. If the taxpayer allows another person to treat the child as a qualifying child, check "No" on line 13c. For examples and details, get federal Publication 596.

Line 14

See the line 3 instructions for the definition of a valid SSN. If the child does not have a valid SSN because he or she was born and died during the year, check "Yes".

Line 15

The taxpayer's California earned income and federal adjusted gross income (AGI) each must be less than:

- \$13,870 if the taxpayer has two or more qualifying children,
- \$9,880 if the taxpayer has one qualifying child, or
- \$6,580 if the taxpayer does not have a qualifying child.

Part III–Taxpayers Without a Qualifying Child

Line 16

Check "Yes" if the taxpayer's main home, and the main home of the taxpayer's spouse/RDP, if filing jointly, was in California for 183 days or more.

Line 17

Check "Yes" if the taxpayer (or the taxpayer's spouse/RDP if filing a joint return) was born after December 31, 1950, and before January 2, 1991.

However, if either the taxpayer or the taxpayer's spouse/RDP died in 2015, get federal Publication 596 before you answer.

Line 19

The taxpayer's **earned income** and **adjusted gross income** each must be less than \$6,580 if the taxpayer does not have a qualifying child.

Part IV – Due Diligence Requirements**Line 22**

Check “Does not apply” if:

- The taxpayer does not have a qualifying child, or
- The taxpayer’s qualifying child is the taxpayer’s son or daughter.

Line 23

Check “Does not apply” if the answer to question 13a is “No.”

Lines 24 and 25

If a reasonable and well-informed tax return preparer knowledgeable in the law would conclude that any information the taxpayer has given you appears to be incorrect, incomplete, or inconsistent with the taxpayer’s eligibility to claim the EITC, you must ask the taxpayer reasonable questions to get information that is correct, consistent, and complete. You must document the questions you asked and the answers you received. This is how you meet your knowledge requirement.

Line 24.

Check “Does not apply” on line 24 if you did not need to ask any additional questions because the taxpayer did not give you any information that appeared to be incorrect, inconsistent, or incomplete.

Line 25.

There are three separate questions on line 25. They are labeled (a), (b), and (c). If the answer to any of them ((a), (b), or (c)) is “No,” check “No.”

If the answer to all three is “Does not apply,” check “Does not apply.”

Otherwise, check “Yes.”

Part V—Documents Provided to You**Line 26**

Keep copies of any documents provided by the taxpayer that you relied on to determine whether any child is a qualifying child. See Document Retention for details.

If you did not rely on any documents, check the appropriate box (m, n, t and/or u).

Check all the boxes that apply. However, if you check box a, m, or n do not check any other box from b to l. If you check box o, t, or u, do not check any other box from p to s.

There is no limit to the number of documents you can enter on lines 26l or, 26s. If you need more space, use a separate sheet of paper.

Document Retention

You must keep the records described in Part IV, Due Diligence Requirements, lines 4a, 4b, 4c, 4d, and 4e for 4 years from the latest of the following dates that apply.

- The due date of the tax return (not including extensions).
- The date the return was filed (if you are a signing tax return preparer electronically filing the return).
- The date the return was presented to the taxpayer for signature (if you are a signing tax return preparer not electronically filing the return).
- The date you submitted to the signing tax return preparer the part of the return for which you were responsible (if you are a nonsigning tax return preparer).