



## Notice 1015

(Rev. October 1997)

### Have You Told Your Employees About the Earned Income Credit (EIC)?

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#### What Is the EIC?

The EIC is a refundable tax credit for certain workers. For 1997, the EIC can be as much as \$2,210 for a worker who has one qualifying child; \$3,656 for a worker who has more than one qualifying child; \$332 for a worker who does not have a qualifying child.

**A change to note:** Workers **cannot** claim the EIC if their 1997 investment income (such as interest, dividends, and net nonbusiness income from rents and royalties) is over \$2,250.

#### Which Employees Must I Notify About the EIC?

You must notify each employee who worked for you at any time during the year and from whom you did not withhold income tax. However, you do not have to notify any employee who claimed exemption from withholding on **Form W-4**, Employee's Withholding Allowance Certificate.

**Note:** *You are encouraged to notify each employee whose wages for 1997 are less than \$29,290 that he or she may be eligible for the EIC.*

#### How and When Must I Notify My Employees?

You must give the employee one of the following:

- The IRS **Form W-2**, Wage and Tax Statement, which has the required information about the EIC on the back of **Copy B**.
- A substitute Form W-2 with the same EIC information on the back of the employee's copy that is on Copy B of the IRS Form W-2.
- **Notice 797**, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).
- Your written statement with the same wording as Notice 797.

If you are required to give Form W-2 and do so on time, no further notice is necessary if the Form W-2 has the required information about the EIC on the back of the employee's copy. If a substitute Form W-2 is given on time but does not have the required information, you must notify the employee within 1 week of the date the substitute Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 9, 1998.

You must hand the notice directly to the employee or send it by First-Class Mail to the employee's last known address. You will not meet the notification requirements by posting Notice 797 on an employee bulletin board or sending it through office mail. However, you may want to post the notice to help inform all employees of the EIC. You can get copies of the notice by calling 1-800-829-3676.

#### How Will My Employees Know If They Can Claim the EIC?

The 1997 instructions for Forms 1040, 1040A, and 1040EZ, and **Pub. 596**, Earned Income Credit, explain in detail who can claim the EIC. Generally, any employee who meets the following requirements may be able to claim the EIC for 1997.

**Note:** *An employee **cannot** claim the EIC if he or she files **Form 2555** or **Form 2555-EZ** (relating to foreign earned income). Also, an employee who is a nonresident alien for any part of 1997 **cannot** claim the EIC unless he or she is married to a U.S. citizen or resident and elects to be taxed as a resident alien for all of 1997.*

- The employee's 1997 earned income and adjusted gross income (modified adjusted gross income for certain employees who file Form 1040) are both under \$25,760 (under \$29,290 if the employee has more than one qualifying child; under \$9,770 if the employee does not have a qualifying child). **Earned income** for this purpose does not include amounts inmates in penal institutions are paid for their work.
- The employee's filing status is any status **except** married filing a separate return.
- The employee (and the employee's spouse if filing a joint return) is not a qualifying child of another person.
- For an employee without a qualifying child, the employee is at least age 25 but under 65 at the end of 1997. Also, no one may be entitled to claim the employee as a dependent and the employee's home must be in the United States for over half of 1997. If the employee is married filing a joint return, other rules apply.

#### How Do My Employees Claim the EIC?

Eligible employees claim the EIC on their 1997 tax return. Even employees who have no tax withheld from their pay or owe no tax can claim the EIC and get a refund, but they must file a tax return to do so. For example, if an employee has no tax withheld in 1997 and owes no tax but is eligible for a credit of \$791, he or she must file a 1997 tax return to get the \$791 refund.

#### How Do My Employees Get Advance EIC Payments?

Eligible employees who have a qualifying child can get part of the credit with their pay during the year by giving you a completed **Form W-5**, Earned Income Credit Advance Payment Certificate. You **must** include advance EIC payments with wages paid to these employees, but the payments are not wages and are not subject to payroll taxes. Generally, the payments are made from withheld income, social security, and Medicare taxes. For details, see **Pub. 15**, Employer's Tax Guide.

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