

T.D. 8905
(final regulations outlining the due diligence requirements for tax preparers regarding EIC)

The IRS has issued final regulations, Treas. Reg. §1.6695-2, relating to due diligence requirements under I.R.C. §6695(g) for paid preparer of federal income tax returns or claims for refund involving the earned income credit (EIC), reflecting the changes made by the Taxpayer Relief Act of 1997.

Explanation. I.R.C. §6695(g) was added by §1085(a)(2) of the Taxpayer Relief Act of 1997, Public Law 105-34, effective for taxable years beginning after December 31, 1996. I.R.C. **§6695(g) imposes a \$100 penalty for each failure by an income tax return preparer to meet the due diligence requirements set forth in regulations.**

On December 22, 1997, the IRS published Notice 97-65 (1997-2 C.B. 326), in which the IRS set forth the preparer due diligence requirements for 1997 returns and claims for refund involving the EIC. To avoid the imposition of the penalty under I.R.C. §6695(g) for 1997 returns and claims for refund, Notice 97-65 required preparers to meet four requirements: (1) complete the Earned Income Credit Eligibility Checklist attached to Notice 97-65, or otherwise record the information necessary to complete the checklist; (2) complete the Earned Income Credit Worksheet, as contained in the 1997 Form 1040 instructions, or otherwise record the computation and information necessary to complete the worksheet; (3) not know or have reason to know that any information used by the preparer in determining eligibility for, and the amount of, the EIC is incorrect; and (4) retain for three years the checklist and worksheet (or alternative records), and a record of how and when the information used to determine eligibility for, and the amount of, the EIC was obtained by the preparer.

On December 21, 1998, temporary regulations (T.D. 8798, 1999-1 C.B. 804) under I.R.C. §6695(g) were published. The requirements set forth in the temporary regulations were substantially similar to those in Notice 97-65. After consideration of the one comment received, the proposed regulations under I.R.C. §6695(g) were adopted without change.

Effective Date. These regulations are **effective October 17, 2000.**

[T.D. 8905, 2000-44 I.R.B. 435 (October 16, 2000)]