

The EIC Can Help Workers with Disabilities and Families Raising Children With Disabilities



Can a person who receives disability benefits get the EIC and Child Tax Credit (CTC)?

To be eligible for the EIC, individuals must have earned income. Most disability-related benefits are not considered earned income, but a person who receives long-term, employer-paid disability benefits and is under minimum retirement age can qualify for the EIC, even if he or she did not work during the tax year. (Minimum retirement age is the earliest age at which a worker can receive a pension or annuity if not disabled.) Such disability benefits are considered taxable income, are reported as wages on tax returns and are considered earned income in determining eligibility for the EIC and the CTC refund.

Benefits such as Social Security Disability Insurance, SSI, military disability pensions, and payments from individually-purchased disability insurance policies are not counted as earned income. Individuals who receive these types of benefits may qualify for the EIC and the CTC refund if they, or their spouse, also have earned income.

Can children with disabilities be claimed for these tax credits?

The EIC — a worker may claim a person with total and permanent disabilities of any age as a “qualifying child” for the EIC if that person otherwise meets the qualifying child rules for the EIC. For example, parents may claim their adult children if they have such disabilities. Also, persons who are caring for relatives with such disabilities who meet the other rules for a “qualifying child” may be able to claim them for the EIC.

Note: If the person with disabilities is claimed under the qualifying child rules for a foster child, an authorized agency must have placed that person in the care of the worker.

The CTC — a child claimed for the CTC, *including a child with disabilities*, must be under age 17 at the end of the year. Qualifying children with disabilities may themselves receive income from benefits such as SSI. A worker’s eligibility to claim such children for the EIC is not affected by the fact that the child receives SSI payments. This also applies to CTC eligibility, unless more than half of the child’s support is provided by SSI and other benefits. In that case, the CTC may not be claimed.

A person with total and permanent disabilities who is able to earn income may be eligible to claim the EIC, if the eligibility rules are met. However, if that person lives with parents or other relatives who can claim him or her as a qualifying child, the worker is not eligible to claim the EIC.

Will claiming the EIC or CTC affect eligibility for other benefits upon which people with disabilities rely?

Income. Federal law generally excludes counting either EIC or CTC as additional income in determining eligibility for other federal public benefits, including: Medicaid, SSI, food stamps, Veteran’s Benefits, Head Start or federally assisted housing. The rules for welfare cash assistance are set by states, but only Connecticut counts the EIC (and only the amounts received as Advance EIC payments). However, the CTC cannot be counted as income in determining eligibility for any federally funded program, even if program rules are set by the states.

SSI recipients might be concerned that the EIC or CTC refund would affect their eligibility by exceeding the “substantial gainful activity” (SGA) level — the amount of earnings above which recipients no longer qualify for SSI benefits. Tax refunds are not considered earnings from employment and they have no impact on the SGA.

Resource tests. While there is little cause for concern that the EIC or CTC will affect eligibility for benefit programs by being counted as extra income, some government benefit programs also have rules about the value of resources individuals may have and remain eligible. This means that if individuals wish to save some or all of their tax refunds, they should be familiar with the resource rules for other benefits they may receive.

The standard rule for most benefit programs has been that EIC and CTC refunds, if saved, are not counted toward dollar limits on resources during the month the refund is received and the following month. That rule is contained in federal law covering the treatment of CTC refunds for any benefit program receiving federal funding. There are now several exceptions to this rule.

Welfare cash assistance (TANF) — In most states, the standard resource rule described above is followed. No state has implemented a stricter rule. However, some states have removed the resource test for their TANF program and so there is no limit on how long a refund can be saved.

Medicaid — The standard rule above applies to Medicaid resource limits. However, since states have the flexibility to broaden or remove Medicaid resource limits, this rule will not apply in some states. Medicaid recipients who wish to save tax refunds for longer than two months should check with the Medicaid program in their state.

SSI — EIC and CTC refunds are excluded from resources for nine months following the month the refund is received. (The interest paid on EIC and CTC amounts held in savings also does not count as income in determining SSI eligibility.)

Food stamps — The food stamp rules for the EIC are different from the rules for the CTC. EIC refunds are excluded from resources for 12 months for food stamp recipients who remain on the program during that time. However, CTC refunds are excluded from resources only in the month the refund is received and the following month.

Veterans’ Benefits — If a veteran receiving a Veteran’s Administration (VA) means-tested benefit saved the EIC or CTC refund, the amount would count as a resource. However, because the resource limit for VA pension benefits is very high (\$80,000, not counting a home and a motor vehicle), unless a veteran already has substantial resources near this limit it is unlikely that saving the EIC or CTC refund would affect eligibility for VA benefits.

Other tax benefits. Individuals who claim the federal Credit for the Elderly or the Disabled on their tax returns may also claim the EIC and CTC, if eligible. *For more information on this tax credit, see IRS Publication 524.*

State EIC refunds. 22 states and DC have state EICs in effect for 2009. Federal and state public benefit program rules for state EIC refunds are not necessarily the same as those for the federal EIC. *For more information, see “State Earned Income Credits” in the “More Facts About Tax Credits” section of the www.eitcouthere.org website or contact the Center on Budget and Policy Priorities at 202-408-1080.*