

EIC Without a Qualifying Child

Probe/Action: Ask the taxpayer:

step 1	Can you (or your spouse, if filing jointly) be claimed as a dependent by another person?	If NO , go to Step 2. If YES , STOP. You can't claim the EIC.
step 2	Were you (or your spouse, if filing jointly) at least 19 (age 24 if a specified student) on December 31 of the tax year?	If NO , STOP. You can't claim the EIC unless an exception applies. See the Note below. If YES , go to Step 3.
step 3	Did you (and your spouse, if filing jointly) live in the United States for more than half (at least 183 days) of the tax year?	If NO , STOP. You can't claim the EIC. If YES , compute EIC using the appropriate EIC worksheet.

Note: See footnote 3 and corresponding notes on page I-2.

Qualifying Child of More than One Person

If the child meets the conditions to be the qualifying child of more than one person, only one person can claim the child. The tiebreaker rules, which follow, explain who, if anyone, can claim the EIC when more than one person has the same qualifying child. However, the tiebreaker rules don't apply if the other person is your spouse and you file a joint return. Review all of the conditions to see which one applies.

- 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 don't file a joint return together but both parents claim the child as a qualifying child, the IRS will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time in 2021. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for 2021.
- 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 2021.
- 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 2021, 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.

Note 1: If the taxpayers can't claim the EIC because their qualifying child is treated under the tiebreaker rules as the qualifying child of another person for 2021, they may be able to take the EIC using a different qualifying child, or take the EIC if they qualify using the rules for people who don't have a qualifying child.

Note 2: Subject to these tiebreaker rules, the taxpayer and the other person may be able to choose which of them claims the child as a qualifying child. See Publication 596, Earned Income Credit (EIC), for examples. Only parents have the option to choose which parent will claim the child. All other taxpayers wanting to claim the qualifying child must follow the tiebreaker rules. See Pub 596 for examples. The IRS will apply the tiebreaker rules when the child is claimed by multiple taxpayers.