Agenda

- 2013 filing season information
- Importance of due diligence
- Due diligence requirements
- Due diligence tips
- EITC refund error prevention
- Resources
2013 Filing Season Information

- No changes to EITC tax law
- 2009 provisions set to expire at end of 2012
- Complete and submit Form 8867
- Retain pertinent documentation
2013 Filing Season Information (Cont’d.)

- Record retention period change
- Real-time due diligence compliance program
- Due Diligence preparer penalty increased to $500
- Assess penalties to tax preparer employers
Importance of Due Diligence

- Ensures clients receive correct EITC amount
- Protects your clients from EITC-related penalties
- Helps avoid and reduce EITC errors
Internal Revenue Code §6695(g) provides Due Diligence Requirements

1. Complete Form 8867, *Paid Preparer’s Earned Income Credit Checklist*

2. Complete Computation of the Credit Worksheet

3. Retain records

4. Knowledge requirement
Record Retention Requirements

- Who provided information and receipt date
- Computation and eligibility worksheets, including Form 8867
- Eligibility determination documents
- Additional questions and responses
Record Retention

- Pertinent records for three years
- Paper or electronic records in secure location
- Back-up in separate, secure location
Knowledge Requirement

• Not know or have reason to know, that information is incorrect

• Ask client additional questions if reasonable and well-informed tax return preparer, knowledgeable in law, would conclude information seems incorrect, inconsistent or incomplete.

• Document questions asked and client’s responses
Knowledge Requirement Tips

- Apply common sense standard to client-provided information
- Evaluate if information is complete; gather missing facts
- Determine if information is consistent; recognize contradictory or false statements
- Conduct thorough, in-depth interview with every client, every year
Knowledge Requirement Tips

- Ask enough questions to reasonably know return is correct and complete
- Document all questions asked and client’s responses
Knowledge Requirement
Non-Compliance

- Claiming a child not meeting age, relationship, residency requirements
- Incorrect filing status
- Over or under-reporting income or expenses, particularly Schedules C
Schedule C and EITC

• Conduct thorough and in-depth interview with clients about their business activity
• Review supporting material
• Educate clients on recordkeeping and consequences of failure to keep records
• Guide clients through a reconstruction of income and expenses, if necessary
Reconstruction of Clients’ Records

- Appointment books or calendars
- Online map tools
- Checkbook, cancelled checks, bank statements or credit card statements
- Client list
- Partial receipts or sales tax records
Reconstruction of Clients’ Records

- Cell phone records and call history or computer logs
- Prior years tax returns
- Guide client for use of partial records to develop support for Schedule C
Due Diligence and Accurate EITC Claims

Adverse effects:

— Client penalties
— Client banned from future EITC claims
— Preparer penalties
— OPR discipline
— Criminal prosecution
Employer Non-Compliance of EITC Due Diligence

- Penalties
- Due diligence non-compliance
  - Participation
  - Failure of provide correct procedures
  - Disregard
Tips for Employers to Protect Themselves

- Review current office procedures
- Review procedures with employees
- Conduct annual EITC due diligence training or use online module (English and Spanish)
- Test employees’ knowledge of due diligence and procedures
- Perform recurring quality review checks on employees’ work
EITC Preparer Compliance Strategy

- Targeted
- Tailored
- Tiered
EITC Preparer Compliance Strategy

- First tier - education and outreach
- Letters to new and experienced preparers
- Visits to preparers filing highly questionable returns
EITC Preparer Compliance Strategy

Auditing for due diligence compliance
• Notify preparer and set appointment
  — Preparers contacted beginning early October
  — Appointment set by phone or letter
  — Employee and employer (if applicable) are contacted
Historical Due Diligence
Compliance Program

• Review selected EITC returns
• Software review
• Determine penalty
Audit Procedures for Compliance Programs

- Examiner interviews preparer and employer with focus on due diligence training, policies and procedures
- Examiner begins with 25 EITC returns
- Review expanded if non-compliance with due diligence requirements is noted
Software Review

- Data intake questionnaire
- Form 8867, *Paid Preparer’s Earned Income Credit Checklist*
- EIC Computation Worksheet
- Presets and overrides
Examiner’s Penalty Determination

• Examiner determines if preparer has complied with IRC 6695 (g)
• Examiner determines penalties for employer or employee preparer, if warranted
• Preparers offered managerial conference if in disagreement with proposed penalties
• Letter 1125 issued with report and explanation of appeal rights if preparer disagrees
EITC Preparer Compliance Strategy

Barring Non-Compliant EITC Return Preparers from Filing Tax Returns

• Bars a preparer from filing federal tax returns
• Imposes restrictions on preparers filing federal tax returns with EITC claims
• Pre-filing season certified mail letters notify preparer detailing high error rate from previous filing season and letting them know we are watching the returns they file
• Early in the filing season returns are reviewed and improvement measured twice
• Preparers who show no improvement receive immediate treatment
New Real-Time Due Diligence Compliance Program

• Only current year client returns identified for audit
• Number of audited returns varies
• Examiners immediately contact preparers face-to-face
• Audit immediately conducted to promote EITC return accuracy improvement during current filing season
Pre-Refund Error Detection After Return Filed

- EITC filters
  - Automated questionable credits
  - Taxpayer Protection Unit
  - Exam

- Fraud filters, Taxpayer Assurance Program
  - Exam
  - Accounts Management adjustment
Avoid EITC Errors

- Know the law
- Ask the right questions
- Get the facts
- Document as you go
Avoiding EITC Errors

• Know EITC tax law and eligibility rules
• Software not substitute for knowledge of EITC tax law
• Practice EITC due diligence
Additional EITC Due Diligence Information

- Visit IRS.gov, Search keyword “Due Diligence”
- Publication 4926, EITC and Due Diligence Made Easy DVD
- Visit EITC.IRS.gov for all things EITC
- Publication 596, Earned Income Credit
- IRC § 6695(g)
- Treasury Regulations §1.6695-2