

2009 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Earned Income Tax Credit [Federal]¹

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Purpose

Provides qualified employees with earned income tax credits for their tax returns or advanced payments throughout the year.

Who Must Comply

All employers, including farmers, must pay Advance Earned Income Tax Credit if the employee is eligible and requests payment.

Exemptions

Employers who pay agricultural workers on a daily basis are not required to pay advance earned income tax credit.

Employer Responsibilities

- Employers must notify employees not having income tax withheld that they may be eligible for earned income tax credits.
- If requested by the employee, the employer must provide Form W-5 (*Earned Income Credit / Advance Payment Certificate*), which is available at the nearest Internal Revenue Service (IRS) office or post office. Once the employer has given notice, there is no further responsibility unless the worker chooses to select the earned income tax credit.

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- If a worker selects advance earned income tax credit and files a Form W-5, the employer must:
 - Compute the employee's gross pay. (For agricultural employees, gross pay is interpreted as those wages subject to Social Security and Medicare Taxes.)
 - Compute the employee's Social Security, Medicare and Withholding Tax.
 - Refer to tables in IRS Circular E, *Employer's Tax Guide*, and compute the Advance Earned Income Tax Credit payment based on the employee's gross pay for pay period.
 - Add Advance Earned Income Tax Credit to the employee's pay for the pay period.
 - Show the amount of Advance Earned Income Tax Credit payments during the year on the employee's Form W-2.
 - Retain all records of Advance Earned Income Tax Credit payments for four years. These records should include the following information:
 - Copy of the employee's Form W-5.
 - Amount and date of the employee's earnings.
 - Dates of the employee's employment.
 - Dates and amount of tax deposits made.
 - Copies of returns filed.
- On Form W-5, the employee must show if he or she is married and whether the spouse has a Form W-5 in effect for the year. If the employee indicates the spouse has a Form W-5 in effect, the employer will use the table titled *Married with Both Spouses Filing Certificate*.
- Employers must file the appropriate forms with the Internal Revenue Service, Form 941, *Employer's Quarterly Tax Return*, for non-farm packinghouses, canners, and processors or Form

943, *Annual Tax Return for Agricultural Employers*, for farm employers.

- Employers must also file Form W-3, *Transmittal of Income and Tax Statements*, annually, by February 28th, accompanied by a Form W-2 for each individual employee to the Social Security Administration. (See EDIS document FE415, *Social Security and Medicare [Federal]*.)

Employer Reimbursement

Employers are reimbursed by the IRS for Advance Earned Income Tax Credit payments as follows:

- The employer deducts the amount of the Advance Earned Income Tax Credit payment from his or her total liability for withholding taxes as he or she periodically remits funds to IRS.
- If the Federal Income taxes withheld are not sufficient to cover the amount of the Advance Earned Income Tax Credit payments to his or her employees, the employer may deduct the excess from the employee's contribution to Social Security and Medicare.
- If there is still an excess of Advance Earned Income Tax Credit payments, the employer may deduct the excess from the employer's contribution to Social Security and Medicare.
- If, for any payroll, the Advance Earned Income Tax Credit payments are more than the withheld income tax and the Social Security and Medicare taxes (including the employer's share of Social Security and Medicare taxes), the employer may do one of the following:
 1. Reduce each Advance Earned Income Tax Credit payment proportionately.
 2. Make full payment of Advance Earned Income Tax Credit amount and have full amounts treated as an advance payment of employer's tax liability.

Employee Eligibility

The eligibility requirements for Advance Earned Income Tax Credits are detailed on Form W-5. They include the following:

- The employee's expected earned income and adjusted gross income (including the spouse's) must each be less than \$25,078, if there is one child. For more than one child, earned income must be less than \$28,495. (These figures change annually. Check with the IRS.)
- The employee generally must have a child living with him or her more than half the year, including when the child is away at school or on vacation. (The entire year for a foster child.)
- If married, the employee must file a joint tax return or, if eligible, file as head of household and have a qualifying child.
- The employee and any spouse must be at least twenty-five years of age.
- Employees are ineligible for any program benefits if income from investments (dividends and interest) exceeds \$2,200 in a given year.
- The employee must file a Form W-5 with his or her employer. The employee is solely responsible for determining eligibility when filing a Form W-5.
- The employee must not have foreign earned income, must file an annual tax return (Form 1040), and must expect to be eligible for Advance Earned Income Tax Credits the following year.
- Employers must stop making Advance Earned Income Tax Credit payments for the remainder of the year to employees receiving total compensable wages of \$25,078 (if one child) or \$28,495 (if more than one child).

Responsible Agency

Department of the Treasury

International Revenue Service

Washington, D.C. 20224

<http://www.irs.ustreas.gov>

For local offices, see the telephone directory for

- U.S. Government
- Internal Revenue Service

For toll-free information, dial 1(800) 829-1040.