Consequences of Not Meeting Your Due Diligence Requirements

A paid tax return preparer can face potential consequences for not meeting the due diligence requirements. A firm employing a preparer can also be subject to consequences for an employee's failure to follow due diligence rules.

You must meet specific due diligence requirements if you are paid to prepare a tax return or claim for refund claiming any of these tax benefits:

- Earned income tax credit (EITC),
- Child tax credit (CTC), additional child tax credit (ACTC), credit for other dependents (ODC),
- American opportunity tax credit (AOTC), or
- Head of household (HOH) filing status

See our Preparer Due Diligence Law page for more information.

Preparing Incorrect Returns Affects You, Your Clients and Your Employer

COSTLY FOR YOUR CLIENTS: Taxpayers who seek assistance from a professional tax return preparer expect the preparer to know the tax law and prepare an accurate return. If we examine **your client's return** and disallow the HOH filing status or disallow all or a part of the EITC, CTC/ACTC/ODC or AOTC, your **client must pay** back any amount refunded in error plus any additional amount assessed, with interest, and may be:

- Required to file Form 8862 PDF, *Information To Claim Certain Credits After Disallowance*
- Banned from claiming the credit(s) for two years if we find the error is due to reckless or intentional disregard of the rules
- Banned from claiming the credit(s) for ten years if we find the error is due to fraud

CONSEQUENCES FOR YOU: If we examine the returns or claims for refund **you prepared** and find you did not meet the due diligence requirements, we may assess a **$500 penalty against you for each failure** to meet due diligence requirements. (See Internal Revenue Code section 6695(g))

The penalty amount is indexed for inflation. For a return or claim for refund filed in 2021, the penalty that can be assessed against you is **$540 per failure**. Therefore, if due diligence requirements are not met on a return or claim for refund claiming the EITC, CTC/ACTC/ODC, AOTC and HOH filing status, the **penalty can be up to $2,160 per return or claim**.

CONSEQUENCES FOR YOUR EMPLOYER: IRS can also assess due diligence penalties **against an employer** if an employee fails to comply with the due diligence requirements. (See Treasury Regulation section 1.6695-2 (c).)

Learn more about the due diligence requirements for preparers and firms employing preparers in Due Diligence FAQs, including ways an employer can avoid penalties.

If you fail to meet due diligence requirements, you can also face:

- Other civil return preparer penalties
- Suspension or expulsion from IRS e-file
- Disciplinary action by the IRS Office of Professional Responsibility
- An injunction barring you from preparing tax returns
- Criminal penalties for filing fraudulent returns

Additional Due Diligence Topics

- Preparer Due Diligence Law
- What is Form 8867?

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