

2021 NATIONAL INCOME TAX WORKBOOK

CHAPTER 8 INDIVIDUAL TAX ISSUES:
PART TWO



LEARNING OBJECTIVES

P. 311

Earned Income Tax Credit

- Understand the rules a taxpayer must satisfy to claim the earned income tax credit (EIC) with or without children
- Understand the phasein and phaseout properties of the EIC
- Know the new rules that expand EIC eligibility

Tax Issues for Ministers

- Understand how a minister's income and housing are taxed

International Tax Issues

- Recognize when a US person can claim a foreign tax credit or foreign housing exclusion
- Understand the tax issues for a non-US person with US real estate rental income
- Apply the tax laws that characterize the gain on currency exchanges
- Understand how tax treaties and international social security agreements override or modify the Internal Revenue Code

EARNED INCOME TAX CREDIT ELIGIBILITY

P. 312

All taxpayers claiming the earned income tax credit (EIC) must:

1. Have an AGI below the phaseout limit for 2021
2. Have a valid SSN
3. Not be filing as MFS (with a limited exception)
4. Be a US citizen or resident alien for the entire tax year
5. Not file Form 2555 or 2555-EZ
6. Have investment income of \$10,000 or less, and
7. Have earned income

EIC 2021 AGI LIMITATIONS

P. 312

Number of Qualifying Children	AGI Limitation for 2021
3 or more	\$51,464 (\$57,414 for MFJ)
2	\$47,915 (\$53,865 for MFJ)
1	\$42,158 (\$48,108 for MFJ)
0	\$21,430 (\$27,380 for MFJ)

EIC RULES

PP. 313-314

Valid SSN – Not an ITIN

MFS – may be considered unmarried

US citizen or resident alien – OK if nonresident filing MFJ w/citizen or resident

Can't claim foreign earned income exclusion

Investment income limit \$10K – see Figure 8.1

CHAPTER 8 – POLL QUESTION 1

The Earned Income Credit is the only Refundable Credit still available to individual taxpayers.

A. True

B. False

WHAT IS EARNED INCOME?

P. 315

Earned Income includes:

- Wages, salaries, tips, taxable employee pay
- Net earnings from self-employment
- Gross income received as a statutory employee

Earned Income does not include:

- Interest and dividends
- Pensions and annuities
- Social security and railroad retirement benefits
- Alimony and child support
- Welfare benefits
- Worker's comp and unemployment
- Veteran's benefits

Practitioner Note - Minister's Housing

The rental value of a home or a housing allowance provided to a minister is included in earned income for the EIC

CLAIMING THE EIC **WITH NO** QUALIFYING CHILD

P. 315

Four additional rules:

1. AGE - must be at least 19 years old
 - a) Specified student – age 24
 - b) Qualified former foster youth- age 18
 - c) Qualified homeless youth- age 18
2. NOT A DEPENDENT
3. NOT A QUALIFYING CHILD
4. RESIDENCE in US for more than one-half of the year
Special rules apply to military personnel

CLAIMING THE EIC **WITH** A QUALIFYING CHILD

PP. 316-317

The qualifying child must meet the following tests:

1. Relationship – see the list
2. Age
 - Under age 19 at the end of 2021 (24 for student)
 - Any age if permanently and totally disabled
3. Residency - Must have lived in US with taxpayer for more than one-half the year
4. Joint return – only to claim a refund of income
5. Cannot be claimed by more than one person
6. Not qualifying child of another

CLAIMING THE EIC

PP. 317-319

Can use 2019 income to calculate 2021

Example 8.1 Lucy is HoH w/ 2 children. 2019 income was higher. Uses EIC tables. 2019 income results in higher credit. Reports on Schedule EIC.

Cross-Reference – Due Diligence

HoH, EIC, CTC, ACTC, AOTC

CHAPTER 8 – POLL QUESTION 2

A taxpayer cannot claim the EIC if they file form 2555, Foreign Earned Income.

A. True

B. False

TAX ISSUES FOR MINISTERS

P. 320

A minister could be a priest, rabbi, or any other ordained, commissioned, or licensed member of a religious order who provides ministerial services. The terms minister and church are not specific to any particular religion.

Income vs. Gifts to Ministers

Example 8.2 Payment to a Minister

Rev. Gomez is a visiting minister. "Love offering" is compensation for her services and must be included in taxable income.

Example 8.3 Gift to a Minister

Rev. Greenburg retired. Special offering to thank her for her years of service is a gift.

TAX ISSUES FOR MINISTERS

PP. 321-323

Tax Withholding

- A minister's salary is not subject to federal tax withholding
- Duly ordained
- Payment for ministerial services

SE Tax

- SE earnings
- SECA not FICA
- Claim exemption on Form 4361

Housing Exclusion

- Exclude housing allowance for income tax purposes, but must include in income for SE tax purposes

HOUSING EXCLUSION

PP. 322-323

Excluded amount is lesser of

- Amount actually used
- Designated allowance
- Fair rental value

For housing provided, exclude fair rental value (not more than reasonable pay)

HOUSING EXCLUSION

PP. 323-324

REPORT ON SCHEDULE SE – excess allowance is income

Example 8.6 Rabbi Bitran gets a \$24,000 housing allowance, but fair rental value is only \$22,000. Includes excess \$2,000 in gross income.

Example 8.7 Rabbi Allen gets use of home. Exclude if reasonable compensation.

Exclude housing allowance paid in retirement

HOUSING EXCLUSION - REPORTING

PP. 324-326

Example 8.8 Pastor Allen \$22,000 salary and SS equivalent [less 403(b) deferral] reported in Box 1 Form W-2, housing allowance in Box 14

Schedule SE also includes housing allowance and SE income

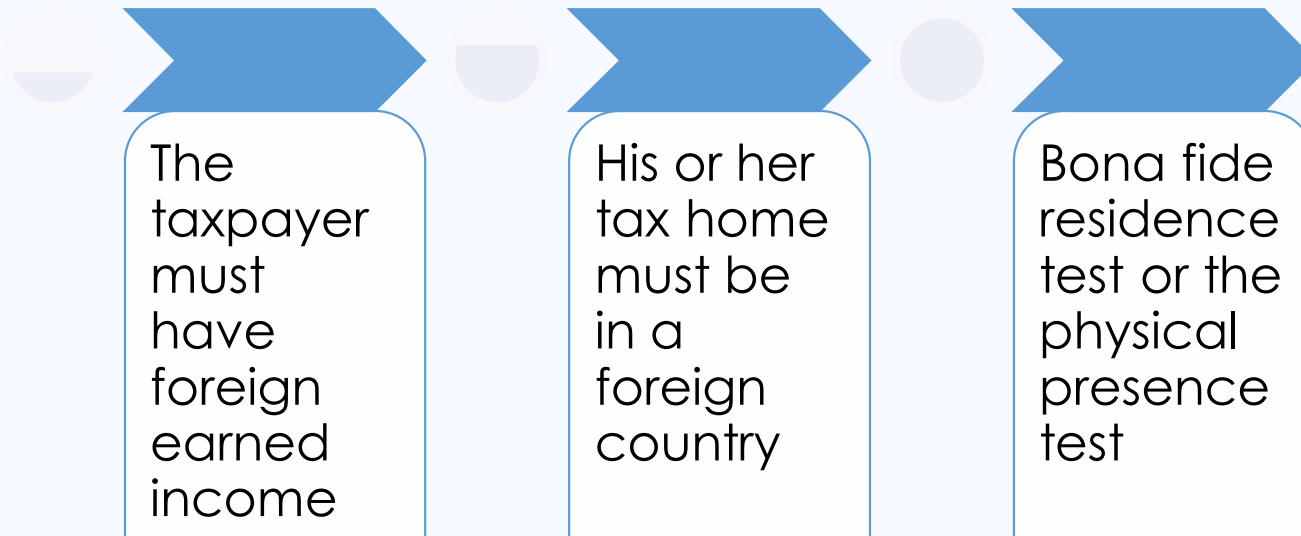
CHAPTER 8 – POLL QUESTION 3

A minister is subject to income tax on all but one of the following:

- A. Wages
- B. Offering
- C. Fees for services
- D. Housing allowance

FOREIGN EARNED INCOME EXCLUSION

P. 327



FOREIGN EARNED INCOME

P. 327

Foreign Earned Income Includes

1. Wages, salaries, and professional fees
2. Non-cash income (e.g., employer-provided vehicle)

Foreign Earned Income Does Not Include

1. Distribution of E&P
2. Excluded value of meals and lodging
3. Pension or annuity payments, including social security benefits
4. US government employee pay
5. Beneficiary income from a non-exempt trust or certain annuities
6. Disallowed international moving costs that are included in income
7. Payments received the next year

TAX HOME

P. 328

Location of the taxpayer's regular or principal place of business, employment, or post of duty

If a taxpayer does not have a regular or main place of business due to the nature of his or her business, the tax home is the taxpayer's regular place of *abode*

Temporary presence in US/maintenance of dwelling in US does not necessarily mean US is abode

FOREIGN EARNED INCOME EXCLUSION

P. 328-330

Bona Fide Residence Test

- Bona fide resident of a foreign country for an uninterrupted period which included an entire tax year
- Look at intention or purpose of trip and nature and length of stay abroad
- Reported on Form 2555, Part II

Physical Presence Test

- Physically present in a foreign country for 330 *full* days (12 AM – 12AM) during a period of 12 consecutive months
- Qualifying days do not have to be consecutive
- Reported on Form 2555, Part III

CALCULATING THE EXCLUSION

P. 330

The amount of the foreign earned income exclusion is the lesser of:

1. The limit on the excludable amount, or
2. Foreign earned income for the tax year minus the foreign housing exclusion

For 2021, the foreign earned income exclusion is up to \$108,700 for each qualifying person

CLAIMING THE EXCLUSION

P. 331

- Form 2555 Foreign Earned Income or Form 2555-EZ Foreign Earned Income Exclusion
- Form 673 Statement for Claiming Exemption From Withholding on Foreign Earned Income Eligible for the Exclusion(s)
 - Used by US taxpayer who is working abroad to request reduced withholding

FOREIGN TAX CREDIT

PP. 331- 332

Prevent double taxation

Eligible taxes paid to a foreign country:

- Income tax
- War profits tax
- Excess profits tax

Claim on Form 1116

FOREIGN TAX CREDIT

P. 332

Practitioner Note - Tax Treaties

Some tax treaties specifically define which taxes qualify for foreign tax credit treatment. US citizens living in certain treaty countries may be able to take an additional credit for foreign tax imposed on certain US income. Review the tax treaty.

Practitioner Note - Foreign Source Qualified Dividends and Gains

If the taxpayer received foreign sourced qualified dividends and/or capital gains (including long term capital gains, unrecaptured section 1250 gain, and/or section 1231 gains) that are taxed in the US at a reduced tax rate, the taxpayer must make an adjustment on Form 1116.

FOREIGN TAX CREDIT- CLAIMING THE CREDIT

P. 333

A taxpayer may be exempt from the foreign tax credit limit and can claim the credit without filing Form 1116 if :

All foreign source gross income for the year is passive category income

All income and any foreign taxes paid are reported on a payee statement

Qualified foreign taxes are not more than \$300 (or \$600 MFJ)

Cross-Reference - Net Investment Income Tax

No offset of the net investment income tax (NIIT) with a credit for foreign taxes paid.

EXCHANGE RATES

P. 333

Generally, use prevailing exchange rate when received, paid, or accrued

The IRS has no official exchange rate

It generally accepts any posted exchange rate that is consistently used

FOREIGN CURRENCY AND EXCHANGES

PP. 333-334

Example 8.10 Glenda and Scott report the sale of a vacation home in US dollars as of the date of sale.

Foreign currency exchange gain or loss is realized due to a change in exchange rates between the booking date and the payment date.

Example 8.11 US vendor sends a \$1,000 invoice. Using the exchange rate at the time the invoice was accrued, the invoice was \$1,100. The customer paid the invoice when the exchange rate was \$1,200. The resulting \$100 gain is ordinary income.

FOREIGN OWNERS OF US RENTAL PROPERTIES

P. 335

FDAP INCOME WITHHOLD 30%

ECI IF TRADE OR BUSINESS OR ELECT TO TREAT AS ECI

ECI

PP. 335 - 336

Form W-8ECI to certify rental income is includable in gross income

If no trade or business and all tax withheld at the source, no return is required

If rental income is ECI, must file annual return

TAX TREATIES

PP. 336 - 337

Change the general rules

Intended to reduce double taxation

Most follow model rules

INTERNATIONAL SOCIAL SECURITY AGREEMENTS PP. 337 -338

Eliminate Double Coverage

- If work covered under 2 SS systems

Self Employment Rules

- Coverage is assigned to the worker's country of residence

Certificates of Coverage

- Document exemption

Totalization Benefits

- Partial US or foreign benefits based on combined coverage credits from both countries

TREATY BASED RETURN POSITION DISCLOSURES

P. 339

- File Form 8833 to explain why social security and Medicare taxes are not being paid
- To disclose any other treaty-based position required to be disclosed
- Penalties for failure to disclose

Form 8833 (Rev. December 2013) Department of the Treasury Internal Revenue Service		Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b) Attach to your tax return. Information about Form 8833 and its instructions is at www.irs.gov/form8833 .		OMB No. 1545-1054
Attach a separate Form 8833 for each treaty-based return position taken. Failure to disclose a treaty-based return position may result in a penalty of \$1,000 (\$10,000 in the case of a C corporation) (see section 6712).				
Name		U.S. taxpayer identifying number		Reference ID number, if any (see instructions)
Address in country of residence		Address in the United States		
Check one or both of the following boxes as applicable: • The taxpayer is disclosing a treaty-based return position as required by section 6114 <input type="checkbox"/> • The taxpayer is a dual-resident taxpayer and is disclosing a treaty-based return position as required by Regulations section 301.7701(b)-7 <input type="checkbox"/> Note. If the taxpayer is a dual-resident taxpayer and a long-term resident, by electing to be treated as a resident of a foreign country for purposes of claiming benefits under an applicable income tax treaty, the taxpayer will be deemed to have expatriated pursuant to section 877A. For more information, see the instructions.				
Check this box if the taxpayer is a U.S. citizen or resident or is incorporated in the United States <input type="checkbox"/>				
1 Enter the specific treaty position relied on: a Treaty country b Article(s)		3 Name, identifying number (if available to the taxpayer), and address in the United States of the payor of the income (if fixed or determinable annual or periodical). See instructions.		
2 List the Internal Revenue Code provision(s) overruled or modified by the treaty-based return position				
4 List the provision(s) of the limitation on benefits article (if any) in the treaty that the taxpayer relies on to prevent application of that article				
5 Is the taxpayer disclosing a treaty-based return position for which reporting is specifically required pursuant to Regulations section 301.6114-1(b)? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," enter the specific subsection(s) of Regulations section 301.6114-1(b) requiring reporting				
6 Explain the treaty-based return position taken. Include a brief summary of the facts on which it is based. Also, list the nature and amount (or a reasonable estimate) of gross receipts, each separate gross payment, each separate gross income item, or other item (as applicable) for which the treaty benefit is claimed				

CHAPTER 8 – POLL QUESTION 4

A taxpayer can claim both the foreign earned income exclusion AND the foreign tax credit on the same foreign income.

A. True

B. False

QUESTIONS?

Earned Income Tax Credit

Tax Issues for Ministers

International Tax Issues