

**FAMILY FINANCIAL STABILITY SUMMIT REGION IV
FEBRUARY 7, 2010
GEORGIA STATE UNIVERSITY LAW SCHOOL
LOW-INCOME TAXPAYER CLINIC
MR. WILLARD N. TIMM, JR.**

The Georgia State University College of Law's Low-Income Taxpayer Clinic ("Clinic") has been providing federal tax controversy resolution services to low-income taxpayers residing throughout the State of Georgia for nearly 20 years. Please see the Clinic's web site www.gsu.litc.org for detailed information on the Clinic.

Serving the Community

The Clinic provides a service to the community by representing taxpayers who are unable to afford legal representation. The determination of whether an individual is accepted as a client depends on the individual's financial situation, the elements of the controversy, and the workload of the Clinic. Individuals who seek to obtain representation from the Clinic must provide information relating to their financial status

Prospective Clients

Taxpayers interested in obtaining information concerning the services that the Clinic provides should contact the Clinic's Administrative Coordinator. The Clinic is open from 9:00 a.m. until 5:00 p.m., Monday - Friday throughout the year.

Ms. Sarah M. Ortiz,
Administrative Coordinator
Phone: 404-413-9230
Fax: 404-413-9229
taxclinic@law.gsu.edu

Street Address:

140 Decatur St. SE, Room 161
Atlanta, GA 30303

Mailing Address:

GSU College of Law
Low-Income Taxpayer Clinic
P.O. Box 4037
Atlanta, GA 30302-4037

En Español

Contribuyentes y otros individuos interesados en obtener información pertinente a los servicios ofrecidos por la Clínica pueden comunicarse con la secretaria. Las horas de oficina son de lunes a viernes, de 9:00 a.m. a 5:00 p.m. La Clínica opera durante todo el año.

Sarah Ortiz
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- [Pautas financieras](#)
- [Mapa de la localización de la Clínica](#)
- [Direcciones para llegar a la Clínica](#)

Aviso: Estas páginas contienen información que puede ser útil para comprender el proceso de la resolución de disputas de impuestos federales, pero bajo ninguna circunstancia se deben interpretar como consejo legal. Para cumplir con los requisitos establecidos por el Servicio de Impuestos Internos, es nuestra obligación notificarles que cualquier consejo para resolver problemas con sus impuestos federales contenido en estas páginas (incluyendo enlaces y anejos) no se ofrece, ni fué escrito con la intención, ni se puede utilizar con el propósito de (i) eludir penalidades bajo el Código del Servicio de Impuestos Internos, (ii) promover, mercadear o recomendarle a otro individuo ninguna transacción que resulte en eludir impuestos ó penalidades.

Eligibility

Income Guidelines

It is the policy of the Clinic to serve low-income taxpayers who otherwise cannot obtain suitable representation. All decisions to accept or decline to represent are made by the Clinic Director, Associate Director or Supervising Attorney upon recommendation by the student attorney. Generally, the Clinic will handle only civil federal income or employment tax matters.

The Clinic will decline representation where:

1. The Clinic lacks the expertise and/or time to handle the case;
2. There is no economic effect on the taxpayer;
3. The taxpayer has the ability to represent himself/herself or to obtain suitable paid representation; or

4. Taxpayer is a group, corporation or association, unless the entity is primarily composed of persons eligible for Clinic services and if it provides information showing that it lacks and has no practical means of obtaining funds to retain private counsel.

It is the policy of the Clinic that if an eligible client becomes ineligible through a change in circumstances, the Clinic shall discontinue representation if the change in circumstances is likely to continue so that the client can afford private legal representation and discontinuation is not inconsistent with the attorney's professional responsibilities. In unusual circumstances, cases may be handled that are generally not handled if there are no suitable alternative resources available to the client but where:

1. There is significant potential harm to the client;
2. There is immediate need for action;
3. There are unusual and important educational issues involved; or
4. There are other unusual and compelling circumstances.

After considering such factors as cost of living, number of clients able to be served and the availability and cost of alternative legal services, it is the policy of the Clinic to use 250% of the Federal Poverty Income Guidelines as the reference income guideline for determining client eligibility. The guidelines shall be updated on a yearly basis to conform to Federal Poverty Income Guidelines.

For potential clients whose income is over the Federal Income Guidelines, the Clinic shall consider current income prospects, extraordinary medical expenses, fixed debts or obligations, child care, transportation or other expenses necessary for employment, expenses associated with age or physical infirmity or other extraordinary factors that have a significant effect on ability to obtain legal assistance.

It is the policy of the Clinic to consider assets, both liquid and non-liquid, of a person applying for Clinic services. After considering the economy of the Atlanta area and the relative cost of living in Atlanta so as to ensure the availability of services to those in the greatest economic and legal need, the following factors shall also be considered:

1. Liquid assets - Generally, liquid assets may not exceed the amount needed to provide for basic living needs;
2. Non-liquid assets - Generally, the limit for the program shall be \$25,000, which shall not include the principal residence of a taxpayer. The limit shall include all family assets but shall not include any family assets to which a taxpayer has no access;
3. Neither asset limit shall include equity value in work-related equipment that is essential to the employment or self-employment of an individual or family member; and

4. While special consideration is given to the needs of the elderly, institutionalized, and handicapped, the program does not adopt a separate assets limit for those groups.

2010 Income Guidelines

Size of Family Unit	Maximum Income
1	\$27,075
2	\$36,425
3	\$45,775
4	\$55,125
5	\$64,475
6	\$73,825
7	\$83,175
8	\$92,525

Add \$9,350 for each additional person.

For purposes of this program, a family unit is defined as an unrelated individual or a family.

An unrelated individual is a person 15 years old or over who is not living with persons related by birth, marriage or adoption.

A family is a group of two or more persons related by birth, marriage, or adoption who live together. However, if related individuals live together, but the person seeking assistance from the clinic is financially independent, then that person may be treated as a family unit. If two unrelated individuals live together, they constitute two family units

Amount in Controversy

The amount in controversy for any taxable year *generally* must not exceed the amount specified in IRC § 7463 (currently \$50,000). The amount in controversy includes penalties, but does not include interest.

If the student recommends that the Clinic accept a case in which the amount in controversy exceeds the amount specified in IRC § 7463, the student must include the reasoning why the case merits the exception and obtain approval from the Clinic Director or Associate Director. A copy of the approved recommendation memo is given to the Clinic Administrative Assistant.

Services Offered

Case assignments are made by the Clinic Director or the Associate Director. The Clinic does not handle state tax issues. The Clinic only handles tax controversies involving

civil federal income or employment taxes. The cases coming to the Clinic usually fall into in one of the following five types:

1. The taxpayer has received one of a variety of 30-day letters. The preliminary 30-day letter proposes the redetermination of tax by the IRS. This 30-day letter follows an audit (examination) by an IRS agent. It asks the taxpayer to either sign and return an agreement to the examiner's findings or request a conference with an appeals officer. The request for a conference must be submitted within a 30-day period. Normally, a "Protest" will be filed to request an appeals conference (hearing). This is not a statutory deadline. Other 30-day letters impose statutory deadlines. These letters are issued under Sections 6320 and 6330 and they follow the assessment of tax. These letters permit a taxpayer to request a hearing to appeal a lien or levy. If an appeal is denied, a taxpayer is then given 30 days to petition the Tax Court.
2. The taxpayer has received one of the statutory 90-day letters. One of the 90-day letters is a Statutory Notice of Deficiency issued under (IRC § 6212). To be timely, this 90-day letter must be mailed by the IRS before the expiration of the statute of limitations on assessment of tax. It permits the taxpayer to petition the U.S. Tax Court for review of the deficiency prior to payment. The petition must be filed within a 90-days after the letter is mailed by the IRS to the taxpayer. The notice will indicate the last day on which a petition may be filed. Failure to file a petition within the 90-day period excludes the U.S. Tax Court from jurisdiction. Another 90-day letter is issued under § 6015, which permits a taxpayer to petition the Tax Court following denial by the IRS of Innocent Spouse relief.
3. The taxpayer *pro se* has filed a petition with the U.S. Tax Court pursuant to the "small case" procedure and is seeking help with either settlement or litigation.
4. The taxpayer has paid the claim and seeks to institute a refund lawsuit in U.S. District Court or Claims Court. In this situation, the taxpayer may have bypassed the opportunity for administrative appeal or has not filed a petition in U.S. Tax Court. The Clinic does not handle this type of case. A referral to Legal Aid should be made.
5. The taxpayer has failed to respond to IRS pre-assessment letters, tax has been assessed and the matter is in collections. The taxpayer may then receive a statutory Notice of Lien or a statutory Notice of Levy. This type of case will be accepted where there is a substantive tax issue involved or where tax equity dictates it. If the matter has been transferred to collections, it may be appropriate to prepare an Offer in Compromise or an installment agreement. If a statutory notice is received the taxpayer has only 30 days within which to challenge the collection action.

Many individuals who contact the Tax Clinic have not only significant tax problems, but also other legal or personal problems. These other problems may relate to unemployment, substance abuse, spousal abuse, child abuse, illiteracy, medical and emotional issues. You should be alert to the presence of these problems.

You should respect the client's privacy and be cautious to avoid offending the client by

questioning him about suspected problems. However, you should be prepared to refer your client to an appropriate service agency if the client requests assistance with non-tax problems.

The Clinic maintains a list of agencies that are available to meet the special needs of Atlanta area residents. You should provide your client in writing with the name and telephone number of an appropriate agency that specializes in the applicable need, and you must disclaim any affiliation with the agency and refrain from guaranteeing results. If a referral is made, you should write a memo to the client's case file describing the circumstances surrounding the referral. The Clinic Director or the Associate Director should be consulted before a referral is made if you have any doubt about the advisability of the action. Otherwise, the Director or the Associate Director should be immediately advised of your referral.

During subsequent conversations with the client, you should avoid questioning him or her about the outcome of the referral.

Substantive Issues

Taxpayers who contact the Tax Clinic may have a number of tax issues. The most common issues are related to claims for Head of Household filing status, Earned Income Tax Credit, Child Tax Credit and Dependency Exemptions. A brief overview of the earned income tax credit is provided below.

Earned Income Tax Credit

The Earned Income Tax Credit (EITC) is a refundable tax credit available to low-income, working taxpayers. It is a federally funded, anti-poverty initiative that helps working people maintain their independence by helping them make ends meet. Congress created the credit to help offset the impact of Social Security taxes and to provide low-income workers an incentive to seek employment rather than welfare.

The disallowance of the EITC is an issue many clients of the Tax Clinic encounter, and many times the disallowance is also accompanied by the disallowance of the Head of Household filing status (if applicable) and one or more Dependency Exemptions. These three issues, although completely separate issues with separate requirements of their own, are usually seen disallowed collectively and often require the production of the same supporting documents.

Rules & Requirements

There are several requirements a taxpayer must meet to qualify for the EITC. Section 32 of the Internal Revenue Code provides the legal basis for a taxpayer to claim the EITC. [IRS Publication 17](#) and [IRS Publication 596](#) provide the guidance for the application of the law by setting forth the following rules:

Rules for Everyone

1. Taxpayer (and spouse if filing jointly) must have a valid social security number [IRC § 32(c)(1)(F)].
2. Filing status is not "Married filing separately" [26 CFR § 1.32-2(b)(2)].
3. Taxpayer must be a U.S. citizen or resident alien all year.
4. Taxpayer cannot file Form 2555 (Foreign earned income exclusion) or Form 2555-EZ (Foreign earned income exclusion).
5. Taxpayer's investment income must be \$2,800 or less.
6. Taxpayer must have earned income [IRC § 32(a)(1)].
 - o
 - Earned income includes: wages, salaries, tips, net earnings from self-employment, gross income received as a statutory employee

Rules if Taxpayer has a Qualifying Child

- A taxpayer is entitled to an increased earned tax income credit if he has a qualifying child. In addition to meeting the requirements of part A, the taxpayer is entitled to additional credit for a qualifying child if the following requirements are met:
- Qualifying child requirements:
 - o Relationship Test: The child must be a son, daughter or adopted child; stepson or stepdaughter; or eligible foster child.
 - Adopted child – adopted child includes a child placed with taxpayer for adoption by an authorized placement agency, even if the adoption is not final. An authorized placement agency includes any person authorized by state law to place children for legal adoption.
 - Grandchild – any descendant of taxpayer's son, daughter, or adopted child. A grandchild includes taxpayer's great-grandchild, great-great-grandchild, etc.
 - Child does not have to be taxpayer's dependent to be a qualifying child, unless he or she is married.
 - Married child - If child was married at the end of the year, he or she does not meet the relationship test unless either of these two situations applies to taxpayer
 1. Taxpayer can claim the child's exemption or
 2. The reason taxpayer cannot claim the child's exemption is that she gave that right to the child's other parent:
 - By completing Form 8332 or a similar written statement, or
 - In a pre-1985 agreement (such as a separation agreement or divorce decree).
 - Eligible foster child:

1. Child must have lived with the taxpayer as a member of the taxpayer's household for the whole year,
 2. Taxpayer must have cared for that child as her own, and
 3. Child is taxpayer's brother, sister, stepbrother, or stepsister; a descendant (including a child or adopted child) of taxpayer's brother, sister, stepbrother, or stepsister; or a child" placed with taxpayer by an authorized placement agency. This requirement was not included until 2000.
- Residency Test: The child must have lived with the taxpayer for more than half of the year (183 days) or the whole year if the child is an eligible foster child and the home must be in the United States.
 - U.S. military personnel U.S. military personnel stationed outside the United States on extended active duty are considered to live in the United States during that duty period for purposes of the EITC.
 - A child who was born or died during the year is treated as meeting the residency test if taxpayer's home was the child's home the entire time he or she was alive during the year.
 - Time that either taxpayer or child is away from home on a temporary absence due to a special circumstance as time lived at home. Examples of a special circumstance include: illness, school attendance, detention in a juvenile facility, business, vacation, and military service.
 - Age Test:
 - The child must be under the age of 19 at the end of the year, or
 - A full-time student under age 24 at the end of the year, or
 - Permanently and totally disabled at any time during the year, regardless of age.

Definitions

- Full-time student - student who is enrolled for the number of hours or courses the school considers to be full-time attendance.
- Student - child must be, during some part of each of any 5 calendar months during the calendar year:
 - A full-time student at a school that has a regular teaching staff, course of study, and regular student body.
 - A student taking a full-time, on-farm training course given by a school described in (i), or a state, county, or local government.
 - The 5 calendar months do not have to be consecutive.
 - School - A school can be an elementary school, junior or senior high school, college, university, or technical, trade, or mechanical school. However, on-the-job training courses, correspondence schools, and night schools do not count as schools for the EITC.

- Vocational high school students - Students who work in co-op jobs in private industry as a part of a school's regular course of classroom and practical training are considered full-time students.
 - Night school - Person is not a full-time student if he or she attends school only at night. However, full-time attendance at a school may include some attendance at night as part of a full-time course of study.
 - Permanently and totally disabled - Person is permanently and totally disabled if both of the following apply
 - He or she cannot engage in any substantial gainful activity because of a physical or mental condition.
 - A doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death
1. The taxpayer's qualifying child cannot be the qualifying child of another person with a higher modified Adjusted Gross Income.
 - - If the child meets the relationship, residency and age test for more than one taxpayer, then the person with the higher modified AGI is the only one who may be able to claim the EITC using that child. The person with the lower modified AGI cannot use that child to claim the EITC. This is true even if the person with the higher modified AGI does not claim the EITC or meet all of the rules to claim the EITC.
 2. Taxpayer cannot be the qualifying child of another person.

Rules if taxpayer does not have a qualifying child

1. Must meet all requirements of Part A
2. Taxpayer must be at least 25 years of age but under 65 at end of the year.
 - If taxpayer is married and filed jointly, then it does not matter which spouse meets the age test, as long as one of the spouses does.
3. Taxpayer cannot be the dependent of another person.
4. Taxpayer cannot be the qualifying child of another person.
5. Taxpayer must have lived in the U.S. more than half the year.

Determining the Amount of and Claiming the EITC

1. Taxpayer's earned income must be less than (These amounts change from year to year. The figures below are for 2006.):

- \$36,348 (\$38,348 married filing jointly) with two or more qualifying children;
- \$32,001 (\$34,001 married filing jointly) with one qualifying child;
- \$12,120 (\$14,120 married filing jointly) with no qualifying children

2. Taxpayer's modified AGI must be less than (These amounts change from year to year. The figures below are for 2006):

- \$36,348 (\$38,348 married filing jointly) with two or more qualifying children;
- \$32,001 (\$34,001 married filing jointly) with one qualifying child;
- \$12,120 (\$14,120 married filing jointly) with no qualifying children

3. Claimed a loss on Schedule C, C-EZ, D, E, or F,

4. Claimed a loss from the rental of personal property not used in a trade or business,

5. Received any tax-exempt interest, or

6. Received certain pension, annuity, or individual retirement arrangement (IRA) distributions that were partly nontaxable.

Modified AGI for most people is the same as AGI. AGI is the amount on line 34 (Form 1040), line 20 (Form 1040A), or line 4 (Form 1040EZ).

To figure modified AGI, taxpayer must add certain amounts to taxpayer's AGI if she:

Disallowance of the EITC

If taxpayer's EITC claim for any year after 1996 was denied or reduced for any reason other than a mathematical or clerical error, he must attach a completed Form 8862 to his next tax return if he wishes to claim the EITC.

If taxpayer is required to attach Form 8862 to taxpayer's tax return, and taxpayer claims the EITC without attaching a completed Form 8862, taxpayer's claim will be automatically denied. This is considered a mathematical or clerical error. Taxpayer will not be permitted to claim the EITC without a completed Form 8862.

If taxpayer's EITC claim for any year after 1996 was denied and it was determined that his error was due to reckless or intentional disregard of the EITC rules, then he cannot claim the EITC for the next 2 years. If his error was due to fraud, then he cannot claim the EITC for the next 10 years.

Documents to Support EITC Claim

These should all be copies and not originals. Never send originals to the IRS and return all originals to the client after copying.

1. W-2's, paycheck stubs, 1099's, etc. for the year in question
2. Taxpayer's social security card
3. Qualifying child's birth certificate and social security card

4. Lease agreement or mortgage statement showing residence for at least 183 days (generally 6 months). (If the taxpayer has a PO Box address, a copy of Postal form 1093 can be requested from the Post Office to obtain the client's geographical address)
5. Qualifying child's school records showing dates of attendance, name of guardian and address of the child's home
6. Letter from child's caregiver on letterhead or notarized indicating dates child was under care, name of guardians and address of the child's home
7. Child's medical records showing date of service and child's address
8. Affidavits from friends, family and neighbors

LOW INCOME TAXPAYER CLINICS WITHIN THE 7 STATE REGION

GEORGIA

Atlanta	Georgia State University College of Law Tax Clinic	404-413-9230	C	Spanish
Hinesville	JC Vision and Associates LITC	912-877-4243 1-866-902-4266	B	Spanish
Cedartown	Tax Care Clinic	706-252-2178	C	English

FLORIDA

Plant City	Bay Area LITC	813-752-1335	B	Spanish, Creole
Palatka	Community Legal Services of Mid-Florida (CLSMF) LITC	1-866-886-1799 386-328-9361	B	Spanish
St. Petersburg	Gulfcoast Legal Services LITC	727-821-0726 1-800-230-5920	B	Spanish
Miami	Sant La LITC	305-573-4871	E	Spanish/Haitian/Creole
Plantation	Legal Aid Service of Broward County LITC	954-765-8950	B	Spanish/Creole
West Palm Beach	Legal Aid Society of Palm Beach County LITC.	561-655-8944 ext. 287 1-800-403-9353	B	Spanish/Creole
Miami	Legal Services of Greater Miami, LITC	305-576-0080	B	Creole/Haitian/Spanish

Tallahassee	Legal Services of North Florida	850-385-9007	B	Spanish
Jacksonville	Three Rivers Legal Services LITC	904-394-7450	B	Spanish/Bosnian

MISSISSIPPI

Oxford	Mississippi Taxpayer Assistance Project	1-888-808-8049	B	All Languages
Jackson	The FI & ED Tax Clinic	601-500-7739	B	Spanish

NORTH CAROLINA

Greenville	Northeastern NC Low Income Taxpayer Assistance Project	252-758-0113 1-800-682-4592	B	Spanish
Charlotte	Western North Carolina LITC	1-800-438-1254 704-971-2622	B	Spanish
Camden	Northeastern Community Development Corporation	252-338-5466	B	Spanish

SOUTH CAROLINA

Greenville	South Carolina Legal Services	1-888-346-5592	B	All Languages
Columbia	South Carolina	1-888-722-4227	E	Spanish

Association
of
Community
Action
Partnerships
LITC

803-771-
1524

TENNESSEE

Nashville	Conexion Americas LITC	615-269- 6900	E	Spanish
Memphis	Memphis Area Legal Services, Inc.	901-523- 8822	B	All Languages
Oak Ridge	Legal Aid Society Tennessee Taxpayer Project	865-483- 8454 1-866- 481-3669	B	Spanish