TAX PREPARERS' DUE DILIGENCE REQUIREMENTS

Paid preparers who file EITC, CTC/ACTC, or AOTC returns or claims for refunds for clients must meet four due diligence requirements. Those who fail to do so can be assessed a $510 penalty for each failure.

THE FOUR REQUIREMENTS

Requirement	As a paid tax return preparer you must:
1. Complete and Submit Form 8867	• Complete Form 8867, Paid Preparer's Due Diligence Checklist, for each EITC, CTC/ACTC or AOTC claim you prepare. • Complete the checklist-based compliance with due diligence requirements and information provided by your client(s). • Submit the completed Form 8867 to the IRS with every electronic return you prepare claiming the EITC, the CTC/ACTC or the AOTC • Attach the completed Form 8867 to every paper return or claim for refund you prepare for the EITC, the CTC/ACTC or the AOTC and send to the IRS. • Attach the completed Form 8867 to every paper return or claim for refund you prepare for the EITC, the CTC/ACTC or the AOTC and advise your client of the importance of sending it with the return or claim for refund to the IRS.
2. Compute the Credits	Complete the appropriate refundable credit worksheets from the instructions from for the Form 1040 series or the Form 8863 instructions or complete document(s) with the same information. The worksheets show what to consider in the computation. • Keep the records showing how you did the computations. • Drake Software includes these worksheets.
3. Knowledge	Not know or have reason to know any information used to determine a client's eligibility for, or the amount of the refundable credit is incorrect. • Not ignore the implications of any information given by the client or known and must make additional inquiries, if a reasonable and well-informed tax return preparer, knowledgeable in the law, would conclude the information is incomplete, inconsistent, or incorrect. • Know the law and use that knowledge of the law to ensure you are asking your client the right questions to get all relevant information. • Document any additional questions you ask and your client's answer at the time of the interview. The Treasury Regulations give examples of the application of the knowledge requirement. Find the regulations for tax return preparer due diligence requirements on the Government Printing Office site.

4. Keep Records	• Keep a copy of the Form 8867 and the worksheets used to determine credits.
	• Keep a record of all additional questions you asked your client to comply with your due diligence requirements and your client's answers to those questions.
	• Keep copies of any documents your client gives you on which you relied to determine eligibility for, or the amount of, the credits.
	• Keep a record of how, when, and from whom you obtained the information used to complete the return.
	• Keep your records in either paper or electronic format but make sure you can produce them if the IRS asks for them.
	• Keep these records for 3 years from the latest date of the following that apply:
	  • The original due date of the tax return (this does not include any extension of time for filing), or
	  • If you electronically file the return or claim for refund and sign it as the return preparer, the date the tax return or claim for refund is filed, or
	  • If the return or claim for refund is not filed electronically and you sign it as the return preparer, the date you present the tax return or claim for refund to your client for signature, or
	  • If you prepare part of the return or claim for refund and another preparer completes and signs the return or claim for refund, you must keep the part of the return you were responsible to complete for 3 years from the date you submit it to the signing tax return preparer.
	• Keep these records in either a paper or electronic format in a secure place to protect your client's personal information.

Source: Internal Revenue Service