

TOOLS FOR LAW
INCOME TAX CREDITS
(CHILD TAX CREDIT & EARNED INCOME TAX CREDIT)

When using the Tools for Law Federal Income Tax computation to compute net income for child support payments two income tax credits are included as optional computations. These two credits are the Child Tax Credit and the Earned Income Tax Credit.

Florida Statute 61.30, Child support guidelines; retroactive child support, defines gross income and the allowed deductions.

61.30 (3) defines the deductions that are allowed to be subtracted from gross income. (3) (a) allows for the deduction for "Federal, state, and local income tax deductions, adjusted for actual filing status and allowable dependents and income tax liabilities."

The Federal Tax Code allows for credits from income taxes that actually lower the income tax. These credits usually are deducted to the extent that income tax actually is computed. This \$1,000 in income tax can use tax credits up to \$1,000 and the tax payer will then pay ZERO income tax. Florida statutes just allow the deduction for income tax so if the tax is ZERO there is no reduction of gross income.

However, there are two income tax credits that are allowed based on having children and low income, the Child Tax Credit and the Earned Income Tax Credit. Both of these credits are refundable. This means that if the tax payer is in a low income tax bracket and owes no tax, then these credits will be given to the tax payer in the form of a refund. In other words, the tax payer will get a check from the IRS.

The result of this refund is that the party in the case that is eligible for one or both of these refunds will actually have additional gross income. Thus the net child support income will be higher for that party.

As there does not appear to be specifically addressed in the statute, we have included these two credits as optional computations.

Should the credits, one or both, be desired to be computed, the IRS tax code should be reviewed. However, the general rules are as follows:

1. EARNED INCOME CREDIT:
 - a. This is based on income and the number of children, even no children
 - b. Income between \$3,500 and about \$38,000 will provide some credit but is limited by number of children and the filing status of the tax payer.
 - c. The credit amount is phased out so that at the upper income limit the credit disappears.
2. CHILD TAX CREDIT:
 - a. This is based on income and the number of children under 17 years of age.
 - b. The credit is \$1,000 per eligible child (must live with the parent claiming the credit even if the other parent gets the exemption)
 - c. The credit amount is phased out so that at the upper income limit the credit disappears.

CHILD TAX CREDIT:

IRS Tax Tip 2009-45

With the Child Tax Credit, you may be able to reduce the federal income tax you owe by up to \$1,000 for each qualifying child under the age of 17.

A qualifying child for this credit is someone who meets the following criteria:

- **Age** - Was under age 17 at the end of 2008
- **Relationship** - Is your son, daughter, adopted child, stepchild or eligible foster child, brother, sister, stepbrother, stepsister, or a descendant of any of these individuals or other eligible person who lived with you all year as a member of your household
- **Citizenship** - Is a U.S. citizen, U.S. national or resident of the U.S.
- **Support** - Did not provide over half of his or her own support
- **Lived with you** - Must have lived with you for more than half of 2008 (note that some exceptions to this criteria exist)

The credit is limited if your modified adjusted gross income is above a certain amount. The amount at which this phase-out begins varies depending on your filing status:

- **Married Filing Jointly** \$110,000
- **Married Filing Separately** \$ 55,000
- **All others** \$ 75,000

In addition, the Child Tax Credit is generally limited by the amount of the income tax you owe as well as any alternative minimum tax you owe.

If the amount of your Child Tax Credit is greater than the amount of income tax you owe, you may be able to claim some or all of the difference as an “Additional” Child Tax Credit. The Additional Child Tax Credit may give you a refund even if you do not owe any tax. The total amount of the Child Tax Credit and any Additional Child Tax Credit cannot exceed the maximum of \$1,000 for each qualifying child.

EARNED INCOME CREDIT:

You must meet the following EITC requirements:

- Must have a valid [Social Security Number](#)
- You must have earned income from employment or from self-employment.
- Your filing status cannot be married, filing separately.
- You must be a U.S. citizen or resident alien all year, or a nonresident alien married to a U.S. citizen or resident alien and filing a joint return.
- You **cannot** be a qualifying child of another person.
- If you do not have a qualifying child, you must:
 - be age 25 but under 65 at the end of the year,
 - live in the United States for more than half the year, and
 - not qualify as a dependent of another person