

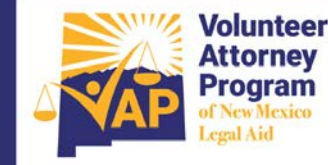
WELCOME TO THE VAP PRO BONO COLLABORATIVE ECHO

INCOME TAX SERIES
PART 2 OF 3
FEBRUARY 22, 2024

Empowering Your
Clients from an Income
Tax Perspective:

Understanding Child-
Based Income Tax
Benefits For Low- and
Middle-Income
Families

Agenda



Introductions - Zac Addison, Esq., VAP Director, New Mexico Legal Aid, Inc.



Announcements for Session: Marissa Gonzalez, VAP Paralegal, New Mexico Legal Aid, Inc.



Topic Presentation: Understanding Child-Based Income Tax Benefits for Low- and Middle-Income Families



Topic Presenter: Grace Allison, Staff Attorney and Former Director, NMLA Low Income Taxpayer Clinic



Case Analysis and Q&A: Grace Allison, Staff Attorney and Former Director, New Mexico Legal Aid Low Income Taxpayer Clinic



Overview & Closing Remarks: Volunteer Attorney Program of New Mexico Legal Aid

First Things First . . .

Why are we here? ? ?

The *Sine Qua Non* for Child-Based Tax Benefits?

Having a “Qualifying Child”!

“Qualifying Child”: Related Tax Benefits

Federal:

- *Earned Income Tax Credit, IRC Section 32*
- *Child Tax Credit, IRC Section 24(h)*
- *Head of Household filing status, IRC Section 2(b)*

“Qualifying Child”: Related Tax Benefits

New Mexico:

- ***Working Families Tax Credit***, N.M. Stat. Ann. Section 7-2-18.15 (1978)
- ***Child Income Tax Credit***, N.M. Stat. Ann. Section 7.2.18.34 (1978)
- ***Child Day Care Credit***, NM Stat. Ann. Section 7-2-18.1 (1978)

To be a “Qualifying Child” . . .

- ❑ At a minimum, the child must meet five statutory tests, all set forth in Internal Revenue Code Section 152(c)
- ❑ In addition, each benefit has additional requirements
- ❑ Finally, the child must, at a minimum, also be either a *U.S. citizen* or be a *resident* of the U.S., Canada or Mexico

“Qualifying Child”: The Basic Five

1. The child must meet the **RESIDENCY TEST**

- Live with the taxpayer for more than 1/2 the year

Exception: temporary absence with intent to return, e.g. hospital, reform school, college

“Qualifying Child”: The Basic Five

2. The child must meet the RELATIONSHIP TEST

Child of taxpayer or descendant of that child

Brother, sister, stepbrother, stepsister of taxpayer—or descendant of any of those

Note: Adopteds and “eligible foster children” also meet the relationship test.

Quizlet #1: “Qualifying Child”

Faustin is Shabani’s cousin. Faustin lives with Shabani, and Shabani supports him.

Can Shabani claim Faustin as his “qualifying child”?

“Qualifying Child”: The Basic Five

3. The child must meet the **AGE TEST**

- Under 19 or
- Under 24 and a “student” or
- “Permanently and totally disabled”

“Qualifying Child”: The Basic Five

4. The Child must meet the **SUPPORT TEST**

- The CHILD does not provide more than half of their own support.

“Qualifying Child”: The Basic Five

5. The child must meet the **JOINT RETURN TEST**

❑ The CHILD must not file “married filing jointly”

Exception: to claim a refund

Quizlet #2: “Qualifying Child”:

For all of 2024, Hank, who is single, lives with and supports Martha and her three children, all under the age of 17.

Are the children Hank’s “qualifying children”?

The **Biggest** Child-Based Tax Credit?

The fully refundable Earned Income Tax Credit
("EITC")

(Available to those without children and to
those with one or more "qualifying children")

How Big is Big?

- Amount of **EITC** is based on taxpayers' earnings, number of **"qualifying children"** and filing status

2023 EITC Schedule Excerpt

1 "qualifying child"	Up to \$3,995
2 "qualifying children"	Up to \$6,604
3 "qualifying children"	Up to \$7,430
0 "qualifying children"	Up to \$ 600

EITC Basics: Refundability

- Tax credits generally reduce tax, \$ for \$ until tax is reduced to \$0. Stop. End of story.
- Refundable credits like the EITC do much more.
 - First, reduce tax, \$ for \$ until tax is reduced to \$0
 - Then, any excess credit is refunded to the taxpayer

EITC Basics: Eligibility

- ❑ Taxpayer must have social security card authorizing work, IRC Section 32(m)
- ❑ Taxpayer's net investment income must not exceed \$11,000, IRC Sections (i) and (j)
- ❑ Taxpayer must either have a **“qualifying child”** *or*
Taxpayer (or spouse) must be at least 25 and no older than 65, and live in the U.S. for more than half the year, and
- ❑ Taxpayer must not be the dependent of another taxpayer, IRC
Section 32(c)(1)(A).

Quizlet #3: EITC

Mr. & Mrs. Chavez have three “**qualifying children**” and are U.S. citizens. Their only income is their earnings of \$50,000. Neither is the dependent of another taxpayer.

Before application of their \$2,816 **EITC**, they have (after taking into account the child tax credit and tax withheld), a \$200 federal income tax liability.

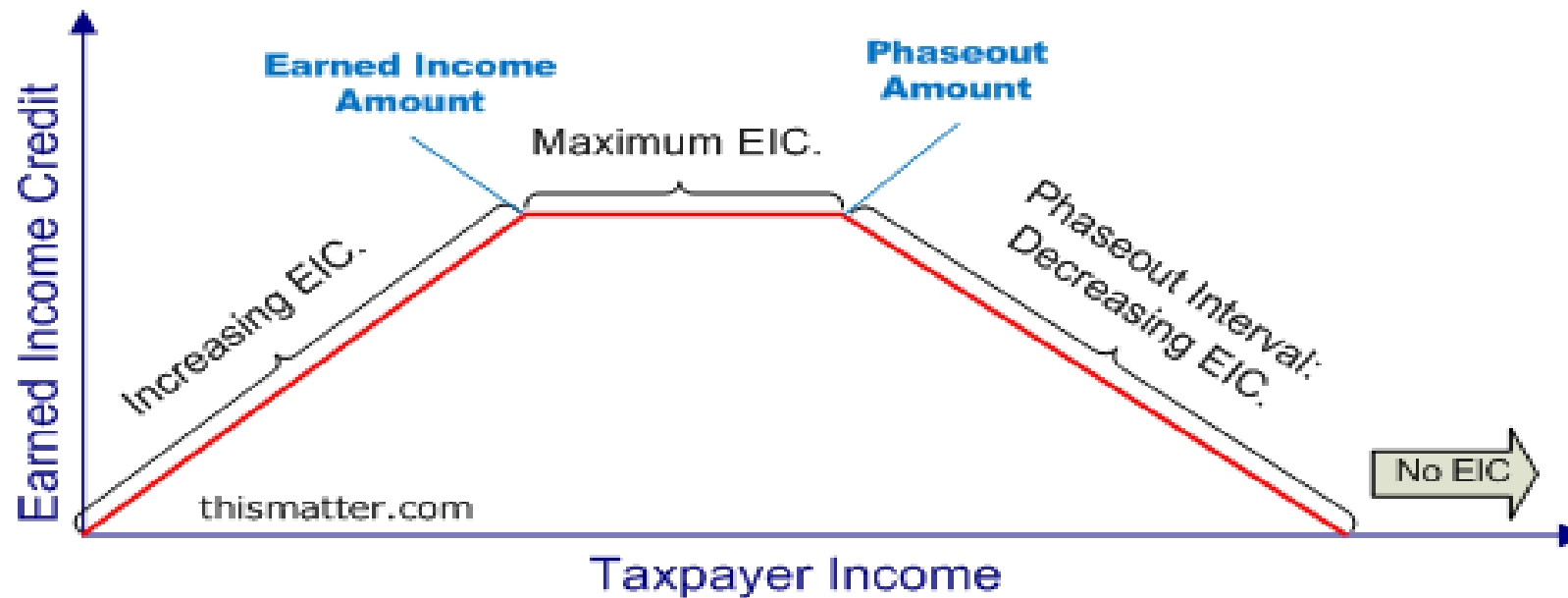
*What is their federal income tax liability after application of the **EITC**?*

What is the amount of their federal income tax refund?

Household earned income and adjusted gross income ceilings for **EITC** (2023)

Filing . . .	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household, Widowed, or Married Filing Separately	\$17,640	\$46,560	\$52,918	\$56,838
Married Filing Jointly	\$24,210	\$53,120	\$59,478	\$63,398

EITC is Targeted to Low-Income Families



Who is a “Qualifying Child” for Purposes of the EITC?

A child in the custody of one parent cannot be the “qualifying child” of the non-custodial parent for purposes of the EITC. IRC Section 32(c)(3)(A).

More on this in our next presentation . . .

Quizlet #4: EITC

Jose has three children. How large is his EITC?

What is the Most Expensive Child-Based Tax Credit?

The Child Tax Credit at \$122 billion

**Source: “Estimates of Federal Tax Expenditures for Fiscal Years 2023-2027,”
JCX-59-23, December 7, 2023.**

Child Tax Credit Basics

Maximum available: \$2,000 per “qualifying child”

First applied to reduce tax owed, if any

Excess (“additional child tax credit”) *may* be refunded to taxpayer, but only up to \$1,600 and only if *earnings requirement* is satisfied.

Child Tax Credit Basics

Who is a “qualifying child” for purposes of the child tax credit?

- Residency test*
- Relationship test*
- Age test: under age 17*
- Support test*
- Joint return test*
- Citizenship test*

Quizlet #5: Child Tax Credit

Eric is disabled, with one “qualifying child.” He receives \$25,000 in Social Security disability benefits and \$600 in SNAP. His taxable income is zero.

How much child tax credit will he receive in 2024?

Child Tax Credit Basics: Eligibility

- ❑ If taxpayer's adjusted gross income exceeds a threshold amount, the **child tax credit** will begin to phase out. Threshold amount: \$400,000 for marrieds filing jointly, \$200,000 for others.

Child Tax Credit Basics: Eligibility

- ❑ In 2023, taxpayers are not eligible for the partially refundable **\$1600 additional child tax credit** if their “earned income” is less than **\$13,166**.

Note: this cohort is not eligible for the nonrefundable **child tax credit** because they have no taxable income.

Child Tax Credit Basics: Eligibility

- ❑ Custodial parent can elect to have their “**qualifying child**” treated as the “**qualifying child**” of the non-custodial parent for purposes of the child tax credit.

IRC Section 152(e) and IRS Form 8332.

Why does filing status matter? (1)

Married Filing Jointly		Head of Household		Single	
<u>Taxable Income</u>	<u>Rate</u>	<u>Taxable Income</u>	<u>Rate</u>	<u>Taxable Income</u>	<u>Rate</u>
Not over \$22,000	10%	Not over \$15,700	10%	Not over \$11,000	10%
\$22,001- \$89,450	12%	\$15,701-\$59,850	12%	\$11,001-\$44,725	12%
\$89,451- \$190,750	22%	\$59,851-\$95,350	22%	\$44,726-\$95,375	22%
\$190,751 - \$364,200	24%	\$95,351-\$182,100	24%	\$95,376-\$182,100	24%
\$364,201 - \$462,500	32%	\$182,101-\$231,250	32%	\$182,101-\$231,250	32%
\$462,501 - \$693,750	35%	\$231,251-\$578,100	35%	\$231,251-\$578,125	35%
Over \$693,750	37%	Over \$578,100	37%	Over \$578,125	37%

Quizlet #6: **Head of Household**

Jill has \$20,000 of taxable income in 2023. Jill provides all the support for her only child, who is 10 and lives with her for all of 2023. All of Jill's income is earned income. The child is a U.S. citizen.

Before taking into account the standard deduction, the earned income and child tax credits, how much of her income would be taxed at 10% if Jill files as head of household? As single?

Why Does Filing Status Matter? (2)

Standard Deduction in 2023:

\$27,000 for marrieds filing jointly (under 65)

\$13,850 for singles (under 65)

\$20,800 for heads of household (under 65)

Quizlet #7: Head of Household

Jill has \$20,000 of income in 2023. Jill provides all the support for her only child, who is 10 and lives with her for all of 2023. All of Jill's income is earned income. The child is a U.S. citizen.

Taking into account the standard deduction (but not the earned income and child tax credits), how much of her income is taxable if she files as head of household? As single?

Who Qualifies as **H of H**?

- ❑ Unmarried or *treated* as unmarried

(Generally, married taxpayers must file as either “married” or “married filing separately”)

AND

- ❑ “Maintain a household” for
 - ❑ One or more “qualifying children”
 - ❑ Certain “qualifying relatives”

H of H: “Maintaining a Household”

- Taxpayer pays over 1/2 the cost of
 - Rent or mortgage
 - Utility charges
 - Upkeep & repairs
 - Property insurance
 - Property taxes
 - Food consumed on the premises

Source: Prop. Treas. Reg. Section 1.2-2(d(1))

H of H: “Treated as unmarried”

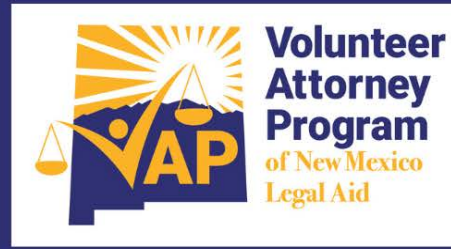
- Taxpayer is legally separated, IRC Section 2(b)(2)(A)
- Spouse is nonresident alien, IRC Section 2(b)(2)(B)
- Spouse died during taxable year, IRC Section 2(b)(2)(C)
- Taxpayer lives apart from spouse for last six months of the year, IRC Section 2(c)

Quizlet #8: **Head of Household**

Hilda lives with her six “**qualifying children.**” All household expenses are paid by Hilda’s mother.

*Who qualifies for **head of household** filing status?*

Case Presentation

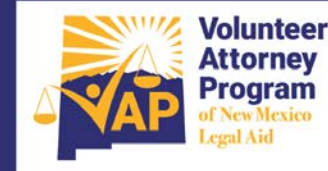


LEGAL ISSUE: Child-Based Income Tax Benefits

Factual Summary

In 2024, Albert & Alexandra live in Albuquerque with their three children and Albert's six cousins. In June, Albert moves to Alaska to work in the oil fields, while Alexandra continues at her job as a UNMH pediatric surgeon.

Albert returns to Albuquerque in January of 2025.

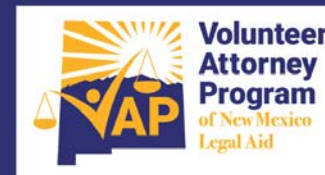


Question of Practice

What federal and state income tax benefits are potentially available to Alexandra? To Albert?



What additional questions do we need to ask?



Next Session

Income Tax Series- Part 3/3:

Allocating Income Tax Benefits
Between Parents in a Split-Up

Thursday, March 28, 2024

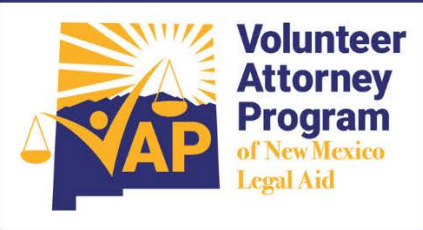
11:30 am – 1:00 pm

Adult Guardianship 101 - Part 2/4:

Appointing 3 Professionals &
Preparing for the Hearing

Thursday, March 5, 2024

3:30 – 5:00 pm



Upcoming Pro Bono Opportunities

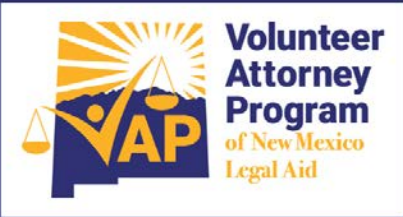
- **Law-La-Palooza Legal Fair
in Albuquerque:**

Friday, March 1

- **Legal Fair
in Roswell:**

Friday, March 8

**If you are interested in volunteering at
an upcoming legal fair, please sign-up [here](#).**



**THANK YOU FOR
JOINING TODAY'S
VAP PRO BONO
COLLABORATIVE
ECHO SESSION!**

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Topic & Case Presenter:

Grace Allison, Staff Attorney and Former Director,
New Mexico Legal Aid - Low Income Taxpayer
Clinic

Case Presenter:

Grace Allison, Low Income Taxpayer Clinic, NMLA

Facilitated By:

Zac Addison, Esq., VAP Director, NM Legal Aid

Marissa Gonzalez, VAP Paralegal, NM Legal Aid

vapecho@nmlegalaid.org