

4258

2009-2010 Regular Sessions

I N S E N A T E

April 20, 2009

Introduced by Sens. MONTGOMERY, SQUADRON -- (at request of the Governor)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to requiring employers to
provide notice of potential eligibility for federal and New York state
earned income tax credits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 6 of subsection (d) of section 606 of the tax
2 law, as amended by section 3 of part V of chapter 60 of the laws of
3 2004, is amended to read as follows:
4 (6) Notification. (I) The commissioner shall periodically, but not
5 less than every three years, make efforts to alert taxpayers that may be
6 currently eligible to receive the credit provided under this subsection,
7 and the credit provided under any local law enacted pursuant to
8 subsection (f) of section thirteen hundred ten of this chapter, as to
9 their potential eligibility. In making the determination of whether a
10 taxpayer may be eligible for such credit, the commissioner shall use
11 such data as may be appropriate and available, including, but not limit-
12 ed to, data available from the United States Department of Treasury,
13 Internal Revenue Service and New York state income tax returns for
14 preceding tax years.
15 (II) EXCEPT AS SET FORTH IN CLAUSE (D) OF THIS SUBPARAGRAPH, EMPLOYERS
16 WITH PERSONS IN THEIR EMPLOY IN NEW YORK STATE FOR WHOM THEY MUST
17 PROVIDE AN ANNUAL WAGE SUMMARY SHALL EACH YEAR FURNISH TO EACH SUCH
18 PERSON A NOTICE THAT HE OR SHE MAY BE ELIGIBLE FOR A STATE EARNED INCOME
19 TAX CREDIT PURSUANT TO THIS SUBSECTION AND A FEDERAL EARNED INCOME TAX
20 CREDIT PURSUANT TO SECTION THIRTY-TWO OF THE INTERNAL REVENUE CODE. FOR
21 PURPOSES OF THIS SUBPARAGRAPH, EMPLOYER SHALL HAVE THE SAME MEANING AS
22 SET FORTH IN SUBSECTION (A) OF SECTION THREE THOUSAND THREE HUNDRED SIX
23 OF THE INTERNAL REVENUE CODE.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD12026-04-9

1 (A) CONTENTS OF NOTICE. THE NEW YORK STATE DEPARTMENT OF TAXATION AND
2 FINANCE SHALL PROMULGATE GUIDANCE AS NECESSARY SPECIFYING THE MINIMUM
3 REQUIREMENTS OF SUCH NOTICE, WHICH WILL INCLUDE, BUT NOT BE LIMITED TO,
4 INFORMATION AS TO THE AVAILABILITY OF AND POTENTIAL ELIGIBILITY FOR THE
5 FEDERAL EARNED INCOME TAX CREDIT AND THE NEW YORK STATE EARNED INCOME
6 TAX CREDIT. SUCH NOTICE SHALL REFER PERSONS TO BOTH THE INTERNAL REVENUE
7 SERVICE AND THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BY
8 TELEPHONE AND THROUGH THEIR WEBSITES FOR INFORMATION REGARDING ANNUAL
9 ELIGIBILITY THRESHOLDS BY HOUSEHOLD TYPE, FILING REQUIREMENTS, AND HOW
10 TO OBTAIN NECESSARY FORMS AND INSTRUCTIONS.

11 (B) TIMING OF NOTICE. THE EMPLOYER SHALL PROVIDE THE NOTICE REQUIRED
12 BY THIS SUBPARAGRAPH WITHIN ONE WEEK BEFORE OR AFTER, OR AT THE SAME
13 TIME, THE EMPLOYER PROVIDES THE ANNUAL WAGE SUMMARY, INCLUDING BUT NOT
14 LIMITED TO, A FORM W-2 OR A FORM 1099. THE NOTICE SHALL BE PROVIDED
15 EITHER SEPARATELY OR AS PART OF THE ANNUAL WAGE SUMMARY.

16 (C) MANNER OF PROVIDING NOTICE. THE EMPLOYER SHALL PROVIDE THE NOTICE
17 REQUIRED BY THIS SUBPARAGRAPH TO EACH PERSON BY HAND DELIVERY, OR ELEC-
18 TRONIC MAIL, OR BY MAIL TO THE LAST KNOWN ADDRESS.

19 (D) EMPLOYER'S OPTION. AT THE EMPLOYER'S OPTION, THE EMPLOYER MAY
20 CHOOSE TO PROVIDE THE NOTICE REQUIRED PURSUANT TO THIS SUBPARAGRAPH ONLY
21 TO THOSE EMPLOYEES WHOSE GROSS ANNUAL INCOMES EQUAL OR EXCEED SIXTY
22 THOUSAND DOLLARS OR THE MAXIMUM INCOME AT WHICH AN EMPLOYEE MAY BE
23 ELIGIBLE FOR THE EARNED INCOME TAX CREDIT, WHICH EVER IS HIGHER.

24 S 2. This act shall take effect January 1, 2010.