S T A T E   O F   N E W   Y O R K

1375--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MONTGOMERY, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 6 of subsection (d) of section 606 of the tax law, as amended by section 3 of part V of chapter 60 of the laws of 2004, is amended to read as follows:

(6) Notification. (I) The commissioner shall periodically, but not less than every three years, make efforts to alert taxpayers that may be currently eligible to receive the credit provided under this subsection, and the credit provided under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter, as to their potential eligibility. In making the determination of whether a taxpayer may be eligible for such credit, the commissioner shall use such data as may be appropriate and available, including, but not limited to, data available from the United States Department of Treasury, Internal Revenue Service and New York state income tax returns for preceding tax years.

(II) EXCEPT AS SET FORTH IN CLAUSE (D) OF THIS SUBPARAGRAPH, EMPLOYERS WITH PERSONS IN THEIR EMPLOY IN NEW YORK STATE FOR WHOM THEY MUST PROVIDE AN ANNUAL WAGE SUMMARY SHALL EACH YEAR FURNISH TO EACH SUCH PERSON A NOTICE THAT HE OR SHE MAY BE ELIGIBLE FOR A STATE EARNED INCOME TAX CREDIT PURSUANT TO THIS SUBSECTION AND A FEDERAL EARNED INCOME TAX

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

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CREDIT PURSUANT TO SECTION THIRTY-TWO OF THE INTERNAL REVENUE CODE. FOR PURPOSES OF THIS SUBPARAGRAPH, EMPLOYER SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBSECTION (A) OF SECTION THREE THOUSAND THREE HUNDRED SIX OF THE INTERNAL REVENUE CODE.

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

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

(C) MANNER OF PROVIDING NOTICE. THE EMPLOYER SHALL PROVIDE THE NOTICE REQUIRED BY THIS SUBPARAGRAPH TO EACH PERSON BY HAND DELIVERY, OR ELECTRONIC MAIL, OR BY MAIL TO THE LAST KNOWN ADDRESS.

(D) EMPLOYER'S OPTION. AT THE EMPLOYER'S OPTION, THE EMPLOYER MAY CHOOSE TO PROVIDE THE NOTICE REQUIRED PURSUANT TO THIS SUBPARAGRAPH ONLY TO THOSE EMPLOYEES WHOSE GROSS ANNUAL INCOMES DO NOT EQUAL OR EXCEED SIXTY THOUSAND DOLLARS OR THE MAXIMUM INCOME AT WHICH AN EMPLOYEE MAY BE ELIGIBLE FOR THE EARNED INCOME TAX CREDIT, WHICHEVER IS HIGHER.

S 2. This act shall take effect January 1, 2016.