

STATE OF NEW YORK

8670

IN SENATE

July 2, 2020

Introduced by Sen. KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to providing for the advance payment of the earned income tax credit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 1 of subsection (d) of section 606 of the tax
2 law, as amended by section 1 of part Q of chapter 63 of the laws of
3 2000, is amended to read as follows:

4 (1) General. A taxpayer shall be allowed a credit as provided herein
5 equal to (i) the applicable percentage of the earned income credit
6 allowed under section thirty-two of the internal revenue code for the
7 same taxable year, (ii) reduced by the credit permitted under subsection
8 (b) of this section. Provided, however, for taxable years beginning in
9 two thousand twenty and thereafter, for the purpose of determining the
10 amount of tax credit under this paragraph, in calculating the earned
11 income tax credit allowed under section thirty-two of the internal
12 revenue code, the phaseout amount as referenced in section 32(b)(2)(A)
13 of the internal revenue code shall be read as twenty four thousand nine
14 hundred sixty dollars instead of eleven thousand six hundred ten dollars
15 and such phaseout amount shall be subject to adjustments made in section
16 thirty-two of the internal revenue code (the calendar year referenced in
17 the cost of living adjustment in section 32(j)(1)(B) of the internal
18 revenue code shall be applied as calendar year two thousand twenty with
19 respect to the phaseout amounts), including an additional phaseout
20 amount for a joint filer and inflation adjustment specified in such
21 section of the internal revenue code for taxable years beginning in two
22 thousand twenty and thereafter.

23 The applicable percentage shall be (i) seven and one-half percent for
24 taxable years beginning in nineteen hundred ninety-four, (ii) ten
25 percent for taxable years beginning in nineteen hundred ninety-five,
26 (iii) twenty percent for taxable years beginning after nineteen hundred
27 ninety-five and before two thousand, (iv) twenty-two and one-half
28 percent for taxable years beginning in two thousand, (v) twenty-five

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

LBD16838-01-0

1 percent for taxable years beginning in two thousand one, (vi) twenty-
2 seven and one-half percent for taxable years beginning in two thousand
3 two, ~~[and]~~ (vii) thirty percent for taxable years beginning in two thou-
4 sand three, (viii) thirty-five percent for taxable years beginning in
5 two thousand twenty, and (ix) forty percent for taxable years beginning
6 in two thousand twenty-one and thereafter. For taxable years beginning
7 in two thousand twenty and thereafter, in the case of an eligible indi-
8 vidual with no qualifying children, the credit percentage shall be
9 fifteen and three-tenths to determine the amount of the earned income
10 tax credit referenced in section 32(b)(1) of the internal revenue code
11 and the earned income amount and the phaseout amount of such individual
12 shall be determined as if such earned income amount and phaseout amount
13 as referenced in section 32(b)(2)(A) of the internal revenue code are
14 equal to the amount allowed for an eligible individual with one qualify-
15 ing child as such amounts are referenced in such paragraph. Provided
16 further, for the purpose of this subsection, an eligible individual
17 shall be an individual who has attained nineteen years of age as opposed
18 to twenty-five years of age, irrespective of the eligibility referenced
19 in section 32(c)(1)(A)(ii)(II) of the internal revenue code. Further-
20 more, an individual otherwise eligible but for the requirement under
21 section 32(m) of the internal revenue code shall be eligible for this
22 credit. Provided, however, that if the reversion event, as defined in
23 this paragraph, occurs, the applicable percentage shall be twenty
24 percent for taxable years ending on or after the date on which the
25 reversion event occurred. The reversion event shall be deemed to have
26 occurred on the date on which federal action, including but not limited
27 to, administrative, statutory or regulatory changes, materially reduces
28 or eliminates New York state's allocation of the federal temporary
29 assistance for needy families block grant, or materially reduces the
30 ability of the state to spend federal temporary assistance for needy
31 families block grant funds for the earned income credit or to apply
32 state general fund spending on the earned income credit toward the
33 temporary assistance for needy families block grant maintenance of
34 effort requirement, and the commissioner of the office of temporary and
35 disability assistance shall certify the date of such event to the
36 commissioner of taxation and finance, the director of the division of
37 the budget, the speaker of the assembly and the temporary president of
38 the senate.

39 § 2. The tax law is amended by adding a new section 679 to read as
40 follows:

41 § 679. Advance payment of earned income credit. (a) General rule.
42 Except as otherwise provided in this chapter, the commissioner shall
43 provide for the prepayment of the earned income credit to qualifying
44 employees.

45 (b) Earned income eligibility certificate. For purposes of this arti-
46 cle, an earned income eligibility certificate is a statement furnished
47 by an employee to the commissioner which:

48 (1) certifies that the employee will be eligible to receive an earned
49 income credit or an enhanced earned income credit provided pursuant to
50 subsection (d) or (d-1) of section six hundred six of this article for
51 the taxable year;

52 (2) certifies that the employee does not have an earned income eligi-
53 bility certificate in effect for the taxable year with respect to the
54 payment of wages by another employer; and

55 (3) states whether the employee's spouse has an earned income eligi-
56 bility certificate in effect. For purposes of this section, a certif-

1 icate shall be treated as being in effect with respect to a spouse if
2 such certificate will be in effect on the first status determination
3 date following the date on which the other eligible spouse furnishes the
4 statement in question.

5 (c) Earned income advance amount. Four advanced payments shall be made
6 to such qualifying employees. An estimated annual tax credit shall be
7 determined by the commissioner in advance of the first payment and shall
8 be subject to adjustment due to changes in employment or family status
9 over the course of the year. Prior to disbursement, the commissioner
10 shall ensure that the qualifying employee's status has not changed. The
11 first three advanced payments shall be made during the taxable year and
12 shall be twenty percent of the anticipated credit. The fourth advanced
13 payment shall be made after the tax year is over and shall be adjusted
14 to match the actual credit due eligible. Such payments shall, to the
15 extent practicable, be made available via direct deposit and via elec-
16 tronic benefit transfer (EBT) card.

17 (d) Form and contents of certificate. Earned income eligibility
18 certificates shall be in such form and contain such information as the
19 commissioner may determine and prescribe.

20 (e) Notification. (1) The commissioner shall notify all taxpayers who
21 have received a refund of the credit pursuant to subsection (d) or (d-1)
22 of section six hundred six of this article based on the most recent tax
23 return or record in writing of the availability of earned income advance
24 amounts under this section. Such written or electronic notification
25 shall include a clearly labeled section or withholding forms and a sepa-
26 rate handout with information about the advanced payment of the earned
27 income credit in the six most common languages spoken by individuals in
28 this state.

29 (2) The commissioner shall provide information of the availability of
30 earned income advance amounts under this section to tax preparers,
31 accountants and organizations that assist individuals in tax prepara-
32 tion. Such information shall be distributed to qualifying individuals.

33 (f) Coordination with advance payments of earned income credit. (1) If
34 any payment is made to the individual by the department under this
35 section during any calendar year, the tax imposed by this chapter for
36 the individual's last taxable year beginning in such calendar year shall
37 be increased by the aggregate amount of such payments.

38 (2) If an individual establishes that he or she is requesting and
39 receiving payments under this section in good-faith by establishing that
40 he or she properly claimed payments under this section in the prior year
41 and that he or she has not experienced a substantial change in circum-
42 stances such that he or she has a reasonable expectation of eligibility
43 in the current year, then paragraph one of this subsection shall not
44 apply.

45 (3) Any increase in tax under this subsection shall not be treated as
46 tax imposed by this chapter for purposes of determining the amount of
47 any credit, other than the credit allowed by subsection (d) or (d-1) of
48 section six hundred six of this article, allowable under this article.

49 § 3. This act shall take effect immediately and shall apply to taxable
50 years beginning on or after January 1, 2020.