

STATE OF NEW YORK

4425

2025-2026 Regular Sessions

IN SENATE

February 4, 2025

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

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 and a new paragraph 9 is added 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-seven and thereafter, for the purpose of determining
10 the 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-five
19 with 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-seven 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.

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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-seven, and (ix) forty percent for taxable years
6 beginning in two thousand twenty-eight and thereafter. For taxable
7 years beginning in two thousand twenty-seven and thereafter, in the case
8 of an eligible individual with no qualifying children, the credit
9 percentage shall be fifteen and three-tenths to determine the amount of
10 the earned income tax credit referenced in section 32(b)(1) of the
11 internal revenue code and the earned income amount and the phaseout
12 amount of such individual shall be determined as if such earned income
13 amount and phaseout amount as referenced in section 32(b)(2)(A) of the
14 internal revenue code are equal to the amount allowed for an eligible
15 individual with one qualifying child as such amounts are referenced in
16 such paragraph. Provided further, for the purpose of this subsection, an
17 eligible individual shall be an individual who has attained nineteen
18 years of age as opposed to twenty-five years of age, irrespective of the
19 eligibility referenced in section 32(c)(1)(A)(ii)(II) of the internal
20 revenue code. Furthermore, an individual otherwise eligible but for the
21 requirement under section 32(m) of the internal revenue code shall be
22 eligible for this credit. Provided, however, that if the reversion
23 event, as defined in this paragraph, occurs, the applicable percentage
24 shall be twenty percent for taxable years ending on or after the date on
25 which the reversion event occurred. The reversion event shall be deemed
26 to have occurred on the date on which federal action, including but not
27 limited to, administrative, statutory or regulatory changes, materially
28 reduces or eliminates New York state's allocation of the federal tempo-
29 rary assistance for needy families block grant, or materially reduces
30 the 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 (9) Individuals over age sixty-five. Notwithstanding the provisions of
40 section 32(c)(1)(A)(ii)(III) of the internal revenue code, an individual
41 who is otherwise eligible to receive the earned income credit under this
42 subsection shall not be deemed ineligible due solely to the fact that
43 such individual has attained the age of sixty-five.

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

46 § 679. Advance payment of earned income credit. (a) General rule.
47 Except as otherwise provided in this chapter, the commissioner shall
48 provide for the prepayment of the earned income credit to qualifying
49 employees.

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

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

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

4 (3) states whether the employee's spouse has an earned income eligi-
5 bility certificate in effect. For purposes of this section, a certifi-
6 cate shall be treated as being in effect with respect to a spouse if
7 such certificate will be in effect on the first status determination
8 date following the date on which the other eligible spouse furnishes the
9 statement in question.

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

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

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

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

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

43 (2) If an individual establishes that they are requesting and receiv-
44 ing payments under this section in good faith by establishing that they
45 properly claimed payments under this section in the prior year and that
46 they have has not experienced a substantial change in circumstances such
47 that they have a reasonable expectation of eligibility in the current
48 year, then paragraph one of this subsection shall not apply.

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

53 § 3. This act shall take effect immediately and shall apply to taxable
54 years beginning on or after January 1, 2027.