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OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
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Administrative Directive

Section 1

Transmittal:	06-ADM-12
To:	Local District Commissioners
Issuing Division/Office:	Center for Child Well-Being/Division of Child Support Enforcement
Date:	<i>REISSUE:</i> June 26, 2009
Subject:	Noncustodial Parent New York State Earned Income Tax Credit (NCP NYS EIC) – Procedures
Suggested Distribution:	Child Support Enforcement Coordinators Support Collection Unit Supervisors
Contact Person(s):	DCSE – County Representative 1-800-343-8859 or NYC 1-212-961-8269 Legal – Brian Wootan 518-473-6188
Attachments:	<ol style="list-style-type: none"> 1. Request for Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Credit Eligibility Form 2. Result of Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Credit 3. Child Support Collection Calculation Instructions 4. New Tax Credit for Noncustodial Parents Paying Child Support 5. Flowchart of Process: OTDA/Dept. of Taxation and Finance Noncustodial Parent Earned Income Tax Credit Process
Attachment Available On – Line:	yes

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			Tax Law Subsection 606(d-1)		Tax Form IT-209 and Instructions

Section 2

I. Summary

This Administrative Directive (ADM) provides local district staff with necessary procedural information to implement a new law that provides for an enhanced Noncustodial Parent New York State Earned Income Tax Credit (NCP NYS EIC) for taxpayers who are noncustodial parents (NCPs) who pay child support through a New York State Support Collection Unit (SCU). **This directive is being reissued to provide further technical instruction to Sections V.A., B., C., D., E., F., G., H., and I., and Attachment 5, of the directive published February 9, 2007.**

II. Purpose

The purpose of this directive is to provide state and local district staff with information and procedures regarding the new NCP NYS EIC. It sets forth the process by which the Office of Temporary and Disability Assistance (OTDA), Division of Child Support Enforcement (DCSE), will provide a file of potentially eligible NCPs to the Department of Taxation and Finance (DTF). To meet the child support qualifications for the credit and be included on the file, the NCP must have a child support order that has been in effect at least one-half of the tax year that is payable through an SCU, and the NCP has paid 100% of the current amount of child support due in the tax year. The directive provides an appeal process to the SCU for an NCP who has been notified by DTF that their claim for the NCP NYS EIC has been disallowed because they did not meet all of the child support qualifications.

III. Background

Subsection 606 (d-1) of Tax Law was added by Part I of Chapter 58 of the Laws of 2006 to provide an enhanced earned income tax credit for certain taxpayers. To be eligible for the new credit a taxpayer must: 1) be a resident taxpayer; 2) have attained the age of eighteen; 3) have a minor child or children with whom the taxpayer does not reside; 4) have a child support order payable through a New York SCU that has been in effect for at least one-half of the taxable year; and 5) have paid an amount of support to the SCU in the tax year at least equal to the amount of current support due during the tax year for every order requiring the NCP to make payments through the SCU. The law also provides that an NCP is not allowed multiple credits under this subsection if they have more than one child or have more than one order. The NCP is also not allowed more than one credit if eligible for an earned income tax credit under other provisions of tax law.

IV. Program Implications

OTDA implications: The OTDA must provide to DTF a list of child support NCPs meeting the eligibility requirements listed in Section III above by January 15th of each year.

SCU implications: The SCU will be required to administratively review claims by NCPs that they were improperly left off the list of eligible taxpayers and therefore denied the NCP NYS EIC. The SCU must transmit the results of that review to the NCP and to

OTDA. The SCU may be required to appear and defend its administrative determination if a judicial challenge is made to the determination pursuant to Article 78 of the New York Civil Practice Law and Rules.

V. Required Action

A. OTDA provides an annual file to DTF

The law requires that the OTDA provide the file of NCPs meeting the child support qualifications to DTF by January 15th of each year for the preceding tax year (beginning in January of 2007 for Tax Year 2006 and ending with Tax Year 2012). The OTDA will prepare and transmit a file by file transfer protocol (FTP) to DTF. The file will identify the tax year to which the certification applies and NCP's names and social security numbers that meet the following criteria:

1. The NCP must have attained the age of 18 as of December 31st of the applicable tax year, and the NCP must be the parent of a minor child or children with whom the NCP does not reside. For purposes of the NCP NYS EIC, minor child or children means at least one child has not attained the age of 18 as of December 31st of the applicable tax year.
2. The NCP must have an order requiring him or her to make child support payments for the minor child or children in paragraph 1 above payable through a New York State SCU and that order must have been in effect for at least one-half of the tax year.
3. The NCP must have paid an amount of child support during the tax year at least equal to the amount of current child support due during the tax year. If the NCP has multiple child support orders, the NCP must meet this requirement for every order requiring him or her to make child support payments through a New York State SCU.

B. DTF review of NCP NYS EIC claims

1. Taxpayers claim the NCP NYS EIC by filing DTF Tax Form IT-209 with their annual tax return.
2. DTF will match the NCPs provided on the OTDA file with taxpayers who are claiming the NCP NYS EIC on the IT-209. If there is a match, and provided that all other DTF eligibility requirements are met, NCP claims will be processed by DTF for the tax credit.
3. NCPs who do not appear on the OTDA file and who have filed an IT-209 claiming the NCP NYS EIC will have their tax credit denied by DTF. When a taxpayer's claim is denied for the NCP NYS EIC, they will receive the appropriate response as either a notice of refund adjustment or a tax bill. The notice of refund adjustment or the tax bill will indicate the reason for the denial via an appropriate message printed on the response for that tax year. DTF will provide OTDA with each tax year's message.

4. The message language provided with the notice of refund adjustment or on the tax bill will advise the taxpayer that the claim for NCP NYS EIC has been disallowed and will direct the taxpayer to contact the New York State Child Support Helpline (CSH) at **1-888-208-4485** to request a review of the child support disqualification.
5. Information regarding the taxpayer's right to request a review by the SCU is also provided through DTF instructions for making claims for the NCP NYS EIC on the DTF Tax Form IT-209. If an SCU receives an inquiry directly from an NCP regarding a challenge to a DTF denial response (notice of refund adjustment or tax bill) for the NCP NYS EIC, the NCP should be referred to the CSH to obtain the form(s) and instructions necessary for making such a request. The NCP should not be referred to DTF.

C. CSH response to taxpayer questions

1. The CSH will advise the NCP that a request for review must be made to the appropriate SCU by completing and forwarding the form "Request for Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Tax Credit," hereafter known as the "Request Form," to the SCU (see Attachment 1).
2. The CSH will perform the following steps for each request:
 - a. Search Child Support Management System (CSMS) by NCP name and SSN;
 - b. Record each SCU Name and CSMS Case ID No.;
 - c. Review each case to ensure that the account contains one of the following three FIPS codes:
 - first position equal to 1, with 2nd and 3rd positions other than 36;
 - first position equal to 1, with 2nd and 3rd positions equal to 36 and 3rd, 4th and 5th positions equal to the local county code; or
 - first position equal to a 2;
 - d. Ensure that at least one case ledger has a status of 1 or 2 for a portion of the tax year, either contiguous or non-contiguous time. Where there is more than one case, ensure that there is at least one case ledger with a status of 1 or 2, and that the status 1 or 2 ledger on each case has existed for any portion of the tax year, either contiguous or non-contiguous time.
3. If the NCP's case meets the criteria identified above, the CSH will mail a Request Form populated with the NCP name, CSMS Case ID No. and SCU name to the NCP the same day as requested. If the NCP has more than one eligible case on CSMS, the CSH will mail a Request Form for each case identified. The NCP is required to complete and submit each Request Form they have received from the CSH to the appropriate SCU.

D. SCU review of NCP claims

1. Upon receipt of a Request Form, the SCU must conduct and issue the results of the review to the NCP no later than 45 days from the date of receipt of a completed Request Form.
2. A new status code has been established to document review activity on CSMS. SCU staff must manually enter the status and reason code H001 01 “Resp Requests EIC Review” and the appropriate tax year (e.g., “06”) in the MI field on the IVDJSI screen on CSMS for the appropriate case(s) to record that the Request Form has been received.
3. The SCU must review the Request Form(s) to ensure that the NCP has provided the following:
 - a. all necessary information to identify the NCP’s child support account(s);
 - b. NCP’s current mailing address;
 - c. tax year for which the NCP has requested review; and
 - d. factors which the NCP believes make him/her qualified for the NCP NYS EIC.
4. SCU must review all supporting documentation provided by the NCP.
5. Based on the request for review, the SCU must:
 - a. verify that there is a child support order or orders payable through their SCU;
 - b. complete steps c-g where the NCP checks the box requesting the review. Where the NCP checks the box claiming that the case should not be considered for review, determine if the case accurately reflects the correct status and obligation amount, and make appropriate account adjustments as necessary. If it is determined that the case should not be considered for review skip steps c-f;
 - c. calculate the total amount of current support payments due and the total paid per court order for the relevant tax year (see Attachment 3: “Child Support Collection Calculation Instructions”). If there are multiple orders payable through the SCU, make the calculation for each order. If there are multiple CSMS accounts per court order the due and paid must be totaled;

- d. if the NCP claims that the SCU record is incomplete, review the NCP's evidence of non-credited payments and determine if the SCU record is accurate. If the NCP provides evidence of a non-credited payment for the tax year of the review which is posted in January of the succeeding year, payments should be considered in the calculation. If the NCP alleges direct payments, payments made outside the SCU may not be credited absent: 1) a court order; or 2) proof that payments were made to the SCU of another district or state attributable to this order;
- e. identify if the amounts paid are less than, equal to, or greater than the current amount due for the tax year under each order;
- f. determine if the NCP has/has not met the qualifications as described in paragraphs a. through e. above; and,
- g. complete a Result Form (see Attachment 2) for each associated case per court order, as provided in E. below.

E. SCU issues notification of results of review

1. The SCU's determination must be issued in writing to the NCP within 45 days of the SCU's receipt of a completed Request Form. The SCU must complete and mail the "Result of Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Tax Credit" (hereafter known as the "Result Form") to the NCP address provided on the Request Form (see Attachment 2) for each case included in the review.
2. The SCU must use the Automated State Support Enforcement and Tracking System (ASSETS) to complete the Result Form(s), using the menu selection for Document Generation. No other version of the Result Form may be used for this process.
3. The ASSETS-generated Result Form must include the tax year, the current date, the NCP's name, address, social security number, and CSMS case number, and one of the following results of the review:
 - You do not meet the child support qualifications (with sub-categories); or
 - You do meet the child support qualification; or
 - This case is not applicable for review.
4. Once completed, the SCU must save the Result Form to the ASSETS Document Log to set the appropriate CSMS status and reason code, as follows:
 - H801 RC01 "Does Not Meet EIC Qualifications"; or
 - H901 RC01 "Meets EIC Qualifications"; or

- H999 RC00 “Review Terminated” for cases which should not be considered in the review of the process.
5. The SCU must print and mail the completed Result Form(s) to the NCP by first class mail and fax a copy to the processing center at **(518) 459-2581**. If the SCU is reviewing more than one child support case for their SCU for the NCP, each case must be reviewed separately and individual Result Forms must be printed and mailed to the NCP by first class mail and faxed to the processing center at the same number.

F. Processing Center assessment of SCU result forms

1. Upon receipt of a facsimile copy of the Result Form(s) from the SCU, the processing center will collect, compile, and assess the results. For NCPs with multiple cases, results will be held until all Result Forms are received for all cases.
2. The Result Form provides for the options identified in Section V.E.3. above. Based on the compiled results of those options, the processing center will make the following assessments:
 - a. If one or more of the Result Form(s) submitted to the processing center indicate(s) that the NCP **has not met** the child support qualifications **for any** of the NCPs cases, the NCP will not be eligible for the NCP NYS EIC. Information regarding this NCP will **not** be provided to DTF.
 - b. If the Result Form(s) submitted to the processing center indicate(s) that the NCP **has met** the child support qualifications **for all** cases associated to that NCP, the NCP will have met the child support qualifications for the NCP NYS EIC. Information regarding this NCP will be provided to DTF (see Section G. below).
 - c. If one or more of the Result Form(s) submitted to the processing center indicate(s) that the case(s) should not be considered for review, that case will be excluded from review.

G. Processing Center notifies DTF of SCU determination

1. The processing center will notify DTF of any NCP who meets the child support qualifications for all cases associated to that NCP (see Section V.F.2.b. above). Those NCPs who meet the qualifications will be entered on a data file and the data file will be provided to DTF on a semi-monthly basis. The transmission of the data files will occur on the first and the third Friday following the end of a CSMS month. DTF will only accept the Result Form(s) from the processing center through the data file transmission. In no instance should the SCU submit the Result Form(s) directly to DTF, nor should the NCP be advised to submit the Result Form(s) directly to DTF.

2. The NCP NYS EIC will be issued by DTF to those taxpayers identified on the semi-monthly data files provided that all other DTF eligibility requirements are met.

H. Record Retention

The SCU must retain NCP NYC EIC requests for review, including the Review and Result Form(s), as part of the case records. Record retention for case records is six (6) years after the case closes.

I. Article 78 Proceedings

1. The NCP may disagree with the SCUs decision that he or she has not met the child support qualifications and may seek review of this decision by bringing a legal proceeding authorized by Article 78 of the Civil Practice Law and Rules within four months of the date of the Result Form(s). If the legal proceeding results in a determination that the NCP does meet the child support qualifications, and the NCP provides a copy of the resulting order to the SCU, the SCU would follow the instructions provided in Section V.E. above.
2. The processing center will notify DTF as outlined in Section V.G. above.
3. If all other DTF eligibility requirements are met, the NCP will be issued a NCP NYS EIC.

J. Notice to NCPs Regarding Tax Credit

A special notice (see Attachment 4) has been developed advising NCPs of the new NCP NYS EIC for the 2006 Tax Year. This notice may be included with the annual statements sent to NCPs in December each year.

VI. Effective Date

This ADM is effective immediately.

Release Issued By:

Name: Scott E. Cade
Title: Deputy Commissioner and Director
Division/Office: Center for Child Well-Being/Division of Child Support Enforcement