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OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE  
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*Governor*

## Informational Letter

### Section 1

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<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Center for Employment and Economic Supports
<b>Date:</b>	December 21, 2009
<b>Subject:</b>	Earned Income Tax Credit (EITC) and Other Tax Credits for Tax Year 2009
<b>Suggested Distribution:</b>	Temporary Assistance Directors Food Stamp Directors Employment Coordinators TOP Coordinators
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### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
06 ADM-12 97 ADM-23 02 INF-31	09 INF-01	352.20(g)	131-n	TASB 19(C)(11)	PUB 4786 PUB 4951 00 LCM-11

## Section 2

### I. Purpose

The purpose of this Informational Letter (INF) is to inform local social services districts of the changes in the Earned Income Tax Credit (EITC) and the availability of other tax credits for Tax Year 2009. This INF will serve as an updated summary for Tax Year 2009 State and federal tax credits. New or revised information is in **bold** typeface.

In addition, districts should reach out to their clients and other low-income households to encourage them to file for these various tax credit benefits. Details on how to obtain EITC outreach materials may be found in Part III - Program Implications of this INF.

### II. Background

The EITC continues to be a very important tax benefit and work support available to employed low-income households. As in previous years, neither the New York State, New York City, nor the federal EITC will be deemed to be income or resources for ongoing temporary assistance or the Home Energy Assistance Program (HEAP). In addition, New York State, New York City, and federal EITCs are excluded as income for food stamps.

The credits are an important anti-poverty tool which can dramatically increase family income as family members move into the workforce. Workers who qualify for the EITCs and file State and federal tax returns can receive tax benefits totaling up to \$7,354. In addition, households who qualified for the credit during the past three years, but who never claimed the EITC to which they were entitled for any of those years, may file retroactively for these benefits.

Over 1.5 million New York households claimed \$2.9 billion in federal EITC and \$858 million in State EITC for Tax Year 2007. The average combined claim per household was over \$2,400. Notwithstanding, the IRS estimates that about 20-25% of households eligible for the credit still do not claim it. That is why district outreach and promotion of the credit is so important.

While OTDA's goal is to reach as many eligible low-income taxpayers as possible, particular target populations should include:

- Those receiving temporary assistance, food stamps, or HEAP and are working;
- Those leaving welfare for work who have had little or no previous labor force experience and may not be familiar with the EITC and other available tax benefits;
- Non-parent working relative caregivers who are raising EITC-eligible children in their home; and
- Legal immigrant households who may mistakenly believe they are ineligible for the EITC.

The EITCs can significantly increase the available income of low-income wage earners. For example, for a family with two children and one wage earner holding a full-time minimum wage job, the State and federal EITCs can add over one-third to that person's earnings. Therefore, it is important that local district staff discuss the EITCs and encourage households to file for them at Volunteer Income Tax Assistance (VITA) sites. In particular, households that are facing financial problems such as rent or utility arrears should be encouraged to file for the credits to help increase their income.

### **III. Program Implications**

#### **EARNED INCOME TAX CREDIT**

For Tax Year 2009 an additional tier has been added to the EITC, families with three or more children. The maximum credits have increased as follows:

- Three or more children	\$5,657 (federal)+\$1,697 (State)=\$7,354
- Two children	\$5,028 (federal)+\$1,508 (State)=\$6,536
- One child	\$3,043 (federal)+\$913 (State)=\$3,955
- No children	\$457 (federal)+\$ 137 (State)=\$ 594

The qualifying income limits for the EITCs have increased as follows:

- Three or more qualifying children	\$43,279 (or \$48,279 if married filing jointly)
- Two qualifying children	\$40,295 (or \$45,295 if married filing jointly)
- One qualifying child	\$35,463 (or \$40,463 if married filing jointly)
- No qualifying children	\$13,440 (or \$18,440 if married filing jointly)

#### **NEW YORK CITY EITC**

New York City full-year residents and New York City part-year residents who claimed the federal EITC may now claim a New York City EITC. A New York State income tax Form IT-215 must be completed and attached to the state income tax return to claim it. **The credit is equal to 5% of the allowable federal EITC or up to \$282 for a household with three or more children, up to \$251 for a household with two children, up to \$152 for a household with one child, and up to \$22 for a household with no children.**

#### **NONCUSTODIAL PARENT NEW YORK STATE EITC (NCP EITC)**

This is a New York State tax credit that addresses the needs of low-income noncustodial parents, age 18-65, which supplements their earnings and helps qualified taxpayers become more involved in the economic and social well-being of their children. A Form

IT-209: Claim for Noncustodial Parent New York State Earned Income Credit must be filed with Form IT-215 to claim it.

To be qualified, a noncustodial parent must:

- Be a New York resident taxpayer;
- Be 18 years of age but younger than 66;
- Be a noncustodial parent and have a child(ren) that does not reside with him/her;
- Have a child support order through a New York State Child Support Collection Unit (SCU) for at least one-half year; and
- Have paid (100%) of the current amount of child support due for any tax year in which the NCP EITC is claimed.

Further details may be found in 06-ADM-12.

### **EITC AND CHILD-ONLY CASES**

Child-only cases are a significant portion of nearly every local district's caseload. Statewide, nearly half of Temporary Assistance for Needy Families (TANF) cases are child-only. In many of these households where the payee is a grandparent or other relative, that payee is self-sufficient and also has earned income. It is important to note that the children in these cases usually meet the definition of "qualifying child(ren)" for EITC. OTDA strongly suggests that in those child-only cases where the payee has earned income an effort is made to make these payees aware of their potential eligibility for the EITCs and assist them in filing.

### **FEDERAL CHILD TAX CREDIT and NEW YORK STATE EMPIRE STATE CHILD CREDIT**

The federal Child Tax Credit, worth up to \$1,000 for each qualifying child under age 17, is a nonrefundable credit used to reduce the amount of tax actually owed. To the extent that the federal child tax credit might exceed the amount of tax actually owed, the taxpayer may claim the difference in the form of an Additional Child Tax Credit, which is a refundable credit. The Additional Child Tax Credit may be claimed by filing Form 8812: Additional Child Tax Credit with federal taxes.

**Under the American Recovery and Reinvestment Act of 2009 (ARRA) more families will be eligible for the Additional Child Tax Credit because the ARRA reduces the minimum earned income amount used to calculate the Additional Child Tax Credit to \$3,000 from \$8,500 used in Tax Year 2008. Reducing the amount to \$3,000 will permit more taxpayers to use the Additional Child Tax Credit and increases the amount of payment they may receive.**

The Empire State Child Credit is a credit for children ages 4-16. Taxpayers can claim a credit equal to the greater of \$100 multiplied by the number of children who qualify for the federal Child Tax Credit or 33% of the taxpayer's federal Child Tax Credit. State Form IT-213 is used to claim the credit.

A working family can claim both the federal Child Tax Credit as well as the NYS Empire State Child Credit in addition to the EITCs.

### **CHILD AND DEPENDENT CARE CREDIT**

The federal Child and Dependent Care Credit is a tax benefit that helps qualifying families pay for child care and can also help families that must pay for the care of a spouse or adult dependent that is incapable of caring for him or herself. The credit can be worth as much as \$1,050 for families with one child or dependent in care, and up to \$2,100 for families with more than one child or dependent in care. The credit may be claimed by completing and attaching Form 2441 to Form 1040 or, if Form 1040A is filed, complete and attach Schedule 2.

The New York State credit is a minimum of 20% and as much as 110% of the federal credit, depending upon the amount of NYS adjusted gross income. Form IT-216 is used to claim the State credit. A New York City Child and Dependent Care Credit is also available for New York City residents and may be claimed on Form IT-216.

The federal Child and Dependent Care Credit is not refundable, it can only be used to reduce any taxes owed. However, both the New York State and New York City credits are refundable in that if they exceed the amount of tax owed, the balance is returned to the taxpayer in the form of a tax credit.

### **EDUCATION CREDITS**

There are two education credits that may be claimed by eligible students by completing federal Form 8863: Education Credits (Hope and Lifetime Learning Credits).

***Hope Credit:*** This credit can now be applied to the first four years of postsecondary education. \$2,500 is the maximum credit per student that may be claimed. (In Tax Year 2008 the maximum credit was \$1,800 and could only be claimed for the first two years of postsecondary education.) Another change for Tax Year 2009 is that the Hope Credit is now a refundable credit, which means a student can receive up to \$1,000 even if no taxes are owed.

***Lifetime Learning Credit:*** This credit is available for students at any point in their postsecondary education. The maximum credit is \$2,000 for one household, regardless of the number of eligible students in the family.

## **CLAIMING TAX CREDITS FOR PREVIOUS YEARS**

Taxpayers who were eligible for, but did not claim, State and federal tax credit refunds for the last three years (Tax Years 2006, 2007, 2008) can claim them now by completing Form 1040X: Amended U.S. Individual Income Tax Return and attaching it to a copy of the tax return filed for that year. If a federal return was not filed, a worker will need to file their taxes using the appropriate forms for that year.

The New York State EITC can likewise be claimed for the last three years. Since the amount of the State EITC is based upon the federal credit, the worker needs to complete and submit the IT-215: Claim for Earned Income Credit for the appropriate year, if tax forms were filed for that year. If New York State taxes were not filed for the given year they must be filed at the same time using either the IT-201: Resident Income Tax Return (long form) or IT-150: Resident Income Tax Return (short form).

## **ADVANCE EITC**

Low-income wage earners with qualifying children may, at their option, receive a part of their federal EITC in every paycheck and the rest of their credit after they file their income tax instead of receiving one large post-filing check from the IRS. This is called the “advance EITC payment.” For many low-income workers, getting part of the EITC in every paycheck can make a difference in paying rent, buying groceries, or meeting other day-to-day needs. For example, a worker can receive up to \$70 extra in each bi-weekly paycheck and still receive a lump sum, albeit smaller, EITC payment after they file taxes. This may be particularly important for people entering the workforce at low wages.

Employers also benefit because it can increase the take home pay of their employees at no cost to the business. Workers can get the advance payment by completing Form W-5: Earned Income Credit Advance Payment Certificate and submitting it to their employer. The W-5 can be completed at any time during the year, but *a new W-5 must be filed by the worker at the beginning of each year to continue receiving the EITC in their paychecks*. There is no advance payment option for the State EITC.

## **FREE TAX PREPARATION AT VOLUNTEER INCOME TAX ASSISTANCE (VITA) SITES AND TAXPAYER ASSISTANCE**

Individuals may obtain specific federal tax information by calling the IRS toll-free at 1-800-829-1040. New York State taxpayer assistance information is available toll-free by calling 1-800-225-5829. Many workers, especially those who are new to the workforce, are reluctant to complete tax forms on their own because they are intimidated or unfamiliar with the process. Such workers often seek help from commercial tax preparers and pay a fee for this service. Paying a tax preparer reduces the value of the credit for families most in need of it. In addition, an additional fee is charged for a refund

anticipation loan, also known as a “rapid refund.” A preferable alternative is for individuals to receive tax information or have their **tax forms filled out for free** by visiting their local VITA center. Most sites will also provide e-filing services at no charge and, if used, the taxpayer can receive their refund and/or credits within 10 business days. From mid-January through April 15<sup>th</sup>, 2010, VITA volunteers will be at sites in every county throughout the State.

Twenty-four (24) social services district offices are hosting VITA sites this coming tax season. For those districts not hosting a tax preparation site, a statewide listing of VITA locations is available electronically on the OTDA intranet <http://www.otda.state.ny.us/main/reform/vita.htm>. Locations of VITA offices will be publicized in the media or can be obtained by calling the toll free IRS telephone number: 1-800-906-9887. The districts are strongly urged to know where the VITA sites are located in their districts and to offer this information when encouraging families to apply for the EITC and other credits.

## **OUTREACH AND PROMOTIONAL MATERIALS**

Outreach and promotional materials produced by the Center on Budget and Policy Priorities can be downloaded from their website: <http://www.cbpp.org>. From the Center’s homepage, select **2010 EITC Kit**. Within the kit are flyers and envelope stuffers available in both English and Spanish. Detailed information on tax credits and outreach strategies can also be downloaded from the site. The kit will become available in December.

## **myBenefits WEBSITE**

The OTDA website [www.myBenefits.ny.gov](http://www.myBenefits.ny.gov) serves as a single internet portal for visitors to connect with benefits, services, and work supports. Through this site visitors can learn about and be screened for an array of work supports from tax credits to food stamps, HEAP, WIC, health insurance, and school breakfast and lunch meals. There are also direct links to “Resources for Working Families” and a county-by-county listing of VITA sites.

Because most taxpayers who are eligible for one work support are also likely to be eligible for many of the other supports, we strongly encourage local staff to provide their clients with this website address or access the site with their clients in order to screen them for eligibility for other work supports.

## **FORMS INFORMATION**

An updated EITC brochure, PUB 4786: The Earned Income Tax Credit may be requested on form OTDA-876 EL: "Request for Forms or Publications" and sent to:

NYS Office of Temporary and Disability Assistance  
BMS Document Services and Operational Support  
P.O. Box 1900  
Albany, NY 12201

The brochure may also be ordered online. To order the brochure, obtain an OTDA-876 electronically by going to the OTDA intranet site <http://www.otda.state.ny.us/main/publications>.

Copies of the brochure may be obtained from the OTDA internet site at <http://www.otda.state.ny.us/main/reform> including versions in Arabic, Chinese, Russian, and Spanish, as well as English.

### **Issued By**

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