New York State Department of Taxation and Finance

Taxpayer Services Division
Technical Services Bureau

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Income Tax
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New York State's Earned Income Credit

The Tax Law has been amended to provide for a New York State earned income credit. This credit, which applies to tax years beginning after 1993, is explained below.

General

A taxpayer must be eligible to claim the federal earned income credit in order to claim the New York State credit. The New York State earned income credit is computed as a percentage of the federal earned income credit. If the taxpayer is also subject to the federal alternative minimum tax, the federal credit used in the New York computation is the amount before any reduction for the federal alternative minimum tax.

The percentage of the federal credit used to compute the New York credit increases each year over a four-year period beginning with tax year 1994. The applicable percentage of the federal credit is as follows:

71/2 percent for tax years beginning in 1994
10 percent for tax years beginning in 1995
15 percent for tax years beginning in 1996
20 percent for tax years beginning after 1996

The credit applies only to the New York State personal income tax. It does not apply to the New York City or Yonkers personal income or nonresident earnings taxes1. If the taxpayer is a resident or a part-year resident and the credit exceeds the individual's tax for the year, the excess credit will be refunded, without interest. A nonresident cannot receive a refund of the credit. In addition, the credit is applied differently in the case of residents, nonresidents and part-year residents, as explained below.

Unlike the federal earned income credit, a taxpayer may not receive an advance payment of the New York State credit.

[1] By statute, the earned income credit is not allowed against the city taxes. However, in the processing of returns, before any refund is issued, the Tax Department will apply any excess credit against any city taxes owed by a resident or part-year resident.

Residents

For a resident individual, the earned income credit is applied against **all** taxes imposed under the New York State personal income tax. It is applied after the application of all other personal income tax credits, including the credit for taxes withheld. If the earned income credit exceeds the amount remaining, the excess credit will be refunded, without interest.

Nonresidents

For a nonresident individual, the earned income credit is applied only against the New York State taxes imposed under sections 601(a)-(d) of the Tax Law, after the application of the household credit and the child care credit. (The taxes imposed under sections 601(a)-(d) consist of the regular tax and the tax benefit recapture, computed as if the individual were a resident.) If the earned income credit is:

-- Less than the above amount, the remaining tax (the base tax) is multiplied by the income percentage [2] to arrive at the New York State tax before other credits and taxes.

-- More than the above amount, the excess credit cannot be used to reduce any other personal income taxes, such as the minimum income tax, and the excess cannot be refunded.

Part-Year Residents

The application of the earned income credit for part-year residents may involve a multiple step process.

1. As in the case of a nonresident, the earned income credit is first applied against the New York State taxes computed under sections 601(a)-(d), after the application of the household credit and the child care credit. If the earned

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[2] For a nonresident or part-year resident individual, the base tax is equal to the taxes computed under sections 601(a)-(d) of the Tax Law as if the individual were a resident, reduced, respectively, by the household credit, the child care credit and the earned income credit. The income percentage is the percentage computed by dividing the individual's New York source income for the entire year by the individual's New York adjusted gross income for the entire year. (See section 601(e) of the Tax Law).

income credit is:

-- Less than the above amount, the remaining tax (the base tax) is multiplied by the income percentage to arrive at the New York State tax before other credits and taxes.

-- More than the above amount, proceed to Step 2.

2. Any excess credit from step one is then applied against the New York State separate tax on a lump-sum distribution and the New York State minimum income tax.

3. Any excess remaining from step 2 is multiplied by a fraction whose numerator is the taxpayer's federal adjusted gross income for the resident period, and whose denominator is the taxpayer's federal adjusted gross income for the entire tax year. The amount determined from this step will be refunded to the taxpayer, without interest.

Special Rule for a Husband and Wife

If a husband and wife file a joint federal return but are required to file separate New York State returns, they may divide the earned income credit between their two returns in any manner that they elect. If separate returns are required to be filed because one spouse is a resident and the other spouse is a nonresident or part-year resident, the most favorable tax result will generally occur if the resident spouse claims the entire credit.

How to Claim the Earned Income Credit

Form IT-100 filers claim the earned income credit by completing Form IT-100, including the Claim for Earned Income Credit section on the back.

Form IT-200, IT-201 and IT-203 filers must file Form IT-215, *Claim for Earned Income Credit*, to claim this credit, even if they qualify to have the Tax Department compute the credit (See below). Form IT-215 must be filed with a New York State income tax return. Form IT-215 cannot be filed alone, except in the special instance described below.

If a resident taxpayer is eligible to claim the credit but is not required to file a New York State income tax return, the taxpayer must still complete either Form IT-200 or Form IT-201 and attach Form IT-215, or complete Form IT-100, including the Claim for Credit section on the back. A part-year resident must complete Form IT-203 and attach Form IT-215. A nonresident who is not required to file a New York State return should not file Form IT-203 or Form IT-215, since a nonresident does not qualify for a refund of the earned income credit.

Exception: If an original return (including Form IT-100) has already been filed and the taxpayer failed to claim the earned income credit on that return, Form IT-215 should be filed alone. If this is the only change being made to the original return, the taxpayer should not file an amended return.

The New York State Tax Department will compute the New York State earned income credit for a taxpayer who files Form IT-100, provided the taxpayer completes the Claim for Earned Income Credit section on the back. The Department will compute the credit even if the taxpayer computed the credit on the federal return.

If a taxpayer does not file Form IT-100 and computes the credit on the federal return, the taxpayer must also compute the credit for New York purposes on Form IT-215. However, if the taxpayer chooses to have the Internal Revenue Service compute the federal credit, the Tax Department will also compute the New York credit. In this case, the taxpayer must still submit certain information on Form IT-215. If a husband and wife who file a joint federal return but file separate New York returns choose to have New York State compute the credit, the Tax Department will divide the credit between the two spouses to achieve the lowest possible combined tax.

For more information, see the instructions for Form IT-l00 or Form IT-215.

Examples

The following examples illustrate the allowance of the earned income credit in various situations.

Example 1: Steve Jones is single, a full-year resident of New York State, and has no dependents or qualifying children*. Steve's only income for the year is wages of $8,400, from which $146 of New York State income tax was withheld. He elects to claim the New York standard deduction, and is entitled to a federal earned income credit of $44.00. Steve's 1994 New York State tax would be computed as follows:

New York adjusted gross income	$8,400.00
Less: New York standard deduction	6,000.00
New York taxable income	$2,400.00

Tax from New York State tax table		$ 97.00
Less: household credit		45.00
Balance		$ 52.00
New York State tax withheld	$146.00	
Earned Income Credit		
($44.00 X .075)	3.30	
Total payments		149.30
Overpayment to be refunded ($149.30 - $52.00)		$ 97.30

*A qualifying child is a child who is a "qualifying child" for purposes of the federal earned income credit (Section 32(c)(3) of the Internal Revenue Code). Under section 32(c)(3), a qualified child does not have to be a dependent of the taxpayer.

Example 2: Joe and Nancy Bush are a married couple and both are residents. They have two qualifying children who are also their dependents. Their only income for the year is $12,000 of wages, from which $109.20 of New York State tax was withheld. They elect to claim the New York standard deduction, and are entitled to a federal earned income credit of $2,346.00 Joe's and Nancy's 1994 New York State tax would be computed as follows:

New York adjusted gross income		$12,000.00
Less: New York standard deduction		9,500.00
Balance		$ 2,500.00
Less: New York dependent exemptions		2,000.00
New York taxable income		$ 500.00
Tax from New York State tax table		$ 21.00
Less: household credit		105.00
New York State tax		-0-
New York State tax withheld	$109.20	
Earned income credit ($2346 X .075)	175.95	
Total payments		285.15
Overpayment to be refunded		**$ 285.15**

Example 3: John and Mary Smith, a married couple, are nonresidents of New York State and have two qualifying children. They have total wages for the year of $15,000, which were all earned in New York State and New York City. New York State tax of $494 and New York City tax of $59 were withheld from their wages. They also have other income of $1,200, none of which was earned in New York. They file a joint federal return and are therefore required to file a joint New York State return. They are entitled to two dependent exemptions for New York

purposes, claim the New York standard deduction and are entitled to a federal earned income credit of $1,604. John's and Mary's 1994 New York State and New York City taxes would be computed as follows:

		Federal Amount	State Amount
Wages		$15,000	$15,000
Other Income		1,200	-0-
Adjusted gross income		$16,200	$15,000
Less: New York standard deduction		9,500	
Balance		$ 6,700	
Less: New York dependent exemptions		2,000	
New York taxable income		$ 4,700	
Tax from New York State tax table		$189.00	
Less: household credit		105.00	
Balance		$ 84.00	
Less: earned income credit ($1604 X .075)		120.30	
Base tax		$ -0-	
Income percentage: $15,000 / $16,200		.9259	
New York State tax		-0-	
New York City nonresident earnings tax		58.50	
Total State and City taxes		$ 58.50	
New York State tax withheld	$494.00		
New York City tax withheld	59.00		
Total payments		553.00	
Overpayment to be refunded ($553.00 - $58.50)		**$494.50**	

*Since John and Mary are nonresidents, the excess credit of $36.30 ($120.30 - $84.00) cannot be applied against any other state or city taxes and cannot be refunded.

Example 4: Mary Jones, a single individual, changed her residence from New York to California on May 20, 1994. She has one qualifying child and is filing as a head of household for federal and state purposes. Mary earned wages of $5,000 during her resident period, from which $90 of New York State tax was withheld, and wages of $6,000 during her nonresident period. None of the wages earned during the nonresident period were earned in New York. She is entitled to one dependent exemption for New York purposes, claims the New York standard deduction and is entitled to a federal earned income credit of $2,034. Her 1994 New York tax is computed as follows:

	Federal Amount	NY State Amount
Wages for the resident period	$ 5,000	$ 5,000
Wages for the nonresident period	6,000	-0-
Federal adjusted gross income	$ 11,000	**$ 5,000**
Less: New York standard deduction	7,000	
Balance	$ 4,000	
Less: New York dependent exemption	1,000	
New York taxable income	$ 3,000	
Tax from New York State tax table	$ 121.00	
Less: household credit	75.00	
Balance	$ 46.00	
Less: earned income credit ($2,034 X .075)	152.55	
Base tax	$ -0-	
Income percentage: $ 5,000 / $11,000	.4545	
New York State tax	-0-	

Excess earned income credit:
$152.55 - $46.00 = $106.55

Amount of excess credit eligible for refund:

*$ 5,000 / **$11,000 X $106.55 = ...	$ 48.43	
New York state tax withheld	90.00	
Overpayment to be refunded	$ 138.43	

*$5,000 is Mary's federal adjusted gross income for the resident period.

**$11,000 is Mary's federal adjusted gross income for the entire tax year.