

## CHAPTER 80

AN ACT providing an earned income tax credit, amending and supplementing Title 54A of the New Jersey Statutes and amending P.L.1981, c.239.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.54A:4-6 Findings, declarations relative to an earned income tax credit.

1. The Legislature finds and declares that:

a. Since its enactment in 1975, the federal earned income tax credit has received bipartisan support and has proven to be one of the nation's most effective anti-poverty programs for working families by encouraging work, supplementing earnings and lifting nearly five million people out of poverty each year, approximately half of them children;

b. The federal earned income tax credit has contributed to a significant increase in labor force participation among New Jersey families;

c. A New Jersey Earned Income Tax Credit will build upon the federal program by cutting taxes for families struggling to provide for their children, reducing child poverty, supporting welfare-to-work efforts and making New Jersey a better place to live, work and raise a family;

d. Over the last six years, New Jersey's unemployment rate has fallen to its lowest rate in nearly a decade, and a significant number of the State's families who were dependent on welfare have made the transition from public assistance to work, often beginning in low-wage or entry-level positions; and

e. A New Jersey Earned Income Tax Credit can further promote work and job retention by supplementing the incomes of nearly 280,000 low-income working families as they move up the career ladder and remain independent from public assistance.

C.54A:4-7 New Jersey Earned Income Tax Credit Program.

2. There is established the New Jersey Earned Income Tax Credit program in the Division of Taxation in the Department of the Treasury.

a. (1) A resident individual with gross income of \$20,000 or less for the taxable year who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, or married resident individuals with combined gross income of \$20,000 or less for the taxable year who file a joint return for federal income tax purposes for the taxable year, shall be allowed a credit for the taxable year equal to a percentage, as provided in paragraph (2) of this subsection, of the federal earned income tax credit allowed to and claimed by the individual or by the married individuals filing a joint return under section 32 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.32, for the same taxable year for which a credit is claimed pursuant to this section, subject to the restrictions of this subsection and subsections b., c., d. and e. of this section.

(2) For the purposes of the calculation of the New Jersey earned income tax credit, the percentage of the federal earned income tax credit referred to in paragraph (1) of this subsection shall be:

(a) 10% for the taxable year beginning on or after January 1, 2000, but before January 1, 2001;

(b) 15% for the taxable year beginning on or after January 1, 2001, but before January 1, 2002;

(c) 17.5% for the taxable year beginning on or after January 1, 2002, but before January 1, 2003; and

(d) 20% for taxable years beginning on or after January 1, 2003.

(3) To qualify for the New Jersey earned income tax credit:

(a) the claimant's federal earned income tax credit for the taxable year must be a credit that is based on having at least one "qualifying child" within the meaning of section 32 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.32; and

(b) if the claimant is married, except for a claimant who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, the claimant shall file a joint return or claim for the credit.

(4) As used in this section, "gross income" means gross income required to be reported pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from the gross income tax return but before reduction thereof by any applicable

exemptions, deductions and credits received during the taxable year by the claimant individual or the claimant married individuals filing a joint return. In the case of a part-year resident, gross income means gross income that a part-year resident would have reported if the part-year resident had been a resident for the entire taxable year.

b. In the case of a part-year resident claimant, the amount of the credit allowed pursuant to this section shall be pro-rated, based upon that proportion which the total number of months of the claimant's residency in the taxable year bears to 12 in that period. For this purpose, 15 days or more shall constitute a month.

c. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:-1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit provided under this section as a credit against the tax otherwise due and the amount of the credit treated as an overpayment shall be treated as a credit towards or overpayment of gross income tax, subject to all provisions of N.J.S.54A:1-1 et seq., except as may be otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

d. The Director of the Division of Taxation in the Department of the Treasury shall have discretion to establish a program for the distribution of earned income tax credits pursuant to the provisions of this section.

e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance or the amount or extent of benefits or assistance under any State program and, to the extent permitted by federal law, under any State program financed in whole or in part with federal funds.

#### C.54A:4-8 Annual appropriation for administration.

3. There shall be annually appropriated to the Department of the Treasury such amount as the Director of the Division of Budget and Accounting in the Department of the Treasury shall determine is necessary for the administrative cost of implementing the provisions of this act.

#### C.54A:4-9 Availability of statistical information.

4. The Department of the Treasury shall make available to the Department of Human Services necessary statistical information obtained with respect to the New Jersey Earned Income Tax Credit program, in a usable format and in a timely manner, to prepare federal and other reports.

#### C.54A:4-10 Regulations.

5. a. The Director of the Division of Taxation in the Department of the Treasury shall adopt regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and prescribe forms to administer the provisions of this act.

b. Notwithstanding the provisions of P.L.1968, c.410 to the contrary, the director may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the director deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The regulation may thereafter be amended, adopted or readopted by the director as the director deems necessary in accordance with the requirements of P.L.1968, c.410.

6. N.J.S.54A:8-7 is amended to read as follows:

Report of change in federal taxable income or credit.

54A:8-7. Report of change in federal taxable income or credit. If the amount of a taxpayer's federal taxable income or earned income tax credit reported on the taxpayer's federal income tax return for any taxable year is changed or corrected by the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall report such change or correction in

federal taxable income or earned income tax credit within 90 days after the final determination of such change, correction, or renegotiation, or as otherwise required by the director, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended federal income tax return shall also file within 90 days thereafter an amended return under this act, and shall give such information as the director may require. The director may by regulation prescribe such exceptions to the requirements of this section as the director deems appropriate.

7. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read as follows:

C.54A:9-8.1 Setoff of indebtedness to State agencies; precedence of child support indebtedness.

1. Whenever any taxpayer or resident shall be entitled to any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" (N.J.S.54A:1-1 et seq.), including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive an NJ SAVER rebate or a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a et al.), and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the same time the taxpayer or resident shall be indebted to any agency or institution of State Government, to the Victims of Crime Compensation Board for the portion of an assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime Compensation Board Account or restitution ordered to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime Compensation Board Account, or for child support under Title IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C.s.601 et seq.), or other indebtedness in accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury shall apply or cause to be applied the refund, NJ SAVER rebate or homestead rebate, or all, or so much of any or all as shall be necessary, to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

8. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2000.

Approved August 14, 2000.