

CHAPTER 109

AN ACT expanding eligibility for the New Jersey earned income tax credit program to equal eligibility under the federal earned income tax program and enhancing the benefit amount, and amending P.L.2000, c.80.

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

1. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read as follows:

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 who is eligible for a credit under section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.32) 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;
- (d) 20% for taxable years beginning on or after January 1, 2003, but before January 1, 2008;
- (e) 22.5% for taxable years beginning on or after January 1, 2008 but before January 1, 2009; and
- (f) 25% for taxable years beginning on or after January 1, 2009.

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

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.

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2007.

Approved June 28, 2007.