

ASSEMBLY, No. 4922

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER, 5, 2020

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Expands eligibility under New Jersey earned income tax credit program to allow taxpayers who are victims of domestic abuse to claim credit with filing status of married filing separately.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** expanding eligibility under the New Jersey earned income
2 tax credit program for victims of domestic abuse, amending
3 P.L.2000, c.80.

4

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

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

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

13 a. (1) A resident individual who is eligible for a credit under
14 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
15 s.32) shall be allowed a credit for the taxable year equal to a
16 percentage, as provided in paragraph (2) of this subsection, of the
17 federal earned income tax credit that would be allowed to the
18 individual or the married individuals filing a joint return under
19 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
20 s.32) for the same taxable year for which a credit is claimed
21 pursuant to this section, subject to the restrictions of this subsection
22 and subsections b., c., d. and e. of this section and the modifications
23 of paragraph (4) of this subsection.

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

27 (a) 10% for the taxable year beginning on or after January 1,
28 2000, but before January 1, 2001;

29 (b) 15% for the taxable year beginning on or after January 1,
30 2001, but before January 1, 2002;

31 (c) 17.5% for the taxable year beginning on or after January 1,
32 2002, but before January 1, 2003;

33 (d) 20% for taxable years beginning on or after January 1, 2003,
34 but before January 1, 2008;

35 (e) 22.5% for taxable years beginning on or after January 1,
36 2008 but before January 1, 2009;

37 (f) 25% for taxable years beginning on or after January 1, 2009
38 but before January 1, 2010;

39 (g) 20% for taxable years beginning on or after January 1, 2010,
40 but before January 1, 2015;

41 (h) 30% for taxable years beginning on or after January 1, 2015,
42 but before January 1, 2016;

43 (i) 35% for taxable years beginning on or after January 1, 2016,
44 but before January 1, 2018;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (j) 37% for the taxable year beginning on or after January 1,
2 2018, but before January 1, 2019;

3 (k) 39% for the taxable year beginning on or after January 1,
4 2019, but before January 1, 2020; and

5 (l) 40% for taxable years beginning on or after January 1, 2020.

6 (3) (a) To qualify for the New Jersey earned income tax credit,
7 if the claimant is married, except for a claimant who files as a head
8 of household or surviving spouse for federal income tax purposes
9 for the taxable year, the claimant shall file a joint return or claim for
10 the credit.

11 (b) A married taxpayer shall not be required to satisfy the joint
12 filing requirement imposed pursuant to subparagraph (a) of this
13 paragraph and section 32 of the federal Internal Revenue Code of
14 1986 (26 U.S.C. s.32) if the taxpayer files as married filing
15 separately and the taxpayer: (i) is living apart from the taxpayer's
16 spouse at the time the taxpayer files the gross income tax return; (ii)
17 is unable to file a joint return because the taxpayer is a victim of
18 domestic abuse; and (iii) indicates on the taxpayer's gross income
19 tax return that the taxpayer meets the criteria set forth in this
20 subparagraph.

21 (4) A resident individual who is at least 21 years of age, but
22 cannot claim a qualifying child as defined under section 152 of the
23 federal Internal Revenue Code of 1986 (26 U.S.C. s.152) for the
24 federal earned income tax credit, shall be eligible for the New
25 Jersey earned income tax credit if that resident individual is
26 ineligible to claim the federal earned income tax credit due to
27 minimum age requirements. The resident individual shall meet all
28 qualifications, except for the minimum age, for the federal earned
29 income tax credit in order to be eligible for the New Jersey earned
30 income tax credit. Calculation of the New Jersey earned income tax
31 credit available to individuals pursuant to this paragraph shall be
32 predicated on the federal maximum amount for taxpayers with no
33 qualifying child for each taxable year beginning on and after
34 January 1, 2020.

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

40 c. The amount of the credit allowed pursuant to this section
41 shall be applied against the tax otherwise due under N.J.S.54A:1-1
42 et seq., after all other credits and payments. If the credit exceeds the
43 amount of tax otherwise due, that amount of excess shall be an
44 overpayment for the purposes of N.J.S.54A:9-7; provided however,
45 that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit
46 provided under this section as a credit against the tax otherwise due
47 and the amount of the credit treated as an overpayment shall be
48 treated as a credit towards or overpayment of gross income tax,

1 subject to all provisions of N.J.S.54A:1-1 et seq., except as may be
2 otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

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

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

12 (cf: P.L.2020, c.98, s.1)

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14 2. This act shall take effect immediately and apply to taxable
15 years beginning on or after January 1 next following the date of
16 enactment.

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19 STATEMENT

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21 This bill expands eligibility under the New Jersey earned income
22 tax credit program for taxpayers who are victims of domestic abuse,
23 and cannot file a joint return. Under the federal program, if a
24 taxpayer is married, the taxpayer is required to file a joint return
25 with their spouse to be eligible for the federal earned income credit.
26 However, victims of domestic abuse are typically required to file as
27 married filing separately, losing their federal earned income credit
28 and New Jersey earned income tax credit eligibility in the process.

29 The bill exempts a married taxpayer from the joint filing
30 requirement imposed by federal and State law if the taxpayer files
31 as married filing separately and the taxpayer: (i) is living apart from
32 the taxpayer's spouse at the time the taxpayer files the gross income
33 tax return; (ii) is unable to file a joint return because the taxpayer is
34 a victim of domestic abuse; and (iii) indicates on the taxpayer's
35 gross income tax return that the taxpayer meets the criteria set forth
36 in the bill.