



**George E. Pataki**  
Governor

**New York State**  
**Office of Temporary and Disability Assistance**  
40 North Pearl Street - Albany, NY 12243-0001

**Robert Doar**  
Commissioner

**Administrative Directive**

**Section 1**

<b>Transmittal:</b>	06-ADM-12
<b>To:</b>	Commissioners of Social Services
<b>Issuing Division/Office:</b>	OTDA
<b>Date:</b>	September 8, 2006
<b>Subject:</b>	Noncustodial Parent New York State Earned Income Tax Credit (NCP NYS EIC) – Procedures
<b>Suggested Distribution:</b>	Child Support Enforcement Coordinators Support Collection Unit Supervisors
<b>Contact Person(s):</b>	DCSE – County Representative 1-800-343- 8859 or NYC 1-212-961-8269 Legal – Brian Wootan 518-473-6188
<b>Attachments:</b>	1. Request for Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Credit Eligibility Form 2. Result of Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Credit 3. Child Support Collection Calculation Instructions 4. New Tax Credit for Noncustodial Parents Paying Child Support 5. Flowchart of Process
<b>Attachment Available On – Line:</b>	X

**Filing References**

<b>Previous ADMs/INFs</b>	<b>Releases Cancelled</b>	<b>Dept. Regs.</b>	<b>Soc. Serv. Law &amp; Other Legal Ref.</b>	<b>Manual Ref.</b>	<b>Misc. Ref.</b>
			Tax Law Subsection 606(d-1)		Tax Form IT 209 and Instructions

## **Section 2**

### **I. Summary**

This directive provides state and local district staff necessary information to implement a new law that provides for an enhanced Noncustodial Parent New York State Earned Income Tax Credit (NCP NYS EIC) for taxpayers who are noncustodial parents (NCPs) who pay child support through a New York State Support Collection Unit (SCU).

### **II. Purpose**

The purpose of this directive is to provide state and local district staff with information and procedures regarding the new NCP NYS EIC. It sets forth the process by which the Office of Temporary and Disability Assistance (OTDA), Division of Child Support Enforcement (DCSE), will provide a file of potentially eligible NCPs to the Department of Taxation and Finance (DTF). To meet the child support qualifications for the credit and be included on the file, the NCP must have a child support order that has been in effect at least one-half of the tax year that is payable through a SCU, and the NCP has paid 100% of the current amount of child support due in the tax year. The directive provides an appeal process to the SCU for an NCP who has been notified by DTF that their claim for the NCP NYS EIC has been disallowed because they did not meet all of the child support qualifications.

### **III. Background**

Subsection 606 (d-1) of Tax Law was added by Part I of Chapter 58 of the Laws of 2006 to provide an enhanced earned income tax credit for certain taxpayers. To be eligible for the new credit a taxpayer must: 1) be a resident taxpayer; 2) have attained the age of eighteen; 3) have a minor child or children with whom the taxpayer does not reside; 4) have a child support order payable through a New York SCU that has been in effect for at least one-half of the taxable year; and 5) have paid an amount of support to the SCU in the tax year at least equal to the amount of current support due during the tax year for every order requiring the NCP to make payments through the SCU. The law also provides that an NCP is not allowed multiple credits under this subsection if they have more than one child or have more than one order. The NCP is also not allowed more than one credit if eligible for an earned income tax credit under other provisions of tax law.

### **IV. Program Implications**

OTDA implications: The OTDA must provide to DTF a list of child support NCPs meeting the eligibility requirements listed in Section III by January 15<sup>th</sup> of each year.

SCU implications: The SCU will be required to administratively review claims by NCPs that they were improperly left off the list of eligible taxpayers and therefore denied the NCP NYS EIC. The SCU must transmit the results of that review to the NCP and to OTDA. The SCU may be required to appear and defend its administrative determination if a judicial challenge is made to the determination pursuant to Article 78 of the New York Civil Practice Law and Rules.

### **V. Required Action**

**A. OTDA provides an annual file to DTF**

The law requires that the OTDA provide the file of NCPs meeting the child support qualifications to DTF by January 15<sup>th</sup> of each year for the preceding tax year (beginning in January of 2007 for Tax Year 2006 and ending with Tax Year 2012). The OTDA will prepare and transmit a file by file transfer protocol (FTP) to DTF. The file will identify the tax year to which the certification applies and NCP's names and social security numbers that meet the following criteria:

1. The NCP must be the parent of a minor child or children with whom the NCP does not reside.
2. The NCP must have an order requiring him or her to make child support payments for the minor child or children in paragraph 1 above payable through a New York State SCU and that order must have been in effect for at least one-half of the tax year.
3. The NCP must have paid an amount of child support during the tax year at least equal to the amount of current child support due during the tax year. If the NCP has multiple child support orders, the NCP must meet this requirement for every order requiring him or her to make child support payments through a New York State SCU.

**B. DTF review of NCP NYS EIC claims**

1. DTF will match the NCPs provided on the OTDA file with taxpayers who are claiming the NCP NYS EIC. If there is a match and provided that all other DTF eligibility requirements are met, NCPs will be processed by DTF for the tax credit.
2. NCPs not on the OTDA file who have also filed a tax return claiming the NCP NYS EIC will have their tax credit denied by DTF. When a taxpayer is denied for the NCP NYS EIC they will receive the appropriate response (or bill) that will indicate the reason for the denial via a Publication 46 message code printed on the notice. The taxpayer will be instructed to refer to Publication 46 which is provided by DTF to the taxpayer.
3. When the credit is denied because the taxpayer's name is not on OTDA's file, the DTF denial letter will direct the taxpayer to contact the New York State Child Support Helpline at **1-888-208-4485**. Information regarding the taxpayer's right to request a review by the SCU is provided through DTF instructions for making claims for the NCP NYS EIC on the DTF Tax Form IT 209.

**C. Child Support Helpline (CSH) response to taxpayer questions**

1. The CSH will advise the NCP that a request for review must be made to the appropriate SCU by completing and forwarding the form "Request for Review of Child Support Qualifications for Noncustodial Parent New

York State Earned Income Tax Credit” to the SCU. (See sample attached.)

2. If the NCP wishes to request a review by the SCU, the CSH will mail to them the “Request for Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Tax Credit” form the same day. Note: If the NCP has more than one New York State child support case the CSH will provide the NCP with a form for each SCU in which support is payable. If the NCP has more than one Child Support Management System (CSMS) case, the NCP should include all cases on one request form for each SCU to which the NCP remits payment.

#### **D. SCU review of NCP claims**

1. Upon receipt of a “Request for Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Credit” the SCU shall conduct the review and issue the results of the review to the NCP no later than 45 days from the date of receipt of a completed request form. A new status code has been developed to document activity on CSMS. Enter the status and reason code H001 01 “Resp Requests EIC Review” and the appropriate tax year (e.g. ‘06) in the MI field on IVDJSI for the appropriate case(s) to record that the request has been made.
2. The SCU must review the request form to ensure that the NCP has provided the following:
  - a. all necessary information to identify the NCP’s child support account(s);
  - b. NCP’s current mailing address;
  - c. tax year for which the NCP has requested review; and
  - d. factors which the NCP believes make him/her qualified for the NCP NYS EIC.
3. SCU must review any supporting documentation provided by the NCP.
4. Based on the information and documentation pertaining to the request for review the SCU shall:
  - a. verify that there is a child support order or orders payable through a New York State SCU;
  - b. calculate the total amount of current support payments due and the total paid for the relevant tax year (see “Child Support Collection Calculation Instructions” attached to this ADM). If there are multiple orders payable through the SCU, make the calculation for each order;

- c. compare that result to the amount(s) of child support paid by the taxpayer for the tax year in question. If the NCP claims that the SCU record is incomplete, review the NCP's evidence of non-credited payments and determine if the SCU record is accurate. If the NCP provides evidence of a non-credited payment for the tax year of the review which is posted in January of the succeeding year, payments should be considered in the calculation. If the NCP alleges direct payments, payments made outside the SCU may not be credited absent: 1) a court order; or 2) proof that payments were made to the SCU of another district or state attributable to this order;
- d. identify if the amounts paid are less than, equal to, or greater than the current amount due for the tax year under all orders;
- e. determine if the NCP has/has not met the qualifications as described in paragraphs a. through d.; and
- f. complete the "Results of Review" form as provided in E. below.

**E. SCU issues notification of results of review**

- 1. The SCU's determination must be issued in writing to the NCP within 45 days of the SCU's receipt of a completed request form. The SCU must complete and mail the "Result of Review of Child Support Qualifications for Noncustodial Parent New York State Earned Income Credit" form (attached) to the NCP address provided on the Request for Review notice. Until further notice, please reproduce the form attached locally.

Note: If there is an address that is different than what is on CSMS for the NCP, the CSMS address should be updated.

- 2. The notice must be mailed to the NCP by first class mail, and a copy must be faxed to the processing center at **(518) 452-6340**.
- 3. If the SCU is reviewing more than one case on record for their SCU for the NCP, all cases must be included in their determination. One notice with the results of the determination must be prepared and mailed to the NCP, with a copy of each faxed to the processing center.
- 4. Upon completion of the review, enter either the new status and reason code H801 01 "Does Not Meet EIC Qualifications" or the status and reason code H901 01 "Meets EIC Qualifications" depending on the result of the review and enter the appropriate tax year (e.g. '06) in the MI field on the appropriate case CSMS IVDJSI screen. Also, record on the CSMS case screen IVDJRR a brief description of the review result (e.g., state the current due and total paid for the tax year\_\_\_\_ that was the subject of the review.).

**F. Processing Center notifies DTF of SCU determination**

1. Upon receipt of a facsimile copy of results of the review from the SCU or SCUs where more than one district is involved, the processing center will provide a facsimile copy of the review results to DTF.
2. Upon receipt of the review results from OTDA, if the review results submitted to DTF indicate that the taxpayer has not met the child support qualifications, the NCP NYS EIC will not be issued.
3. If the review results submitted to DTF indicate that the taxpayer has met the child support qualifications, the NCP NYS EIC will be issued by DTF provided that all other DTF eligibility requirements are met.

**G. Notice to NCPs Regarding Tax Credit**

A special notice (See sample attached) has been developed advising NCPs of the new NCP NYS EIC for the 2006 Tax Year. This notice will be included with the annual tax pre-offset notice sent to NCPs in August of 2006.

**VI. Effective Date**

This ADM is effective immediately.

**Joint Release Issued By:**

**Name:** Scott E. Cade  
**Title:** Deputy Commissioner and Director  
**Division/Office:** Child Support Enforcement

**Name:** Russell Sykes  
**Title:** Deputy Commissioner  
**Division/Office:** Employment & Transitional Supports

**Attachment 1**

[SCU letterhead]

**Request for Review of Child Support Qualifications for  
Noncustodial Parent New York State Earned Income Tax Credit (NCP NYS EIC)**

If you believe you meet the child support qualifications to earn the NCP NYS EIC, you may request a review by the Support Collection Unit (SCU) where you make payments. Complete this form, attach copies of any and all documentation that supports your claim and mail this form and attachments to the SCU at the address shown at the bottom of this form.

Name: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ *Number & Street or Post Office Box* State: \_\_\_\_\_ Zip: \_\_\_\_\_ *Apt.*

Review requested for: \_\_\_\_\_ (Tax year)

I am requesting a review for the purpose of claiming the noncustodial parent earned income tax credit (check each statement that applies to your case and provide required information/documentation):

☐ I am the parent of a minor child or children that does not reside with me. List names, dates of birth and social security numbers of children: \_\_\_\_\_

☐ I have an order requiring me to make child support payments through a Support Collection Unit in New York State, and the order has been in effect for at least one-half of the tax year listed above.

☐ The amount of current child support due during the tax year for every order requiring me to make child support payments through the SCU was:

CSMS Case Number \_\_\_\_\_ Amount Due: \$ \_\_\_\_\_  
CSMS Case Number \_\_\_\_\_ Amount Due: \$ \_\_\_\_\_  
Total Due: \$ \_\_\_\_\_

☐ The amount of current child support I paid during the tax year for every order requiring me to make child support payments through the SCU was:

CSMS Case Number \_\_\_\_\_ Amount Paid: \$ \_\_\_\_\_  
CSMS Case Number \_\_\_\_\_ Amount Paid: \$ \_\_\_\_\_  
Total Paid: \$ \_\_\_\_\_

☐ I believe the SCU has failed to credit my account with the following payments (list date and amount of payments). Attach copies of proof of payments: \_\_\_\_\_

Daytime telephone number (including area code): ( ) \_\_\_\_\_

Mail completed form and documentation to: [SCU name]  
[SCU mailing address]  
[SCU mailing address]

Attachment 2

[SCU letterhead]

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

CSMS Case ID No. (s). \_\_\_\_\_, \_\_\_\_\_

**Result of Review of Child Support Qualifications For  
Noncustodial Parent New York State Earned Income Tax Credit (NYS NCP EIC)**

Dear \_\_\_\_\_:

The review of child support qualifications for the NYS NCP EIC you requested of your child support case(s) identified above has been completed for \_\_\_\_\_ Tax Year. The result of our review is as follows:

- ☐ You do not meet the child support qualifications for the NCP NYS EIC for one or more of the following reasons:
- ☐ You did not provide documentation sufficient to support your claim.
  - ☐ You are not the parent of a minor child or children with whom you do not reside.
  - ☐ You do not have an order requiring you to make child support payments through a New York State Support Collection Unit (SCU).
  - ☐ You do not have an order requiring you to make child support payments through a New York State SCU that has been in effect for at least one-half of the taxable year.
  - ☐ You did not pay an amount in child support in the taxable year at least equal to the amount of current child support due during the taxable year **for every order** requiring you to make child support payments through an SCU.

CSMS Number:	Current Support due during Tax Year:	Support paid during Tax Year:
_____	_____	_____

CSMS Number:	Current Support due during Tax Year:	Support paid during Tax Year:
_____	_____	_____

**TOTAL DUE: \$** \_\_\_\_\_ **TOTAL PAID: \$** \_\_\_\_\_

- ☐ You do meet the child support qualifications for the NCP NYS EIC. The New York State Department of Taxation and Finance (DTF) will determine if you meet the remaining criteria.

If you do not believe that our final decision is correct, you may seek review of that decision within 45 days of the date of this notice by the Supreme Court of the State of New York by bringing a legal proceeding authorized by Article 78 of the Civil Practice Law and Rules. You should see an attorney about how to bring an Article 78 proceeding. If you have no attorney or cannot afford to hire one, you should call your local legal services organization for help.

The results of the review will be provided to the DTF. If the review results submitted to DTF indicate that you met the child support qualifications, provided that all other DTF eligibility requirements are met, you will be issued a NCP NYS EIC.

Sincerely,  
Support Collection Unit



## Attachment 3

### CHILD SUPPORT COLLECTION CALCULATION INSTRUCTIONS

1. Perform a social security number search to identify all of the noncustodial parent's accounts on CSMS.
2. Once the accounts are located, exclude:
  - any account that has a FIPS code of 136 and any other county from the calculation;
  - any account that did not have at least one child under the age 21 as of the end of the tax year in question;
  - any account that did not have a current support order in effect for at least 6 months in the tax year in the tax year in question.
3. For each account remaining, review the ASSETS money transactions information as follows:
  - a. Search the money transactions with a date range of 1/1/tax year through 12/31/tax year for all positive and negative 50, 53, 54, 55, 56, 57, 71, 72, 74, 75, and 77 payment batches,
  - b. If the noncustodial parent claims additional payments were not credited, search money transactions with a date range of 1/1/succeeding tax year through 1/10/succeeding tax year for all positive and negative 50, 53, 54, 55, 56, 57, 71, 72, 74, 75, and 77 payments batches to find any December payment dates that may have been posted in January of the succeeding year. If sufficient proof is provided and verified, these payments would be considered in the calculation.
  - c. Total the payments from **3.a.**, and the verified December payments from **3.b.**
  - d. Next, search a date range of 1/1/tax year through 12/31/tax year for all 69 due transactions.
  - e. Total the 69 due transactions for all 21A, 21B (except for 21BM) and 11B ledgers.
4. If the total payments calculated in **3.c.** are greater than or equal to the total due calculated in **3.e.**, indicate on the results form that the NCP meets the qualifications. If the payments are less than the total due indicate on the results form that the NCP does meet the child support qualifications. Mail a copy of the results form to the NCP by first class mail, and fax a copy to the processing center at **(518) 452-6340**.

**NEW TAX CREDIT FOR  
NONCUSTODIAL PARENTS  
PAYING CHILD SUPPORT**

Effective beginning in the 2006 tax year, low income noncustodial parents may be eligible for a **new** enhanced earned income tax credit.

One requirement to receive this credit is that you have made your child support payments to the New York State Support Collection Unit in an amount equal to the current child support payments due for the tax year.

If you meet all of the eligibility requirements to claim this new credit, you may complete NYS Tax Form IT-209 and submit it beginning with your 2006 Personal Income Tax Return. The form and instructions will be available beginning in December 2006 on the New York State Department of Taxation and Finance website at [www.nystax.gov](http://www.nystax.gov).

## NYS OTDA/DTF Non-Custodial Parent Earned Income Tax Credit Process

