

All Work and No Pay: New York's Low-Wage Workers and Barriers to the State Earned Income Tax Credit

Advocacy Briefing Prepared by
New York Appleseed and The Financial Clinic

Executive Summary

A growing segment of New York's working poor is unable to obtain the state's earned income tax credit ("EIC"), despite meeting all eligibility requirements. Advocates are finding that individuals who report some portion of their income, whether through self-employed income tax forms or cash payments, face higher rates of rejection and burdensome audits when they apply for the EIC. Whether they work in construction, operate a taxi or run a babysitting service out of their home, cash-earning and/or self-employed taxpayers are an increasing segment of New York's low-income workforce. New York Appleseed and The Financial Clinic, two organizations that advocate for expanded economic opportunity and justice for low-income communities, have prepared an advocacy briefing to present the numerous barriers cash earners and self-employed EIC applicants face, and our proposed solutions.

Background

As the largest anti-poverty program in the country, federal, state and city earned income credits ("EIC") provide critical cash infusions for struggling individuals and families. New York State's EIC can provide a family with an annual income of less than \$41,000 with a refund of over \$6,000, with as much as \$1,680 coming from state and city EIC dollars¹ In 2003 alone, EICs lifted 4.4 million people out of poverty, including 2.4 million children.²

Recently, however, advocates have reported an increase in rejected EIC applications by eligible New Yorkers; in particular, cash earners and self-employed individuals, as well as higher rates of burdensome audits. In addition to systemic obstacles, such as lack of sufficient access to affordable tax preparation services, cash earners and self employed EIC applicants face barriers rooted in unsound and unclear tax policies. For example, New York State tax forms do not clearly state what types of income documentation is required of an EIC applicant, and tax authorities have applied an ambiguous and shifting standard to such requirements. Individuals who have sought to adjudicate claims before the Division of Tax Appeals face a daunting process, unclear regulations and paradoxical burdens of proof. Unsurprisingly, the overwhelming number of tax appeal proceedings are resolved against the EIC applicant, creating a self-fulfilling corpus of administrative rulings.

¹ Figures are approximate. For current information on EIC eligibility, see www.otda.state.ny.us.

² Source: Center on Budget and Policy Priorities.

RECOMMENDATIONS

Based on legal analysis and interviews with advocates and practitioners, our advocacy briefing argues for several pragmatic and achievable reforms, including calls to:

1. Eliminate all auditing targets for EIC applicants, including audit-selection practices that result in the disproportionate rate of auditing of EIC applicants;
2. Issue clear and specific legal standards and guidelines for minimum documentation, with specific alternative procedures for cash earners, many of whom are unbanked or underbanked consumers;
3. Create a state version of the federal Schedule C, or a similar income documentation worksheet for cash earners and self-employed applicants;
4. Include in all EIC education materials resources for cash earners and self-employed individuals; and
5. Adopt a policy granting a “one-time pass” to EIC applicants whose first application fails to meet income documentations standards, but whose participation in appropriate proceedings to establish a good faith application ensures future compliance.

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New York Appleseed is part of a network of 16 Appleseed public interest law centers around the United States and in Mexico. Working with volunteers in the private and public sectors, New York Appleseed expands economic opportunity for low-income and vulnerable communities by advocating for effective policy reform and catalyzing innovative cross-sector partnerships in areas such as financial access, education, healthcare and affordable housing.

The Financial Clinic is a pioneer in financial development, defining the field itself and guiding the thinking and policy behind solutions. We provide innovative, results-oriented financial coaching and legal support for working poor families caught in the wage gap—where they earn too much money for public assistance and too little to be self-sufficient. Our mission is to improve our customers’ financial security, and ultimately, their financial mobility.



For more information on All Work and No Pay and to join our advocacy effort, email EIC@appleseednetwork.org or call Jennifer Ching at (212) 848-5468.