

104TH CONGRESS
2D SESSION

H. R. 4197

To amend the Internal Revenue Code of 1986 to permit States to make advance payments of the earned income tax credit.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1996

Mr. CAMP introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to permit States to make advance payments of the earned income tax credit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ADVANCE PAYMENT OF EARNED INCOME TAX**

4 **CREDIT THROUGH STATE DEMONSTRATION**

5 **PROGRAMS.**

6 (a) IN GENERAL.—Section 3507 of the Internal Rev-
7 enue Code of 1986 (relating to the advance payment of

1 the earned income tax credit) is amended by adding at
2 the end the following:

3 “(g) STATE ADVANCE PAYMENT PROGRAM.—

4 “(1) IN GENERAL.—In lieu of receiving earned
5 income advance amounts from an employer under
6 subsection (a), a participating resident shall receive
7 advance earned income payments from a responsible
8 State agency pursuant to a State Advance Payment
9 Program that is designated pursuant to paragraph
10 (2).

11 “(2) DESIGNATIONS.—

12 “(A) IN GENERAL.—The Secretary (in con-
13 sultation with the Secretary of Health and
14 Human Services) shall designate State Advance
15 Payment Programs for States submitting plans
16 that satisfy the requirements of paragraph (3).
17 The Secretary is required to approve a State
18 plan 90 days after submission to the Secretary
19 by the State, or submit to the State the reasons
20 for not approving the State plan. Administra-
21 tive costs of a State in conducting a State Ad-
22 vance Payment Program under this section may
23 be included for matching under section 403(a)
24 of the Social Security Act and section 16(a) of
25 the Food Stamp Act of 1977.

1 “(B) PERIOD FOR WHICH DESIGNATION IS
2 IN EFFECT.—

3 “(i) IN GENERAL.—Designations
4 made under this paragraph shall be effec-
5 tive only after December 31, 1996.

6 “(ii) REVOCATION OF DESIGNA-
7 TIONS.—The Secretary may revoke a
8 State’s designation under this paragraph if
9 the Secretary determines that the State is
10 not complying substantially with the plan
11 described in paragraph (3) submitted by
12 the State.

13 “(3) STATE PLANS.—No State may be des-
14 ignated under paragraph (2) unless the State’s pro-
15 posal for such designation—

16 “(A) identifies the responsible State
17 agency,

18 “(B) describes how and when the advance
19 earned income payments will be made by that
20 agency, including a description of any other
21 State or Federal benefits with which such pay-
22 ments will be coordinated,

23 “(C) describes how the State will obtain
24 the information on which the amount of ad-
25 vance earned income payments made to each

1 participating resident will be determined in ac-
2 cordance with paragraph (4),

3 “(D) describes how State residents who
4 will be eligible to receive advance earned income
5 payments will be selected, notified of the oppor-
6 tunity to receive advance earned income pay-
7 ments from the responsible State agency, and
8 given the opportunity to elect to participate in
9 the program,

10 “(E) describes how the State will verify, in
11 addition to receiving the certifications and
12 statement described in paragraph (6)(D)(iv),
13 the eligibility of participating residents for the
14 earned income tax credit,

15 “(F) commits the State to furnishing to
16 each participating resident and to the Secretary
17 by January 31 of each year a written statement
18 showing—

19 “(i) the name and taxpayer identifica-
20 tion number of the participating resident,
21 and

22 “(ii) the total amount of advance
23 earned income payments made to the par-
24 ticipating resident during the prior cal-
25 endar year,

1 “(G) commits the State to furnishing to
2 the Secretary by December 1 of each year a
3 written statement showing the name and tax-
4 payer identification number of each participat-
5 ing resident, and

6 “(H) commits the State to assess the de-
7 velopment and implementation of its State Ad-
8 vance Payment Program, including an agree-
9 ment to share its findings and lessons with
10 other interested States in a manner to be de-
11 scribed by the Secretary.

12 “(4) AMOUNT AND TIMING OF ADVANCE
13 EARNED INCOME PAYMENTS.—

14 “(A) AMOUNT.—

15 “(i) IN GENERAL.—The method for
16 determining the amount of advance earned
17 income payments made to each participat-
18 ing resident is to conform to the full extent
19 possible with the provisions of subsection
20 (c).

21 “(ii) SPECIAL RULE.—A State may,
22 at its election, apply the rules of subsection
23 (c)(2)(B)—

24 “(I) by substituting for ‘60 per-
25 cent’ in such subsection a percentage

1 between 60 percent and 75 percent
2 which is elected by the State, and

3 “(II) by using the credit percent-
4 age for the number of qualifying chil-
5 dren of the eligible individual in lieu
6 of the credit percentage specified in
7 clause (i) thereof.

8 “(B) TIMING.—The frequency of advance
9 earned income payments may be made on the
10 basis of the payroll periods of participating resi-
11 dents, on a single statewide schedule, or on any
12 other reasonable basis prescribed by the State
13 in its plan; however, in no event may advance
14 earned income payments be made to any par-
15 ticipating resident less frequently than on a cal-
16 endar-quarter basis.

17 “(5) PAYMENTS TO BE TREATED AS PAYMENTS
18 OF WITHHOLDING AND FICA TAXES.—

19 “(A) IN GENERAL.—For purposes of this
20 title, advance earned income payments—

21 “(i) shall neither be treated as a pay-
22 ment of compensation nor be included in
23 gross income, and

24 “(ii) shall be treated as made out of—

1 “(I) amounts required to be de-
2 ducted and withheld by the State
3 under section 3401 (relating to wage
4 withholding) for the period (under
5 paragraph (4)(B)) on the basis of
6 which advance earned income pay-
7 ments are made by the State, and

8 “(II) amounts required to be de-
9 ducted for such period under section
10 3102 (relating to FICA employee
11 taxes), and

12 “(III) amounts of the taxes im-
13 posed on the State for such period
14 under section 3111 (relating to FICA
15 employer taxes),

16 as if the State had paid to the Secretary,
17 on the day on which payments are made to
18 participating residents, an amount equal to
19 such payments.

20 “(B) ADVANCE PAYMENTS EXCEED TAXES
21 DUE.—If for any period the aggregate amount
22 of advance earned income payments made by
23 the responsible State agency under a State Ad-
24 vance Payment Program exceeds the sum of the
25 amounts referred to in subparagraph (A)(ii),

1 each such advance earned income payment shall
2 be reduced by an amount which bears the same
3 ratio to such excess as such advance earned in-
4 come payment bears to the aggregate amount
5 of all such advance earned income payments.

6 “(6) DEFINITIONS.—For purposes of this sec-
7 tion—

8 “(A) STATE ADVANCE PAYMENT PRO-
9 GRAM.—The term ‘State Advance Payment
10 Program’ means the program described in a
11 proposal submitted for designation under para-
12 graph (1) and designated by the Secretary
13 under paragraph (2).

14 “(B) RESPONSIBLE STATE AGENCY.—The
15 term ‘responsible State agency’ means the sin-
16 gle State agency that will be making the ad-
17 vance earned income payments to residents of
18 the State who elect to participate in a State Ad-
19 vance Payment Program.

20 “(C) ADVANCE EARNED INCOME PAY-
21 MENTS.—The term ‘advance earned income
22 payments’ means an amount paid by a respon-
23 sible State agency to residents of the State pur-
24 suant to a State Advance Payment Program.

1 “(D) PARTICIPATING RESIDENT.—The
2 term ‘participating resident’ means an individ-
3 ual who—

4 “(i) is a resident of a State that has
5 in effect a designated State Advance Pay-
6 ment Program,

7 “(ii) makes the election described in
8 paragraph (3)(D) pursuant to guidelines
9 prescribed by the State,

10 “(iii) certifies to the State the number
11 of qualifying children the individual has,
12 and

13 “(iv) provides to the State the certifi-
14 cations and statement set forth in sub-
15 section (b) (except that paragraph (3)
16 thereof shall be applied by substituting
17 ‘any employer’ for ‘another employer’),
18 along with any other information required
19 by the State.”.

20 (b) TECHNICAL ASSISTANCE.—The Secretary of the
21 Treasury and the Secretary of Health and Human Serv-
22 ices shall jointly ensure that technical assistance is pro-
23 vided to State Advance Payment Programs and that such
24 Programs are rigorously evaluated.

1 (c) ANNUAL REPORTS.—The Secretary of the Treas-
2 ury shall issue annual reports detailing the extent to
3 which—

4 (1) residents participate in the State Advance
5 Payment Programs,

6 (2) participating residents file Federal and
7 State tax returns,

8 (3) participating residents report accurately the
9 amount of the advance earned income payments
10 made to them by the responsible State agency dur-
11 ing the year, and

12 (4) recipients of excessive advance earned in-
13 come payments repaid those amounts.

14 The report shall also contain an estimate of the amount
15 of advance earned income payments made by each respon-
16 sible State agency but not reported on the tax returns of
17 a participating resident and the amount of excessive ad-
18 vance earned income payments.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—For pur-
20 poses of providing technical assistance described in sub-
21 section (b), preparing the reports described in subsection
22 (c), and providing grants to States in support of des-
23 ignated State Advance Payment Programs, there are au-
24 thorized to be appropriated in advance to the Secretary
25 of the Treasury and the Secretary of Health and Human

1 Services a total of \$1,400,000 for fiscal years 1997
2 through 2000.

○