

**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Judith Arnold, Director  
Division of Coverage and Enrollment

**SUBJECT:** Treatment of Federal Income Tax Refunds Pursuant to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** Local District Support  
Upstate (518)474-8887 New York City (212)417-4500

This GIS message advises local departments of social services of the required treatment of federal income tax refunds and earned income tax credit payments (advance payments) for purposes of determining Medicaid eligibility effective December 17, 2010. The federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, which was signed into law on December 17, 2010, includes provisions that require the exemption of federal income tax refunds and advance payments received after December 31, 2009, but before January 1, 2013. For purposes of determining Medicaid eligibility, these refunds/payments are not to be considered countable income. Additionally, this exemption applies to the post-eligibility determination of the amount of income to be applied toward the cost of care for institutionalized individuals.

Federal income tax refunds and advance payments are also exempt as an available resource for a period of 12 months following the month in which the payment is received. If the payment or any portion of the payment is retained beyond this exemption period, the payment or portion remaining becomes a countable resource for SSI-related applicants/recipients (A/Rs).

Since federal income tax refunds and advance payments are exempt as a resource for 12 months after the month of receipt, if the refunds/payments are transferred or placed into a trust during this exemption period, a transfer of assets penalty period cannot be imposed. However, if any remaining refunds/payments are transferred to another individual or into a trust after the end of the exemption period, the transfer is subject to the transfer of assets provisions.

This federal requirement will not affect the current income treatment of income tax refunds and advance payments for Medicaid A/Rs. All income tax refunds and advance payments are currently disregarded as income in the month of receipt for LIF, S/CC and ADC-related A/Rs, and are not considered income for SSI-related A/Rs.

For SSI-related A/Rs, the 12-month resource exemption period only applies to federal income tax refunds and advance payments. State income tax refunds continue to be disregarded as income in the month of receipt and disregarded as a resource the following month.