

# STATE OF NEW YORK

9610

## IN SENATE

December 7, 2022

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to a New York state working families tax credit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 1 of subsection (d) of section 606 of the tax  
2 law, as amended by section 1 of part Q of chapter 63 of the laws of  
3 2000, is amended to read as follows:

4 (1) General. A taxpayer with no qualifying child as defined in 26  
5 U.S.C. § 152(c) shall be allowed a credit as provided herein equal to  
6 (i) the applicable percentage of the earned income credit allowed under  
7 section thirty-two of the internal revenue code for the same taxable  
8 year, (ii) reduced by the credit permitted under subsection (b) of this  
9 section.

10 § 2. Paragraph 1 of subsection (c-1) of section 606 of the tax law, as  
11 amended by section 1 of part P of chapter 59 of the laws of 2018, is  
12 amended to read as follows:

13 (1) [~~A~~] For taxable years beginning prior to January first, two thou-  
14 sand twenty-three, a resident taxpayer shall be allowed a credit as  
15 provided herein equal to the greater of one hundred dollars times the  
16 number of qualifying children of the taxpayer or the applicable percent-  
17 age of the child tax credit allowed the taxpayer under section twenty-  
18 four of the internal revenue code for the same taxable year for each  
19 qualifying child. Provided, however, in the case of a taxpayer whose  
20 federal adjusted gross income exceeds the applicable threshold amount  
21 set forth by section 24(b)(2) of the Internal Revenue Code, the credit  
22 shall only be equal to the applicable percentage of the child tax credit  
23 allowed the taxpayer under section 24 of the Internal Revenue Code for  
24 each qualifying child. For the purposes of this subsection, a qualifying  
25 child shall be a child who meets the definition of qualified child under  
26 section 24(c) of the internal revenue code and is at least four years of  
27 age. The applicable percentage shall be thirty-three percent. For  
28 purposes of this subsection, any reference to section 24 of the Internal

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 Revenue Code shall be a reference to such section as it existed imme-  
2 diately prior to the enactment of Public Law 115-97.

3 § 3. Section 606 of the tax law is amended by adding a new subsection  
4 (c-2) to read as follows:

5 (c-2) New York state working families tax credit. (1) For taxable  
6 years beginning on and after January first, two thousand twenty-three, a  
7 resident taxpayer with a New York state adjusted gross income of less  
8 than twenty-five thousand dollars in the case of an individual who is  
9 not married; fifty thousand dollars in the case of a joint return; or  
10 twenty-five thousand dollars in the case of a married individual filing  
11 a separate return shall be allowed a credit equal to one thousand five  
12 hundred dollars times the number of qualifying children as defined in 26  
13 U.S.C. § 152 (c). The amount of the credit per child shall be reduced,  
14 but not below five hundred dollars, by twenty dollars for each one thou-  
15 sand dollars by which the taxpayer's New York state adjusted gross  
16 income exceeds twenty-five thousand dollars in the case of an individual  
17 who is not married; fifty thousand dollars in the case of a joint  
18 return; or twenty-five thousand dollars in the case of a married indi-  
19 vidual filing a separate return. For purposes of this subsection, any  
20 reference to section 24 of the Internal Revenue Code shall be a refer-  
21 ence to such section as it existed immediately prior to the enactment of  
22 Public Law 115-97.

23 (2) For tax years beginning in two thousand twenty-four and thereaft-  
24 er, the thresholds of adjusted gross income and the credit allowed in  
25 paragraph one of this subsection shall be reviewed annually by the  
26 commissioner and indexed for inflation.

27 (3) If the amount of the credit allowed under this subsection for any  
28 taxable year shall exceed the taxpayer's tax for such year, the excess  
29 shall be treated as an overpayment of tax to be credited or refunded in  
30 accordance with the provisions of section six hundred eighty-six of this  
31 article, provided, however, that no interest shall be paid thereon.

32 (4) In the case of a husband and wife who file a joint federal return,  
33 but who are required to determine their New York taxes separately, the  
34 credit allowed pursuant to this subsection may be applied against the  
35 tax imposed of either or divided between them as they may elect.

36 (5) The commissioner shall provide for the prepayment of the working  
37 families credit under this subsection to qualifying taxpayers. Four  
38 advanced payments shall be made to such qualifying taxpayers. An esti-  
39 imated annual tax credit shall be determined by the commissioner in  
40 advance of the first payment and shall be subject to adjustment due to  
41 changes in employment or family status over the course of the year. The  
42 first three advanced payments shall be made during the taxable year and  
43 shall be twenty percent of the anticipated credit. The fourth advanced  
44 payment shall be made after the end of the tax year and shall be  
45 adjusted to match the actual credit due. Such payments shall, to the  
46 extent practicable, be made available via direct deposit and via elec-  
47 tronic benefit transfer (EBT) card. The commissioner shall provide  
48 information on the availability of advanced payments of the working  
49 families credit to tax preparers, accountants and organizations that  
50 assist individuals in tax preparation. Such information shall be  
51 distributed to qualifying taxpayers. If a taxpayer establishes that they  
52 are requesting and receiving payments under this paragraph in good faith  
53 by establishing that they properly claimed payments under this  
54 subsection in the prior year and that they have not experienced a  
55 substantial change in circumstances such that they have a reasonable

1 expectation of eligibility in the current year, then they shall not be  
2 held responsible for an incorrect prepayment/refund amount.

3 (6) Notwithstanding any provision of law to the contrary, the refunda-  
4 ble credit and its payment authorized under this subsection shall be  
5 treated in the same manner as the federal Earned Income Tax Credit and  
6 shall not be considered as assets, income, or resources to the same  
7 extent the credit and its payment would be disregarded pursuant to 26  
8 U.S.C. § 6409 and the general welfare doctrine for purposes of determin-  
9 ing eligibility for benefits or assistance, or the amount or extent of  
10 those benefits or assistance, under any state or local program, includ-  
11 ing benefits established under section ninety-five of the social  
12 services law.

13 § 4. This act shall take effect immediately; provided that the amend-  
14 ments to paragraph 1 of subsection (d) of section 606 of the tax law,  
15 made by section one of this act, shall apply to taxable years beginning  
16 on and after January 1, 2023.