STATE OF NEW YORK

4022

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. HEVESI, KELLES, CUNNINGHAM -- read once and referred to the Committee on Ways and Means

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:

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

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

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

(1) [~~A~~] **For taxable years beginning prior to January first, two thousand twenty-three, a** resident taxpayer shall be allowed a credit as provided herein equal to the greater of one hundred dollars times the number of qualifying children of the taxpayer or the applicable percentage of the child tax credit allowed the taxpayer under section twenty-four of the internal revenue code for the same taxable year for each qualifying child. Provided, however, in the case of a taxpayer whose federal adjusted gross income exceeds the applicable threshold amount set forth by section 24(b)(2) of the Internal Revenue Code, the credit shall only be equal to the applicable percentage of the child tax credit allowed the taxpayer under section 24 of the Internal Revenue Code for each qualifying child. For the purposes of this subsection, a qualifying child shall be a child who meets the definition of qualified child under

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

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section 24(c) of the internal revenue code and is at least four years of age. The applicable percentage shall be thirty-three percent. For purposes of this subsection, any reference to section 24 of the Internal Revenue Code shall be a reference to such section as it existed immediately prior to the enactment of Public Law 115-97.

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

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

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

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

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

(5) The commissioner shall provide for the prepayment of the working families credit under this subsection to qualifying taxpayers. Four advanced payments shall be made to such qualifying taxpayers. An estimated annual tax credit shall be determined by the commissioner in advance of the first payment and shall be subject to adjustment due to changes in employment or family status over the course of the year. The first three advanced payments shall be made during the taxable year and shall be twenty percent of the anticipated credit. The fourth advanced payment shall be made after the end of the tax year and shall be adjusted to match the actual credit due. Such payments shall, to the extent practicable, be made available via direct deposit and via electronic benefit transfer (EBT) card. The commissioner shall provide information on the availability of advanced payments of the working families credit to tax preparers, accountants and organizations that assist individuals in tax preparation. Such information shall be distributed to qualifying taxpayers. If a taxpayer establishes that they are requesting and receiving payments under this paragraph in good faith by establishing that they properly claimed payments under this

subsection in the prior year and that they have not experienced a substantial change in circumstances such that they have a reasonable expectation of eligibility in the current year, then they shall not be held responsible for an incorrect prepayment/refund amount.

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

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