

STATE OF NEW YORK

4022--B

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. HEVESI, KELLES, CUNNINGHAM, BURDICK, AUBRY, SHIMSKY, SILLITTI, COLTON, RAGA, WALKER, FORREST, BORES, DAVILA, SIMON, OTIS -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Subsection (d) of section 606 of the tax law is amended by
2 adding a new paragraph 9 to read as follows:

3 (9) Commencing in the taxable year next succeeding the effective date
4 of subsection (c-2) of this section, the portion of the earned income
5 credit attributable to qualifying children, as defined in paragraph one
6 of subsection (c-2) of this section, shall be reduced over the course of
7 four years as follows:

8 (A) In the first taxable year succeeding the effective date of
9 subsection (c-2) of this section, the applicable percentage of the
10 earned income credit allowed under section thirty-two of the internal
11 revenue code for the same taxable year, as described in paragraph one of
12 this subsection, shall be reduced to twenty-one;

13 (B) In the second taxable year succeeding the effective date of
14 subsection (c-2) of this section, the applicable percentage of the
15 earned income credit allowed under section thirty-two of the internal
16 revenue code for the same taxable year, as described in paragraph one of
17 this subsection, shall be reduced to fifteen;

18 (C) In the third taxable year succeeding the effective date of
19 subsection (c-2) of this section, the applicable percentage of the

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

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1 earned income credit allowed under section thirty-two of the internal
2 revenue code for the same taxable year, as described in paragraph one of
3 this subsection, shall be reduced to ten;

4 (D) In the fourth taxable year succeeding the effective date of
5 subsection (c-2) of this section and each taxable year thereafter, the
6 applicable percentage of the earned income credit allowed under section
7 thirty-two of the internal revenue code for the same taxable year, as
8 described in paragraph one of this subsection, shall be reduced to zero.

9 The reduction described in this paragraph shall apply only to the
10 portion of a taxpayer's earned income credit that is attributable to
11 qualifying children as defined in paragraph one of subsection (c-2) of
12 this section. A taxpayer shall continue to be allowed the earned income
13 credit for the portions of such credit attributable to another qualify-
14 ing child, as defined in 26 USC §152(c), or qualifying relative, as
15 defined in 26 USC §152(d), who do not meet the definition of qualifying
16 child in paragraph one of subsection (c-2) of this section.

17 § 2. Paragraph 1 of subsection (c-1) of section 606 of the tax law, as
18 amended by section 1 of part HH of chapter 56 of the laws of 2023, is
19 amended to read as follows:

20 (1) [A] For taxable years prior to the first of January next succeed-
21 ing the effective date of subsection (c-2) of this section, a resident
22 taxpayer shall be allowed a credit as provided herein equal to the
23 greater of one hundred dollars times the number of qualifying children
24 of the taxpayer or the applicable percentage of the child tax credit
25 allowed the taxpayer under section twenty-four of the internal revenue
26 code for the same taxable year for each qualifying child. Provided,
27 however, in the case of a taxpayer whose federal adjusted gross income
28 exceeds the applicable threshold amount set forth by section 24(b)(2) of
29 the Internal Revenue Code, the credit shall only be equal to the appli-
30 cable percentage of the child tax credit allowed the taxpayer under
31 section 24 of the Internal Revenue Code for each qualifying child. For
32 the purposes of this subsection, a qualifying child shall be a child who
33 meets the definition of qualified child under section 24(c) of the
34 internal revenue code. The applicable percentage shall be thirty-three
35 percent. For purposes of this subsection, any reference to section 24 of
36 the Internal Revenue Code shall be a reference to such section as it
37 existed immediately prior to the enactment of Public Law 115-97.

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

40 (c-2) New York state working families tax credit. (1) Definitions.
41 (A) "Adjusted for inflation" shall mean that the commissioner increases
42 the dollar amount of a credit or adjusted gross income, as applicable,
43 by an amount equal to such dollar amount multiplied by the cost-of-liv-
44 ing adjustment determined under 26 USC § 1 (f)(3), for the calendar year
45 in which the taxable year being referenced begins.

46 (B) "Adjusted for all inflation since two thousand twenty-three" shall
47 mean the commissioner increases the dollar amount of a credit or
48 adjusted gross income, as applicable, by an amount equal to the sum of
49 all cost-of-living adjustments calculated and published by the internal
50 revenue service pursuant to 26 USC §1(f)(3) since calendar year two
51 thousand twenty-three.

52 (C) "Qualifying child" or "qualifying children" shall mean as defined
53 in 26 USC §24(c)(1) except that such term shall also include qualifying
54 children who have not attained the age of eighteen.

55 (2) (A) For taxable years beginning on and after the first of January
56 next succeeding the effective date of this subsection, a resident

1 taxpayer with a New York state adjusted gross income of less than twenty-
2 ty-five thousand dollars in the case of an individual who is not
3 married; fifty thousand dollars in the case of a joint return; or twenty-
4 ty-five thousand dollars in the case of a married individual filing a
5 separate return shall be allowed a credit equal to:

6 (i) In the first taxable year succeeding the effective date of this
7 subsection, eight hundred dollars per qualifying child;

8 (ii) In the second taxable year succeeding the effective date of this
9 subsection, one thousand one hundred dollars per qualifying child;

10 (iii) In the third taxable year succeeding the effective date of this
11 subsection, one thousand three hundred and fifty dollars per qualifying
12 child;

13 (iv) In the fourth taxable year succeeding the effective date of this
14 subsection and each taxable year thereafter, one thousand six hundred
15 dollars per qualifying child, provided, however, that the dollar amount
16 herein prescribed shall be adjusted for all inflation since two thousand
17 twenty-three in the fourth taxable year succeeding the effective date of
18 this subsection and each taxable year thereafter.

19 (B) The amount of the credit per child shall be reduced by twenty
20 dollars for each one thousand dollars by which the taxpayer's New York
21 state adjusted gross income exceeds:

22 (i) In the first taxable year succeeding the effective date of this
23 subsection, sixty-five thousand dollars in the case of an individual who
24 is not married, one hundred thirty thousand dollars in the case of a
25 joint return, or sixty-five thousand dollars in the case of a married
26 individual filing a separate return;

27 (ii) In the second taxable year succeeding the effective date of this
28 subsection, fifty-five thousand dollars in the case of an individual who
29 is not married, one hundred ten thousand dollars in the case of a joint
30 return, or fifty-five thousand dollars in the case of a married individ-
31 ual filing a separate return;

32 (iii) In the third taxable year succeeding the effective date of this
33 subsection, forty-five thousand dollars in the case of an individual who
34 is not married, ninety thousand dollars in the case of a joint return,
35 or forty-five thousand dollars in the case of a married individual
36 filing a separate return; and

37 (iv) In the fourth taxable year succeeding the effective date of this
38 section and each taxable year thereafter, twenty-five thousand dollars
39 in the case of an individual who is not married, fifty thousand dollars
40 in the case of a joint return, or twenty-five thousand dollars in the
41 case of a married individual filing a separate return, provided, howev-
42 er, that the dollar amount herein prescribed shall be adjusted for
43 inflation in the fourth taxable year succeeding the effective date of
44 this subsection and each taxable year thereafter.

45 (C) Provided, however, that the amount of the credit shall never be
46 reduced below the following amounts:

47 (i) In the first taxable year next succeeding the effective date of
48 this subsection, one hundred fifty dollars per qualifying child;

49 (ii) In the second taxable year succeeding the effective date of this
50 subsection, two hundred fifty dollars per qualifying child;

51 (iii) In the third taxable year succeeding the effective date of this
52 subsection, four hundred dollars per qualifying child;

53 (iv) In the fourth taxable year succeeding the effective date of this
54 subsection, five hundred dollars per qualifying child; and

55 (v) In the fifth taxable year succeeding the effective date of this
56 subsection and each taxable year thereafter, five hundred dollars per

1 qualifying child, provided, however, that the dollar amount herein
2 prescribed shall be adjusted for inflation in the fifth taxable year
3 succeeding the effective date of this subsection and each taxable year
4 thereafter.

5 (D) Such resident taxpayer must provide the social security number or
6 individual taxpayer identification number for each qualifying child in
7 order to receive the credit described in this subsection.

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

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

17 (5) Commencing in the fourth taxable year succeeding the effective
18 date of this subsection, the commissioner shall provide for the prepay-
19 ment of the working families credit under this subsection to qualifying
20 taxpayers. Four advanced payments shall be made to such qualifying
21 taxpayers. An estimated annual tax credit shall be determined by the
22 commissioner in advance of the first payment and shall be subject to
23 adjustment due to changes in employment or family status over the course
24 of the year. The first three advanced payments shall be made during the
25 taxable year and shall be twenty percent of the anticipated credit. The
26 fourth advanced payment shall be made after the end of the tax year and
27 shall be adjusted to match the actual credit due. Such payments shall,
28 to the extent practicable, be made available via direct deposit and via
29 electronic benefit transfer (EBT) card. The commissioner shall provide
30 information on the availability of advanced payments of the working
31 families credit to tax preparers, accountants, and organizations that
32 assist individuals in tax preparation. Such information shall be
33 distributed to qualifying taxpayers. If a taxpayer establishes that they
34 are requesting and receiving payments under this paragraph in good faith
35 by establishing that they properly claimed payments under this
36 subsection in the prior year and that they have not experienced a
37 substantial change in circumstances such that they have a reasonable
38 expectation of eligibility in the current year, then they shall not be
39 held responsible for an incorrect prepayment/refund amount.

40 (6) Notwithstanding any provision of law to the contrary, the refunda-
41 ble credit and its payment authorized under this subsection shall be
42 treated in the same manner as the federal Earned Income Tax Credit and
43 shall not be considered as assets, income, or resources to the same
44 extent the credit and its payment would be disregarded pursuant to 26
45 U.S.C. § 6409 and the general welfare doctrine for purposes of determin-
46 ing eligibility for benefits or assistance, or the amount or extent of
47 those benefits or assistance, under any state or local program, includ-
48 ing benefits established under section ninety-five of the social
49 services law.

50 § 4. Section 616 of the tax law, as amended by chapter 28 of the laws
51 of 1987, subsection (b) as amended by chapter 760 of the laws of 1992,
52 is amended to read as follows:

53 § 616. New York exemptions of a resident individual. (a) General. For
54 taxable years beginning after nineteen hundred eighty-seven, a resident
55 individual shall be allowed a New York exemption of one thousand dollars
56 for each exemption for which ~~he is~~ they are entitled to a deduction

1 for the taxable year under section one hundred fifty-one(c) of the
2 Internal Revenue Code; and for taxable years beginning in nineteen
3 hundred eighty-seven, a resident individual other than a taxpayer whose
4 federal exemption amount is zero shall be allowed a New York exemption
5 of nine hundred dollars for each exemption for which [~~he is~~] they are
6 entitled to a deduction for the taxable year for federal income tax
7 purposes.

8 (b) [~~husband and wife~~] Spouses. If the New York income taxes of [~~a~~
9 ~~husband and wife~~] spouses are required to be separately determined but
10 their federal income tax is determined on a joint return, each of them
11 shall be separately entitled to the New York exemptions under subsection
12 (a) of this section to which each would be separately entitled for the
13 taxable year if their federal income taxes had been determined on sepa-
14 rate returns.

15 (c) Commencing in the taxable year next succeeding the effective date
16 of subsection (c-2) of section six hundred six of this article, a resi-
17 dent individual shall not be allowed the exemption described in this
18 section for any qualifying child as defined in paragraph one of
19 subsection (c-2) of section six hundred six of this article. A resident
20 individual shall continue to be allowed the exemption described in this
21 section, however, for other qualifying dependents, as defined in 26 USC
22 § 152(a), who do not meet the definition of qualifying child in para-
23 graph one of subsection (c-2) of section six hundred six of this arti-
24 cle.

25 § 5. This act shall take effect immediately.