

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:

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

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

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

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

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

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

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

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

39 (5) The commissioner shall provide for the prepayment of the working
40 families credit under this subsection to qualifying taxpayers. Four
41 advanced payments shall be made to such qualifying taxpayers. An esti-
42 imated annual tax credit shall be determined by the commissioner in
43 advance of the first payment and shall be subject to adjustment due to
44 changes in employment or family status over the course of the year. The
45 first three advanced payments shall be made during the taxable year and
46 shall be twenty percent of the anticipated credit. The fourth advanced
47 payment shall be made after the end of the tax year and shall be
48 adjusted to match the actual credit due. Such payments shall, to the
49 extent practicable, be made available via direct deposit and via elec-
50 tronic benefit transfer (EBT) card. The commissioner shall provide
51 information on the availability of advanced payments of the working
52 families credit to tax preparers, accountants and organizations that
53 assist individuals in tax preparation. Such information shall be
54 distributed to qualifying taxpayers. If a taxpayer establishes that they
55 are requesting and receiving payments under this paragraph in good faith
56 by establishing that they properly claimed payments under this

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

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

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