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2023-2024 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. HEVESI, KELLES, CUNNINGHAM, BURDICK, AUBRY, SHIMSKY, SILLITTI, COLTON, RAGA, WALKER, FORREST, BORES, DAVILA, SIMON, OTIS, REYES, CRUZ, SEAWRIGHT, CARROLL, SHRESTHA, KIM, BICHOTTE HERMELYN, EPSTEIN, TAPIA, LUNSFORD, GONZALEZ-ROJAS, K. BROWN, ALVAREZ, O'DONNELL, TAYLOR, DE LOS SANTOS, DARLING, SIMONE, ARDILA, L. ROSENTHAL, BENDETT, LEVENBERG, GALLAHAN, MAMDANI, SEPTIMO, MITAYNES, STECK, BENEDETTO, ROZIC, GIBBS, JACOBSON -- 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 -- again reported from said committee with amendments, 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 earned income credit for
5 taxpayers with qualifying children through age seventeen, as defined in
6 paragraph one of subsection (c-2) of this section, shall be reduced over
7 the course of 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-five;

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

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1 (B) In the second taxable year succeeding the effective date of
2 subsection (c-2) of this section, the applicable percentage of the
3 earned income credit allowed under section thirty-two of the internal
4 revenue code for the same taxable year, as described in paragraph one of
5 this subsection, shall be reduced to twenty;

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

11 (D) In the fourth taxable year succeeding the effective date of
12 subsection (c-2) of this section, the applicable percentage of the
13 earned income credit allowed under section thirty-two of the internal
14 revenue code for the same taxable year, as described in paragraph one of
15 this subsection, shall be reduced to ten.

16 (E) In the fifth taxable year succeeding the effective date of
17 subsection (c-2) of this section and each taxable year thereafter, the
18 applicable percentage of the earned income tax credit allowed under
19 section thirty-two of the internal revenue code for the same taxable
20 year, as described in paragraph one of this subsection, shall be reduced
21 to zero.

22 Taxpayers with both qualifying children through age seventeen as
23 defined in paragraph one of subsection (c-2) of this section and another
24 qualifying child, as defined in 26 USC §152(c), and/or a qualifying
25 relative, as defined in 26 USC §152(d), shall not be subject to the
26 reduction of the earned income tax credit provided in subparagraphs (A)
27 through (D) of this paragraph and shall continue to receive the full
28 applicable percentage of the earned income credit allowed under section
29 thirty-two of the internal revenue code for the same taxable year, as
30 described in paragraph one of this subsection, until the fifth taxable
31 year succeeding the effective date of subsection (c-2) of this section
32 and each taxable year thereafter, at which point such taxpayer shall
33 receive such full applicable percentage only for a qualifying child, as
34 defined in 26 USC §152(c), and/or qualifying relative, as defined in 26
35 USC §152(d), who does not meet the definition of qualifying child
36 through age seventeen in paragraph one of subsection (c-2) of this
37 section.

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

41 (1) [A] For taxable years prior to the first of January next succeed-
42 ing the effective date of subsection (c-2) of this section, a resident
43 taxpayer shall be allowed a credit as provided herein equal to the
44 greater of one hundred dollars times the number of qualifying children
45 of the taxpayer or the applicable percentage of the child tax credit
46 allowed the taxpayer under section twenty-four of the internal revenue
47 code for the same taxable year for each qualifying child. Provided,
48 however, in the case of a taxpayer whose federal adjusted gross income
49 exceeds the applicable threshold amount set forth by section 24(b)(2) of
50 the Internal Revenue Code, the credit shall only be equal to the appli-
51 cable percentage of the child tax credit allowed the taxpayer under
52 section 24 of the Internal Revenue Code for each qualifying child. For
53 the purposes of this subsection, a qualifying child shall be a child who
54 meets the definition of qualified child under section 24(c) of the
55 internal revenue code. The applicable percentage shall be thirty-three
56 percent. For purposes of this subsection, any reference to section 24 of

1 the Internal Revenue Code shall be a reference to such section as it
2 existed immediately 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) Definitions.
6 (A) "Adjusted for all inflation since two thousand twenty-three" shall
7 mean the commissioner increases the dollar amount of a credit or
8 adjusted gross income, as applicable, by an amount equal to the sum of
9 all cost-of-living adjustments calculated and published by the internal
10 revenue service pursuant to 26 USC §1(f)(3) since calendar year two
11 thousand twenty-three.

12 (B) "Qualifying child" or "qualifying children" shall mean as defined
13 in 26 USC §24(c)(1).

14 (C) "Qualifying child through age seventeen" or "qualifying children
15 through age 17" shall mean as defined in 26 USC §24(c)(1) except that
16 such term shall also include qualifying children who have not attained
17 the age of eighteen.

18 (2) (A) For taxable years beginning on and after the first of January
19 next succeeding the effective date of this subsection, a resident
20 taxpayer shall be allowed a credit equal to:

21 (i) In the first taxable year succeeding the effective date of this
22 subsection, five hundred and fifty dollars per qualifying child;

23 (ii) In the second taxable year succeeding the effective date of this
24 subsection, eight hundred dollars per qualifying child, provided, howev-
25 er, that the dollar amount herein prescribed shall be adjusted for all
26 inflation since two thousand twenty-three;

27 (iii) In the third taxable year succeeding the effective date of this
28 subsection, one thousand dollars per qualifying child, provided, howev-
29 er, that the dollar amount herein prescribed shall be adjusted for all
30 inflation since two thousand twenty-three;

31 (iv) In the fourth taxable year succeeding the effective date of this
32 subsection, one thousand two hundred dollars per qualifying child
33 through age seventeen, provided, however, that the dollar amount herein
34 prescribed shall be adjusted for all inflation since two thousand twen-
35 ty-three;

36 (v) In the fifth taxable year succeeding the effective date of this
37 subsection and each taxable year thereafter, one thousand six hundred
38 dollars per qualifying child through age seventeen, provided, however,
39 that the dollar amount herein prescribed shall be adjusted for all
40 inflation since two thousand twenty-three in the fifth taxable year
41 succeeding the effective date of this subsection and each taxable year
42 thereafter.

43 (B) The amount of the credit shall be reduced, however, by twenty
44 dollars for each one thousand dollars by which the taxpayer's New York
45 state adjusted gross income exceeds:

46 (i) In the first taxable year succeeding the effective date of this
47 subsection, seventy-five thousand dollars in the case of an individual
48 who is not married, one hundred ten thousand dollars in the case of a
49 joint return, or seventy-five thousand dollars in the case of a married
50 individual filing a separate return;

51 (ii) In the second taxable year succeeding the effective date of this
52 subsection, sixty-five thousand dollars in the case of an individual who
53 is not married, one hundred ten thousand dollars in the case of a joint
54 return, or sixty-five thousand dollars in the case of a married individ-
55 ual filing a separate return;

1 (iii) In the third taxable year succeeding the effective date of this
2 subsection, fifty-five thousand dollars in the case of an individual who
3 is not married, one hundred ten thousand dollars in the case of a joint
4 return, or fifty-five thousand dollars in the case of a married individ-
5 ual filing a separate return;

6 (iv) In the fourth taxable year succeeding the effective date of this
7 subsection, forty-five thousand dollars in the case of an individual who
8 is not married, ninety thousand dollars in the case of a joint return,
9 or forty-five thousand dollars in the case of a married individual
10 filing a separate return; and

11 (v) In the fifth taxable year succeeding the effective date of this
12 subsection and each taxable year thereafter, twenty-five thousand
13 dollars in the case of an individual who is not married, fifty thousand
14 dollars in the case of a joint return, or twenty-five thousand dollars
15 in the case of a married individual filing a separate return, provided,
16 however, that the dollar amount herein prescribed shall be adjusted
17 for all inflation since two thousand twenty-three in the fifth taxable
18 year succeeding the effective date of this subsection and each taxa-
19 ble year thereafter.

20 (C) Provided further, that the amount of the credit shall never be
21 reduced below one hundred dollars per qualifying child in the second and
22 third taxable years succeeding the effective date of this subsection. In
23 the fourth taxable year succeeding the effective date of this subsection
24 and each taxable year thereafter, the credit shall never be reduced
25 below one hundred dollars per qualifying child through age seventeen.

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

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

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

38 (5) Commencing in the fourth taxable year succeeding the effective
39 date of this subsection, the commissioner shall provide for the prepay-
40 ment of the working families credit under this subsection to qualifying
41 taxpayers. Four advanced payments shall be made to such qualifying
42 taxpayers. An estimated annual tax credit shall be determined by the
43 commissioner in advance of the first payment and shall be subject to
44 adjustment due to changes in employment or family status over the course
45 of the year. The first three advanced payments shall be made during the
46 taxable year and shall be twenty percent of the anticipated credit. The
47 fourth advanced payment shall be made after the end of the tax year and
48 shall be adjusted to match the actual credit due. Such payments shall,
49 to the extent practicable, be made available via direct deposit and via
50 electronic 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. Section 616 of the tax law, as amended by chapter 28 of the laws
16 of 1987, subsection (b) as amended by chapter 760 of the laws of 1992,
17 is amended to read as follows:

18 § 616. New York exemptions of a resident individual. (a) General. For
19 taxable years beginning after nineteen hundred eighty-seven, a resident
20 individual shall be allowed a New York exemption of one thousand dollars
21 for each exemption for which [~~he is~~] they are entitled to a deduction
22 for the taxable year under section one hundred fifty-one(c) of the
23 Internal Revenue Code; and for taxable years beginning in nineteen
24 hundred eighty-seven, a resident individual other than a taxpayer whose
25 federal exemption amount is zero shall be allowed a New York exemption
26 of nine hundred dollars for each exemption for which [~~he is~~] they are
27 entitled to a deduction for the taxable year for federal income tax
28 purposes.

29 (b) [~~Husband and wife~~] Spouses. If the New York income taxes of [~~a~~
30 ~~husband and wife~~] spouses are required to be separately determined but
31 their federal income tax is determined on a joint return, each of them
32 shall be separately entitled to the New York exemptions under subsection
33 (a) of this section to which each would be separately entitled for the
34 taxable year if their federal income taxes had been determined on sepa-
35 rate returns.

36 (c) Commencing in the second taxable year succeeding the effective
37 date of subsection (c-2) of section six hundred six of this article, a
38 resident individual shall not be allowed the exemption described in this
39 section for any qualifying child as defined in subparagraph (B) of para-
40 graph one of subsection (c-2) of section six hundred six of this arti-
41 cle. Commencing in the fourth taxable year succeeding the effective
42 date of subsection (c-2) of section six hundred six of this article, a
43 resident individual shall not be allowed the exemption described in this
44 section for any qualifying child through age seventeen as defined in
45 subparagraph (C) of paragraph one of subsection (c-2) of section six
46 hundred six of this article. In all years on or after the effective date
47 of subsection (c-2) of section six hundred six of this article, however,
48 a resident individual shall continue to be allowed the exemption
49 described in this section for other qualifying dependents, as defined in
50 26 USC § 152(a), who do not meet the definition of qualifying child in
51 subparagraph (B) of paragraph one of subsection (c-2) of section six
52 hundred six of this article and qualifying child through age seventeen
53 as defined in subparagraph (C) of paragraph one of subsection (c-2) of
54 section six hundred six of this article.

55 § 5. This act shall take effect immediately.