

# STATE OF NEW YORK

277--A

2023-2024 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. GOUNARDES, COONEY, CHU, HOYLMAN-SIGAL, KENNEDY, MYRIE, RAMOS, RIVERA, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- 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. 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-four, 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

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

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1 shall only be equal to the applicable percentage of the child tax credit  
2 allowed the taxpayer under section 24 of the Internal Revenue Code for  
3 each qualifying child. For the purposes of this subsection, a qualifying  
4 child shall be a child who meets the definition of qualified child under  
5 section 24(c) of the internal revenue code and is at least four years of  
6 age. The applicable percentage shall be thirty-three percent. For  
7 purposes of this subsection, any reference to section 24 of the Internal  
8 Revenue Code shall be a reference to such section as it existed imme-  
9 diately prior to the enactment of Public Law 115-97.

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

12 (c-2) New York state working families tax credit. (1) For taxable  
13 years beginning on and after January first, two thousand twenty-four, a  
14 resident taxpayer with a New York state adjusted gross income of less  
15 than twenty-five thousand dollars in the case of an individual who is  
16 not married; fifty thousand dollars in the case of a joint return; or  
17 twenty-five thousand dollars in the case of a married individual filing  
18 a separate return shall be allowed a credit equal to one thousand five  
19 hundred dollars times the number of qualifying children as defined in 26  
20 U.S.C. § 152 (c). The amount of the credit per child shall be reduced,  
21 but not below five hundred dollars, by twenty dollars for each one thou-  
22 sand dollars by which the taxpayer's New York state adjusted gross  
23 income exceeds twenty-five thousand dollars in the case of an individual  
24 who is not married; fifty thousand dollars in the case of a joint  
25 return; or twenty-five thousand dollars in the case of a married indi-  
26 vidual filing a separate return. Such resident taxpayer must provide  
27 the social security number or individual taxpayer identification number  
28 for each qualifying child in order to receive the credit described in  
29 this subsection.

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

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

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

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

1 assist individuals in tax preparation. Such information shall be  
2 distributed to qualifying taxpayers. If a taxpayer establishes that they  
3 are requesting and receiving payments under this paragraph in good faith  
4 by establishing that they properly claimed payments under this  
5 subsection in the prior year and that they have not experienced a  
6 substantial change in circumstances such that they have a reasonable  
7 expectation of eligibility in the current year, then they shall not be  
8 held responsible for an incorrect prepayment/refund amount.

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

19 § 4. This act shall take effect immediately; provided that the amend-  
20 ments to paragraph 1 of subsection (d) of section 606 of the tax law,  
21 made by section one of this act, shall apply to taxable years beginning  
22 on and after January 1, 2024.