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Introduced by Sens. GOUNARDES, COONEY, ASHBY, BROUK, CLEARE, COMRIE, FERNANDEZ, GONZALEZ, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, KAVANAGH, LIU, MAY, MAYER, MURRAY, MYRIE, RAMOS, RIVERA, SALAZAR, SCARCELLA-SPANTON, SEPULVEDA, SERRANO, WEBB, WEBER -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

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;

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 twenty;

18 (C) In the third taxable year succeeding the effective date of
19 subsection (c-2) of this section, the applicable percentage of the
20 earned income credit allowed under section thirty-two of the internal

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

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1 revenue code for the same taxable year, as described in paragraph one of
2 this subsection, shall be reduced to fifteen;

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

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

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

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

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

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

53 (c-2) New York state working families tax credit. (1) Definitions.
54 (A) "Adjusted for all inflation since two thousand twenty-three" shall
55 mean the commissioner increases the dollar amount of a credit or
56 adjusted gross income, as applicable, by an amount equal to the sum of

1 all cost-of-living adjustments calculated and published by the internal
2 revenue service pursuant to 26 USC §1(f)(3) since calendar year two
3 thousand twenty-three.

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

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

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

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

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

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

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

28 (v) In the fifth taxable year succeeding the effective date of this
29 subsection and each taxable year thereafter, one thousand six hundred
30 dollars per qualifying child through age seventeen, provided, however,
31 that the dollar amount herein prescribed shall be adjusted for all
32 inflation since two thousand twenty-three in the fifth taxable year
33 succeeding the effective date of this subsection and each taxable year
34 thereafter.

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

38 (i) In the first taxable year succeeding the effective date of this
39 subsection, seventy-five thousand dollars in the case of an individual
40 who is not married, one hundred ten thousand dollars in the case of a
41 joint return, or seventy-five thousand dollars in the case of a married
42 individual filing a separate return;

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

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

53 (iv) In the fourth taxable year succeeding the effective date of this
54 subsection, forty-five thousand dollars in the case of an individual who
55 is not married, ninety thousand dollars in the case of a joint return,

1 or forty-five thousand dollars in the case of a married individual
2 filing a separate return; and

3 (v) In the fifth taxable year succeeding the effective date of this
4 subsection and each taxable year thereafter, twenty-five thousand
5 dollars in the case of an individual who is not married, fifty thousand
6 dollars in the case of a joint return, or twenty-five thousand dollars
7 in the case of a married individual filing a separate return, provided,
8 however, that the dollar amount herein prescribed shall be adjusted
9 for all inflation since two thousand twenty-three in the fifth taxable
10 year succeeding the effective date of this subsection and each tax-
11 able year thereafter.

12 (C) Provided further, that the amount of the credit shall never be
13 reduced below one hundred dollars per qualifying child in the second and
14 third taxable years succeeding the effective date of this subsection. In
15 the fourth taxable year succeeding the effective date of this subsection
16 and each taxable year thereafter, the credit shall never be reduced
17 below one hundred dollars per qualifying child through age seventeen.

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

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

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

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

53 (6) Notwithstanding any provision of law to the contrary, the refunda-
54 ble credit and its payment authorized under this subsection shall be
55 treated in the same manner as the federal Earned Income Tax Credit and
56 shall not be considered as assets, income, or resources to the same

1 extent the credit and its payment would be disregarded pursuant to 26
2 U.S.C. § 6409 and the general welfare doctrine for purposes of determin-
3 ing eligibility for benefits or assistance, or the amount or extent of
4 those benefits or assistance, under any state or local program, includ-
5 ing benefits established under section ninety-five of the social
6 services law.

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

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

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

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

47 § 5. This act shall take effect immediately.