

STATE OF NEW YORK

4548

2013-2014 Regular Sessions

IN SENATE

April 10, 2013

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to a credit against personal income taxes imposed by certain cities for certain household and dependent care services necessary for gainful employment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1310 of the tax law is amended by adding a new
2 subsection (g) to read as follows:

3 (g) Credit for certain household and dependent care services necessary
4 for gainful employment. (1) Notwithstanding any other provision of law
5 to the contrary, any city having a population of one million or more,
6 acting through its local legislative body, is authorized and empowered
7 to adopt and amend local laws granting in such city, on or after taxable
8 years beginning January first, two thousand thirteen, a credit against
9 the city personal income tax equal to the applicable percentage of the
10 credit allowed under paragraph two of subsection (a) of section twenty-
11 one of the internal revenue code (without regard to whether the taxpayer
12 in fact claimed the credit under such section twenty-one for the taxable
13 year), to a taxpayer who claimed a credit pursuant to subsection (c) of
14 section six hundred six of this chapter for the same taxable year, with
15 respect to qualifying individuals as defined in paragraph one of
16 subsection (b) of section twenty-one of the internal revenue code (with-
17 out regard to whether the taxpayer in fact claimed the credit under such
18 section twenty-one for the taxable year) who are dependents of the
19 taxpayer, and who have not attained the age of four. The applicable
20 percentage shall be determined as follows:

21 (A) If household gross income as defined in subparagraph (A) of para-
22 graph three of subdivision (b) of section 11-1706 of the administrative

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

LBD10176-01-3

S. 4548

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1 code of the city of New York is forty-five thousand dollars or less, the
2 applicable percentage shall be ninety percent.

3 (B) If such household gross income is greater than forty-five thousand
4 dollars but not greater than sixty thousand dollars, the applicable
5 percentage shall be fifty percent plus the product of forty percent
6 multiplied by one minus a fraction, the numerator of which is such
7 household gross income less forty-five thousand dollars and the denomi-
8 nator of which is fifteen thousand dollars.

9 (C) If such household gross income is greater than sixty thousand
10 dollars but not greater than one hundred fifty thousand dollars, the
11 applicable percentage shall be fifty percent.

12 (D) If such household gross income is greater than one hundred fifty
13 thousand dollars but not greater than one hundred seventy-five thousand
14 dollars, the applicable percentage shall be fifty percent multiplied by
15 one minus a fraction, the numerator of which is such household gross
16 income less one hundred fifty thousand dollars and the denominator of
17 which is twenty-five thousand dollars.

18 (E) If such household gross income is greater than one hundred seven-
19 ty-five thousand dollars, the applicable percentage shall be zero.

20 (2) The credit under this subsection shall be allowed against the
21 taxes imposed by this article reduced by the credits permitted by this
22 article. If the credit exceeds the tax as so reduced, the taxpayer may
23 receive, and the state comptroller, subject to the certificate of the
24 commissioner, shall pay as an overpayment, without interest, the amount
25 of such excess, provided, however, in the case of a taxpayer who is a
26 part-year resident of the city any such overpayment under this paragraph
27 shall be limited to the amount of such excess multiplied by a fraction,
28 the numerator of which is federal adjusted gross income for the period
29 of residence, computed as if the taxable year for federal income tax
30 purposes were limited to the period of residence, and the denominator of
31 which is federal adjusted gross income for the taxable year.

32 (3) In the case of a married couple who filed a joint federal return,
33 but who are required to determine their city taxes separately, the cred-
34 it allowed pursuant to this subsection may only be applied against the
35 tax imposed on the spouse with the lower taxable income, computed with-
36 out regard to such credit, provided, however, if the spouse with the
37 lower taxable income is a nonresident of such city, no credit shall be
38 allowed under this subsection. In the case of a married couple who are
39 not required to file a federal return, the credit under this subsection
40 shall be allowed only if such taxpayers file a joint city income tax
41 return.

42 (4) Any local law adopted pursuant to this subsection may provide for
43 a credit as authorized by this subsection for a maximum of three and
44 one-half consecutive calendar years; provided, however, that any such
45 credit may not apply before July first, two thousand thirteen or after
46 taxable years beginning on or after January first, two thousand seven-
47 teen; provided further, however, that any credit permitted by this
48 subsection to a taxpayer in the taxable year beginning on January first,
49 two thousand thirteen, shall be prorated on the basis of the number of
50 days remaining in the calendar year of such taxable year.

51 § 2. This act shall take effect immediately.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S4548

SPONSOR: FELDER

TITLE OF BILL: An act to amend the tax law, in relation to a credit against personal income taxes imposed by certain cities for certain household and dependent care services necessary for gainful employment

PURPOSE:

To expand the New York City child care credit to the entire middle class. The credit is intended to offset the cost of child care for working parents or parents looking for work.

SUMMARY OF PROVISIONS:

This bill would amend Section 1310 of the tax law by adding a new subsection (g) to create a credit for certain household and dependent care services for gainful employment. Paragraph 1 of new subsection (g) would allow, beginning January 1, 2013, New York City to create, by local law, a credit against the City's personal income tax. New York City's credit would be limited to qualifying individuals who also claimed the State's credit for certain household and dependent care services necessary for gainful employment with respect to children who have not yet reached the age of 4.

The credit would be equal to the applicable percentage of the Federal credit for expenses for household and dependent care services necessary for gainful employment. The applicable percentage of the Federal Credit would be as follows:

- (A) For incomes \$45,000 or less, the credit is 90%.
- (B) For incomes between \$45,001 and \$60,000, the credit phases down from 90% to 50%.
- (C) For incomes between \$60,001 and \$150,000, the credit is 50%.
- (D) For incomes between \$150,001 and \$175,000, the credit phases down from 50% to zero.
- (E) For incomes of \$175,001 or more, the credit is zero.

Paragraph 2 of new subsection (g) provides that such credit is refundable, and shall be applied after all other credits against the City personal income tax have been taken. For part year residents, the credit will be prorated based on the length of time the taxpayer was a resident of New York City.

Paragraph 3 of new subsection (g) provides that for married couples who filed a joint federal return, but are required to file their City taxes separately, then the credit shall be imposed on the spouse with the lower income. If the spouse with the lower income is not resident of the City, then no credit shall be given. The credit will only be applicable to taxpayers who file a New York City return.

Paragraph 4 of new subsection (g) provides that the local law adopted pursuant to this act shall only be authorized to provide the credit for 3.5 consecutive calendar years, and that the credit can only apply between July 1, 2013 and December 31, 2016. Credits provided in 2013 will be prorated on the basis of the number of days remaining in the calendar year.

Section 2 of the bill provides that the act would take effect immediately.

JUSTIFICATION:

Child care is a necessity for many working, families. For unemployed parents, lack of child care is a handicap in looking for work. On average, families with a child under the age of 5 will spend over \$9,000 per year on child care. This represents around 10.4 percent of family income. For lower income families earning between \$18,000 and \$36,000 annually, this can represent 20.4 percent of family income. The recent New York City Council study "The Middle Class Squeeze" describes how middle income households in the City are struggling at an unprecedented extent with reduced employment opportunities, higher education requirements and astronomical costs. According to the Council for Community and Economic Research, Manhattan and Brooklyn ranked first and second place among the top 10 most expensive metropolitan areas in the U.S. Queens achieved fifth place.

The Federal and State governments have their own child care credits that help. Together these programs can provide up to \$2,200 per child or dependent to offset allowable costs of care. This is inadequate relative to the need, especially in a high cost state like New York. All the more so because the Federal credit is not refundable, which means low income families are typically unable to use the credit.

For the Federal Credit, a portion of the qualified expenses is credited against personal income tax liability. Qualified expenses currently range from \$3,000 to \$6,000 depending on whether one or more children (or dependents) are present in the household. The portion of expenses that can be deducted is based on income.

The current Federal credit equals 35 percent of allowable expenses at an income of \$15,000, and phases down to 20 percent at incomes over \$43,000. Using the same rules for allowable expenses, the State credit is now 110 percent of the Federal credit for earnings under \$25,000, and declines gradually to 20 percent of the Federal credit at incomes over \$65,000. Close to 220,000 New York City families received the New York State credit in 2010.

Like the State program, the City credit is a refundable credit. The City credit is currently 75 percent of the State credit for incomes of \$25,000 or less, and phases down to zero at \$30,000. Consequently, middle and lower-middle income families are entirely excluded from receiving a City credit. Because of the limited income range covered by the credit, only 23,500 New York City families received the credit in 2010.

The proposed expansion of the City credit would continue focusing the credit on children up through age 3, since child care is most expensive

during those early years and many school and preschool programs are only available at ages 4 and older. The credit will now be expanded to cover middle income households, and will be increased for those households already receiving it. An estimated 102,800 families are expected to receive the City credit. The credit will be 90 percent of the Federal credit for adjusted gross incomes of \$45,000 or less, phasing down to 50 percent of the Federal credit at \$60,000. It remains at 50 percent for

adjusted gross incomes of up to \$150,000, and then phases down to zero at \$175,000.

The proposed credit will be fully refundable. Families with incomes under \$30,000 eligible for the existing New York City credit will do better under the proposed credit.

The example below shows how adding the New York City credit will enhance support for working families:

Examples:

#1: One child, \$35,000 income
Expenses= \$3,000
City credit = \$675

#2: Two children, \$85,000 income
Expenses=\$6,000
City credit= \$ 600

LEGISLATIVE HISTORY:

None.

FISCAL IMPLICATIONS:

None to the state.

LOCAL FISCAL IMPLICATIONS:

The expansion of the credit would cost New York City approximately \$32 million for the full calendar year.

EFFECTIVE DATE:

This act shall take effect immediately.

STATE OF NEW YORK

6764--A

2013-2014 Regular Sessions

IN ASSEMBLY

April 18, 2013

Introduced by M. of A. FARRELL -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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9 the city personal income tax equal to the applicable percentage of the
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15 respect to qualifying individuals as defined in paragraph one of
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A. 6764--A

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49 two thousand thirteen, shall be prorated on the basis of the number of
50 days remaining in the calendar year of such taxable year.

51 § 2. This act shall take effect immediately.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A6764A

SPONSOR: Farrell

TITLE OF BILL: An act to amend the tax law, in relation to a credit against personal income taxes imposed by certain cities for certain household and dependent care services necessary for gainful employment

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LEGISLATIVE HISTORY: None.

FISCAL IMPLICATIONS: None to the state.

LOCAL FISCAL IMPLICATIONS: The expansion of the credit would cost New York City approximately \$32 million for the full calendar year.

EFFECTIVE DATE: This act shall take effect immediately.
