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**SUBSTITUTE HOUSE BILL 1075**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Finance (originally sponsored by Representatives Thai, Walen, Simmons, Berry, Ramel, Peterson, Pollet, Callan, Macri, Gregerson, Bergquist, Wylie, Kloba, Santos, Riccelli, Fosse, and Ormsby)

READ FIRST TIME 02/13/23.

1 AN ACT Relating to expanding eligibility for the working  
2 families' tax credit to everyone age 18 and older; amending 2021 c  
3 195 s 4 (uncodified); reenacting and amending RCW 82.08.0206;  
4 creating new sections; providing an effective date; and providing a  
5 contingent expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 82.08.0206 and 2022 c 41 s 1 and 2022 c 33 s 1 are  
8 each reenacted and amended to read as follows:

9 (1) A working families' tax credit, in the form of a refund of  
10 tax due under this chapter and chapter 82.12 RCW, is provided to  
11 eligible low-income persons for sales and use taxes paid under this  
12 chapter and chapter 82.12 RCW after January 1, 2022.

13 (2) For purposes of the credit in this section, the following  
14 definitions apply:

15 (a) (i) "Eligible low-income person" means an individual who:

16 (A) Is eligible for the credit provided in Title 26 U.S.C. Sec.  
17 32 of the internal revenue code; and

18 (B) Properly files a federal income tax return for the prior  
19 federal tax year, and was a Washington resident during the year for  
20 which the credit is claimed.

21 (ii) "Eligible low-income person" also means an individual who((÷

1       ~~(A) Meets~~) meets the requirements provided in (a)(i)(B) of this  
2 subsection(~~(A)~~) and

3       ~~((B) Would)~~) would otherwise qualify for the credit provided in  
4 Title 26 U.S.C. Sec. 32 of the internal revenue code except (~~for the~~  
5 ~~fact~~) that (~~the~~) one or any combination of the following  
6 conditions apply:

7       (A) The individual filed a federal income tax return for the  
8 prior federal tax year using a valid individual taxpayer  
9 identification number in lieu of a social security number, and the  
10 individual's spouse, if any, and all qualifying children, if any,  
11 have a valid individual taxpayer identification number or a social  
12 security number; or

13       (B) The individual does not meet the age requirement, but is at  
14 least age 18 by the end of the prior federal tax year.

15       (b) "Income" means earned income as defined by Title 26 U.S.C.  
16 Sec. 32 of the internal revenue code.

17       (c) "Individual" means an individual or an individual and that  
18 individual's spouse if they file a federal joint income tax return.

19       (d) "Internal revenue code" means the United States internal  
20 revenue code of 1986, as amended, as of June 9, 2022, or such  
21 subsequent date as the department may provide by rule consistent with  
22 the purpose of this section.

23       (e) "Maximum qualifying income" means the maximum federally  
24 adjusted gross income for the prior federal tax year.

25       (f) "Qualifying child" means a qualifying child as defined by  
26 Title 26 U.S.C. Sec. 32 of the internal revenue code, except the  
27 child may have a valid individual taxpayer identification number in  
28 lieu of a social security number.

29       (g) "Washington resident" means an individual who is physically  
30 present and residing in this state for at least 183 days. "Washington  
31 resident" also includes an individual who is not physically present  
32 and residing in this state for at least 183 days but is the spouse of  
33 a Washington resident. For purposes of this subsection, "day" means a  
34 calendar day or any portion of a calendar day.

35       (3) (a) Except as provided in (b) and (c) of this subsection, for  
36 calendar year 2023 and thereafter, the working families' tax credit  
37 refund amount for the prior calendar year is:

38       (i) \$300 for eligible persons with no qualifying children;

39       (ii) \$600 for eligible persons with one qualifying child;

40       (iii) \$900 for eligible persons with two qualifying children; or

1 (iv) \$1,200 for eligible persons with three or more qualifying  
2 children.

3 (b) Except as provided in (f) of this subsection, the refund  
4 amounts provided in (a) of this subsection will be reduced, rounded  
5 to the nearest dollar, as follows:

6 (i) For eligible persons with no qualifying children, beginning  
7 at \$2,500 of income below the federal phase-out income for the prior  
8 federal tax year, by 18 percent per additional dollar of income until  
9 the minimum credit amount as specified in (c) of this subsection is  
10 reached.

11 (ii) For eligible persons with one qualifying child, beginning at  
12 \$5,000 of income below the federal phase-out income for the prior  
13 federal tax year, by 12 percent per additional dollar of income until  
14 the minimum credit amount as specified in (c) of this subsection is  
15 reached.

16 (iii) For eligible persons with two qualifying children,  
17 beginning at \$5,000 of income below the federal phase-out income for  
18 the prior federal tax year, by 15 percent per additional dollar of  
19 income until the minimum credit amount as specified in (c) of this  
20 subsection is reached.

21 (iv) For eligible persons with three or more qualifying children,  
22 beginning at \$5,000 of income below the federal phase-out income for  
23 the prior federal tax year, by 18 percent per additional dollar of  
24 income until the minimum credit amount as specified in (c) of this  
25 subsection is reached.

26 (c) If the refund for an eligible person as calculated in this  
27 section is greater than or equal to one cent, but less than \$50, the  
28 refund amount is \$50.

29 (d) The refund amounts in this section shall be adjusted for  
30 inflation every year beginning January 1, 2024, based upon changes in  
31 the consumer price index that are published by November 15th of the  
32 previous year for the most recent 12-month period. The adjusted  
33 refund amounts must be rounded to the nearest \$5.

34 (e) For purposes of this section, "consumer price index" means,  
35 for any 12-month period, the average consumer price index for that  
36 12-month period for the Seattle, Washington area for urban wage  
37 earners and clerical workers, all items, compiled by the bureau of  
38 labor statistics, United States department of labor.

39 (f) The percentage rate of remittance reductions in (b) of this  
40 subsection must be adjusted every year beginning January 1, 2023,

1 based on calculations by the department that result in the minimum  
2 credit being received at the maximum qualifying income level.

3 (4) The working families' tax credit shall be administered as  
4 provided in this subsection.

5 (a) The refund paid under this section will be paid to eligible  
6 filers who apply pursuant to this subsection.

7 (i) Application must be made to the department in a form and  
8 manner determined by the department. If the application process is  
9 initially done electronically, the department must provide a paper  
10 application upon request. The application must include any  
11 information and documentation as required by the department.

12 (ii) Application for the refund under this section must be made  
13 in the year following the year for which the federal tax return was  
14 filed, but in no case may any refund be provided for any period  
15 before January 1, 2022. The department must use the eligible person's  
16 most recent federal tax filing for the tax year for which the refund  
17 is being claimed to calculate the refund.

18 (iii) A person may not claim a credit on behalf of a deceased  
19 individual. No individual may claim a credit under this section for  
20 any year in a disallowance period under Title 26 U.S.C. Sec. 32(k)(1)  
21 of the internal revenue code or for any year for which the individual  
22 is ineligible to claim the credit in Title 26 U.S.C. Sec. 32 of the  
23 internal revenue code by reason of Title 26 U.S.C. Sec. 32(k)(2) of  
24 the internal revenue code.

25 (b) The department shall protect the privacy and confidentiality  
26 of personal data of refund recipients in accordance with chapter  
27 82.32 RCW.

28 (c) The department shall, in conjunction with other agencies or  
29 organizations, design and implement a public information campaign to  
30 inform potentially eligible persons of the existence of, and  
31 requirements for, the credit provided in this section.

32 (d) The department must work with the internal revenue service to  
33 administer the credit on an automatic basis as soon as practicable.

34 (5) Receipt of the refund under this section may not be used in  
35 eligibility determinations for any state income support programs or  
36 in making public charge determinations.

37 (6) The department may adopt rules necessary to implement this  
38 section. This includes establishing a date by which applications will  
39 be accepted, with the aim of accepting applications as soon as  
40 possible.

1 (7) The department must review the application and determine  
2 eligibility for the working families' tax credit based on information  
3 provided by the applicant and through audit and other administrative  
4 records, including, when it deems it necessary, verification through  
5 internal revenue service data.

6 (8) If, upon review of internal revenue service data or other  
7 information obtained by the department, it appears that an individual  
8 received a refund that the individual was not entitled to, or  
9 received a larger refund than the individual was entitled to, the  
10 department may assess against the individual the overpaid amount. The  
11 department may also assess such overpaid amount against the  
12 individual's spouse if the refund in question was based on both  
13 spouses filing a joint federal income tax return for the year for  
14 which the refund was claimed.

15 (a) Interest as provided under RCW 82.32.050 applies to  
16 assessments authorized under this subsection (8) starting six months  
17 after the date the department issued the assessment until the amount  
18 due under this subsection (8) is paid in full to the department.  
19 Except as otherwise provided in this subsection, penalties may not be  
20 assessed on amounts due under this subsection.

21 (b) If an amount due under this subsection is not paid in full by  
22 the date due, or the department issues a warrant for the collection  
23 of amounts due under this subsection, the department may assess the  
24 applicable penalties under RCW 82.32.090. Penalties under this  
25 subsection (8)(b) may not be made due until six months after the  
26 department's issuance of the assessment.

27 (c) If the department finds by clear, cogent, and convincing  
28 evidence that an individual knowingly submitted, caused to be  
29 submitted, or consented to the submission of, a fraudulent claim for  
30 refund under this section, the department must assess a penalty of 50  
31 percent of the overpaid amount. This penalty is in addition to any  
32 other applicable penalties assessed in accordance with (b) of this  
33 subsection (8).

34 (9) If, within the period allowed for refunds under RCW  
35 82.32.060, the department finds that an individual received a lesser  
36 refund than the individual was entitled to, the department must remit  
37 the additional amount due under this section to the individual.

38 (10) Interest does not apply to refunds provided under this  
39 section.

1 (11) Chapter 82.32 RCW applies to the administration of this  
2 section.

3 **Sec. 2.** 2021 c 195 s 4 (uncodified) is amended to read as  
4 follows:

5 (1) This section is the tax preference performance statement for  
6 the tax preference contained in section 2, chapter 195, Laws of 2021  
7 and section 1, chapter . . ., Laws of 2023 (section 1 of this act).  
8 This performance statement is only intended to be used for subsequent  
9 evaluation of the tax preference. It is not intended to create a  
10 private right of action by any party or be used to determine  
11 eligibility for the preferential tax treatment.

12 (2) The legislature categorizes this tax preference as one  
13 intended to provide tax relief for certain individuals as indicated  
14 in RCW 82.32.808(2) (e).

15 (3) It is the legislature's specific public policy objective to  
16 allow low-income and middle-income workers to recover some or all of  
17 the sales tax they pay to support state and local government as a way  
18 to increase their economic security and to decrease the regressivity  
19 of our state tax code. It is the legislature's intent to provide a  
20 sales and use tax credit, in the form of a remittance, to low-income  
21 and middle-income working families.

22 (4) The joint legislative audit and review committee shall review  
23 this preference in 2028 and every 10 years thereafter. If a review  
24 finds that the working families' tax credit does not provide  
25 meaningful financial relief to low-income and middle-income  
26 households, (~~this act shall~~) RCW 82.08.0206 expires at the end of  
27 the calendar year two years after the adoption of the final report  
28 containing that finding. The joint legislative audit and review  
29 committee shall provide written notice of the expiration date of RCW  
30 82.08.0206 to the department of revenue, the chief clerk of the house  
31 of representatives, the secretary of the senate, the office of the  
32 code reviser, and others as deemed appropriate by the joint  
33 legislative audit and review committee. In its review of the program,  
34 the joint legislative audit and review committee should use at least  
35 the following metrics: Size of the benefit per household, number of  
36 household beneficiaries statewide, and demographic information of  
37 beneficiaries to include family size, income level, race and  
38 ethnicity, and geographic location.

1 (5) In order to obtain the data necessary to perform the review  
2 in subsection (4) of this section, the joint legislative audit and  
3 review committee may refer to the remittance data prepared by the  
4 department of revenue.

5 NEW SECTION. **Sec. 3.** The credits provided for low-income people  
6 who do not meet the age requirement of 26 U.S.C. Sec. 32 of the  
7 internal revenue code, but who are at least age 18 by the end of the  
8 prior federal tax year, pursuant to section 1(2)(a)(ii)(B) of this  
9 act, are subject to the availability of amounts appropriated for this  
10 specific purpose.

11 NEW SECTION. **Sec. 4.** RCW 82.32.805 does not apply to this act.

12 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2024.

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