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**SECOND SUBSTITUTE HOUSE BILL 1477**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Thai, Street, Doglio, Berry, Chapman, Santos, Ryu, Alvarado, Ramel, Macri, Ormsby, Leavitt, Pollet, and Fey)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to making changes to the working families' tax  
2 credit that clarify program qualification requirements, allow  
3 applications to be submitted for up to three years, and require a  
4 biennial program report from the department of revenue; amending RCW  
5 82.08.02061; amending 2021 c 195 s 4 (uncodified); reenacting and  
6 amending RCW 82.08.0206; creating new sections; providing an  
7 effective date; and providing a contingent expiration date.

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

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

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

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

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

18 (A) Is eligible for the credit provided in Title 26 U.S.C. Sec.  
19 32 of the internal revenue code; and

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

4 (ii) "Eligible low-income person" also means an individual who(~~(+~~  
5 ~~(A) Meets~~) meets the requirements provided in (a)(i)(B) of this  
6 subsection(~~(+)~~) and

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

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

17 (B) The individual filed their federal income tax return for the  
18 prior federal tax year under the married filing separately status.  
19 For purposes of the refund provided in this section, the special rule  
20 for separated spouse under Title 26 U.S.C. Sec. 32(d)(2)(B) of the  
21 internal revenue code does not apply.

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

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

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

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

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

36 (g) "Washington resident" means an individual who is physically  
37 present and residing in this state for at least 183 days. "Washington  
38 resident" also includes an individual who is not physically present  
39 and residing in this state for at least 183 days but is the spouse of

1 a Washington resident. For purposes of this subsection, "day" means a  
2 calendar day or any portion of a calendar day.

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

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

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

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

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

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

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

19 (ii) For eligible persons with one qualifying child, beginning at  
20 \$5,000 of income below the federal phase-out income for the prior  
21 federal tax year, by 12 percent per additional dollar of income until  
22 the minimum credit amount as specified in (c) of this subsection is  
23 reached.

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

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

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

37 (d) The refund amounts in this section shall be adjusted for  
38 inflation every year beginning January 1, 2024, based upon changes in  
39 the consumer price index that are published by November 15th of the

1 previous year for the most recent 12-month period. The adjusted  
2 refund amounts must be rounded to the nearest \$5.

3 (e) For purposes of this section, "consumer price index" means,  
4 for any 12-month period, the average consumer price index for that  
5 12-month period for the Seattle, Washington area for urban wage  
6 earners and clerical workers, all items, compiled by the bureau of  
7 labor statistics, United States department of labor.

8 (f) The percentage rate of remittance reductions in (b) of this  
9 subsection must be adjusted every year beginning January 1, 2023,  
10 based on calculations by the department that result in the minimum  
11 credit being received at the maximum qualifying income level.

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

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

16 (i) Application must be made to the department in a form and  
17 manner determined by the department. If the application process is  
18 initially done electronically, the department must provide a paper  
19 application upon request. The application must include any  
20 information and documentation as required by the department.

21 (ii) ~~((Application))~~ (A) Except as provided in (a)(ii)(B) of this  
22 subsection (4), application for ((the)) a refund under this section  
23 must be made in the year following the year for which the federal tax  
24 return was filed, but in no case may any refund be provided for any  
25 period before January 1, 2022. The department must use the eligible  
26 person's most recent federal tax filing for the tax year for which  
27 the refund is being claimed to calculate the refund.

28 (B)(I) A person may apply for any refund for which they were  
29 eligible but did not claim under (a)(ii)(A) of this subsection (4)  
30 for up to three additional years. A person must complete an  
31 application to claim this refund within the three calendar years  
32 after the end of the calendar year in which the federal income tax  
33 return for that tax year was legally due for federal income tax  
34 purposes, without regard to any federal extension.

35 (II) If a person seeks to increase the amount of a refund that  
36 has been made under this subsection (4), the person must apply for  
37 the amended refund within the nonclaims period established under RCW  
38 82.32.060(1).

1        (III) For applications for refunds under this subsection  
2 (4)(a)(ii)(B), the department must use the federal tax filing for the  
3 tax year for which a refund is being claimed to calculate the refund.

4        (iii) A person may not claim a credit on behalf of a deceased  
5 individual. No individual may claim a credit under this section for  
6 any year in a disallowance period under Title 26 U.S.C. Sec. 32(k)(1)  
7 of the internal revenue code or for any year for which the individual  
8 is ineligible to claim the credit in Title 26 U.S.C. Sec. 32 of the  
9 internal revenue code by reason of Title 26 U.S.C. Sec. 32(k)(2) of  
10 the internal revenue code.

11        (b) The department shall protect the privacy and confidentiality  
12 of personal data of refund recipients in accordance with chapter  
13 82.32 RCW.

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

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

20        (5) Receipt of ~~((the))~~ a refund under this section may not be  
21 used in eligibility determinations for any state income support  
22 programs or in making public charge determinations.

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

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

32        (8) If, upon review of internal revenue service data or other  
33 information obtained by the department, it appears that an individual  
34 received a refund that the individual was not entitled to, or  
35 received a larger refund than the individual was entitled to, the  
36 department may assess against the individual the overpaid amount. The  
37 department may also assess such overpaid amount against the  
38 individual's spouse if the refund in question was based on both  
39 spouses filing a joint federal income tax return for the year for  
40 which the refund was claimed.

1 (a) Interest as provided under RCW 82.32.050 applies to  
2 assessments authorized under this subsection (8) starting six months  
3 after the date the department issued the assessment until the amount  
4 due under this subsection (8) is paid in full to the department.  
5 Except as otherwise provided in this subsection, penalties may not be  
6 assessed on amounts due under this subsection.

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

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

20 (9) If, within the period allowed for refunds under RCW  
21 82.32.060, the department finds that an individual received a lesser  
22 refund than the individual was entitled to, the department must remit  
23 the additional amount due under this section to the individual.

24 (10) Interest does not apply to refunds provided under this  
25 section.

26 (11) Chapter 82.32 RCW applies to the administration of this  
27 section.

28 **Sec. 2.** RCW 82.08.02061 and 2014 c 97 s 317 are each amended to  
29 read as follows:

30 (1) The department must assess the implementation of the working  
31 families' tax ((~~exemption~~)) credit in a report to the legislature to  
32 identify administrative or resource issues that require legislative  
33 action. The department must submit the report to the finance  
34 committee of the house of representatives and the ways and means  
35 committee of the senate within ((~~eighteen~~)) 18 months of the  
36 implementation of the program. The report must also be made available  
37 on the public website of the department.

38 (2) The department must submit a report to the finance committee  
39 of the house of representatives and the ways and means committee of

1 the senate on a biennial basis. The report must include relevant data  
2 collected from administration of the working families' tax credit,  
3 including demographic data. The report must also be made available on  
4 the public website of the department. The first report under this  
5 subsection is due December 31, 2025, and every two years thereafter.

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

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

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

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

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

1 beneficiaries to include family size, income level, race and  
2 ethnicity, and geographic location.

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

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

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

9 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
10 this act, referencing this act by bill or chapter number, is not  
11 provided by June 30, 2023, in the omnibus appropriations act, this  
12 act is null and void.

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