

2179

2013-2014 Regular Sessions

I N   S E N A T E

January 14, 2013

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Introduced by Sen. GOLDEN -- 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 and the real property tax law, in relation to establishing the "caregiver's assistance act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "caregiver's assistance act".  
3     S 2. Section 606 of the tax law is amended by adding a new subsection  
4     (vv) to read as follows:  
5     (VV) ELDER CARE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT  
6     AGAINST THE TAX IMPOSED UNDER SECTION SIX HUNDRED ONE OF THIS PART EQUAL  
7     TO TWENTY PERCENT OF QUALIFIED CARE EXPENSES IN AN AMOUNT EQUAL TO OR  
8     LESS THAN TWO THOUSAND FOUR HUNDRED DOLLARS FOR THE TAXABLE YEAR THAT  
9     ARE PAID BY THE TAXPAYER FOR THE CARE OF A QUALIFYING SENIOR FAMILY  
10    MEMBER. A TAXPAYER WITH QUALIFIED CARE EXPENSES PURSUANT TO THE PRECED-  
11    ING SENTENCE WHICH ARE EQUAL TO OR IN EXCESS OF TWO HUNDRED FORTY  
12    DOLLARS FOR ANY TAXABLE YEAR SHALL RECEIVE AN ADDITIONAL SEVENTY-FIVE  
13    DOLLAR CREDIT AGAINST THE TAX IMPOSED UNDER SECTION SIX HUNDRED ONE OF  
14    THIS PART. IF THE CREDIT OR CREDITS PROVIDED PURSUANT TO THIS SECTION  
15    EXCEED THE TAX FOR SUCH TAXABLE YEAR, THE TAXPAYER MAY RECEIVE, AND THE  
16    COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE COMMISSIONER, SHALL PAY AS  
17    AN OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO  
18    REDUCED AND THE AMOUNT OF THE CREDITOR CREDITS. IF A TAXPAYER IS NOT  
19    REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED ONE OF THIS  
20    PART, A TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER, SUBJECT  
21    TO A CERTIFICATE OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT THE  
22    FULL AMOUNT OF THE CREDIT OR CREDITS, WITHOUT INTEREST. NO CREDIT SHALL  
23    BE GRANTED UNDER THIS SUBSECTION IF NEW YORK ADJUSTED GROSS INCOME IS  
24    GREATER THAN FORTY-FIVE THOUSAND DOLLARS FOR A SINGLE TAXPAYER OR SIXTY

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

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1 THOUSAND DOLLARS FOR MARRIED TAXPAYERS, OR IF THE TAXPAYER HAS TAKEN THE  
2 CREDIT FOR CERTAIN HOUSEHOLD AND DEPENDENT CARE SERVICES AUTHORIZED IN  
3 THIS SECTION.

4 (2) AS USED IN THIS SUBSECTION:

5 (A) "TAXPAYER" IS A RESIDENT INDIVIDUAL OF THIS STATE WHO IS REQUIRED  
6 OR CHOOSES TO FILE A RETURN UNDER THIS ARTICLE, BUT THE TERM DOES NOT  
7 INCLUDE A NONRESIDENT TAXPAYER OR A PART-YEAR RESIDENT TAXPAYER.

8 (B) "QUALIFYING SENIOR FAMILY MEMBER" IS A RELATIVE OF THE TAXPAYER  
9 WITHIN THE THIRD DEGREE OF CONSANGUINITY WHO RESIDES WITH THE TAXPAYER  
10 AND WHO IS SIXTY YEARS OR OLDER AND WHOSE NEW YORK ADJUSTED GROSS INCOME  
11 IS THIRTEEN THOUSAND DOLLARS OR LESS FOR A SINGLE FAMILY MEMBER OR TWEN-  
12 TY THOUSAND OR LESS FOR MARRIED FAMILY MEMBERS. A QUALIFYING SENIOR  
13 FAMILY MEMBER INCLUDES A PERSON WHO OTHERWISE MEETS THE QUALIFICATIONS  
14 SPECIFIED IN THE PRECEDING SENTENCE BUT WHO OCCUPIES A SEPARATE ROOM OR  
15 ROOMS IN OR AT THE RESIDENCE OF THE TAXPAYER, SUCH AS THOSE COMMONLY  
16 REFERRED TO AS MOTHER-IN-LAW APARTMENTS, BUT SHALL NOT INCLUDE A TENANT,  
17 SUBTENANT, ROOMER OR BOARDER WHO PAYS A LEASE OR RENTAL FEE TO THE  
18 TAXPAYER FOR THE SPACE.

19 (C) "QUALIFIED CARE EXPENSES" ARE PAYMENTS MADE BY THE TAXPAYER FOR  
20 GOODS AND SERVICES NECESSARY TO ALLOW THE QUALIFYING SENIOR FAMILY  
21 MEMBER TO BE MAINTAINED IN THE TAXPAYER'S RESIDENCE WHICH GOODS AND  
22 SERVICES ARE: (I) PROVIDED TO OR FOR THE BENEFIT OF THE QUALIFYING  
23 SENIOR FAMILY MEMBER OR TO ASSIST THE TAXPAYER IN CARING FOR THE QUALI-  
24 FYING SENIOR FAMILY MEMBER; OR PROVIDED BY AN ORGANIZATION OR AN INDIV-  
25 IDUAL NOT RELATED TO THE TAXPAYER OR THE QUALIFYING SENIOR FAMILY  
26 MEMBER; AND (II) NOT COMPENSATED FOR BY INSURANCE OR FEDERAL OR STATE  
27 PROGRAMS. SUCH EXPENSES INCLUDE, BUT ARE NOT LIMITED TO, HOME HEALTH  
28 AGENCY SERVICES, ADULT DAY CARE, COMPANIONSHIP SERVICES, PERSONAL CARE  
29 ATTENDANT SERVICES, HOMEMAKER SERVICES, RESPITE CARE, HEALTH CARE EQUIP-  
30 MENT AND SUPPLIES, HOME MODIFICATION, OR ANY SERVICES NECESSARY TO  
31 PROVIDE HELP IN TWO OR MORE ACTIVITIES IN DAILY LIVING, OR FOR THE  
32 PROVISION OF ASSISTIVE DEVICES.

33 (3) WHEN TWO OR MORE MEMBERS OF A HOUSEHOLD MEET THE QUALIFICATIONS  
34 FOR A CREDIT OR CREDITS PURSUANT TO THIS SUBSECTION, THE CREDIT OR CRED-  
35 ITS SHALL BE EQUALLY DIVIDED BETWEEN OR AMONG SUCH INDIVIDUALS UNLESS  
36 SUCH INDIVIDUALS FILE WITH THE COMMISSIONER A WRITTEN AGREEMENT SETTING  
37 FORTH A DIFFERENT DIVISION. WHERE A JOINT INCOME TAX RETURN HAS BEEN  
38 FILED PURSUANT TO THIS CHAPTER BY A TAXPAYER AND HIS OR HER SPOUSE (OR  
39 WHERE BOTH SPOUSES ARE TAXPAYERS AND HAVE FILED SUCH JOINT RETURN), WHO  
40 QUALIFY FOR SUCH CREDIT OR CREDITS, THE CREDIT OR CREDITS, OR THE  
41 PORTION THEREOF IF DIVIDED, TO WHICH THE HUSBAND AND WIFE ARE ENTITLED  
42 SHALL BE APPLIED AGAINST THE TAX OF BOTH SPOUSES AND ANY OVERPAYMENT  
43 SHALL BE MADE TO BOTH SPOUSES. WHERE ANY RETURN REQUIRED TO BE FILED  
44 PURSUANT TO THIS CHAPTER IS COMBINED WITH ANY RETURN OF TAX IMPOSED  
45 PURSUANT TO THE AUTHORITY OF THIS CHAPTER OR ANY OTHER LAW IF SUCH TAX  
46 IS ADMINISTERED BY THE COMMISSIONER, THE CREDIT OR CREDITS OR THE  
47 PORTION THEREOF IF DIVIDED, ALLOWED TO THE TAXPAYER MAY BE APPLIED BY  
48 THE COMMISSIONER TOWARD ANY LIABILITY FOR THE AFOREMENTIONED TAXES.

49 (4) NO CREDIT OR CREDITS OR PORTION THEREOF SHALL BE GRANTED UNDER  
50 THIS SUBSECTION WITH RESPECT TO CARE PROVIDED IN A RESIDENCE THAT IS  
51 WHOLLY EXEMPTED FROM REAL PROPERTY TAXATION OR TO AN INDIVIDUAL WHO IS  
52 NOT A RESIDENT INDIVIDUAL OF THE STATE FOR THE ENTIRE TAXABLE YEAR. THE  
53 RIGHT TO CLAIM A CREDIT OR CREDITS OR A PORTION THEREOF, WHERE SUCH  
54 CREDIT OR CREDITS HAVE BEEN DIVIDED UNDER THIS SUBSECTION, SHALL BE  
55 PERSONAL TO THE QUALIFIED TAXPAYER AND SHALL NOT SURVIVE HIS OR HER

1 DEATH, BUT SUCH RIGHT MAY BE EXERCISED ON BEHALF OF A CLAIMANT BY HIS OR  
2 HER LEGAL GUARDIAN OR ATTORNEY IN FACT DURING HIS OR HER LIFETIME.

3 (5) THE COMMISSIONER MAY REQUIRE A TAXPAYER TO FURNISH AS SUPPORT OF  
4 HIS OR HER CLAIM FOR CREDIT UNDER THIS SUBSECTION RECEIPTS FOR QUALIFIED  
5 CARE EXPENSES OR OTHER SUCH PROOFS OF PAYMENT AS SHALL SATISFY THE  
6 COMMISSIONER.

7 S 3. Subdivision 4-a of section 425 of the real property tax law is  
8 amended by adding a new paragraph (d) to read as follows:

9 (D) A BASIC OR AN ENHANCED EXEMPTION SHALL BE PROVIDED ON A PRO-RATED  
10 BASIS TO PROPERTY WHERE A SENIOR CITIZEN RESIDING WITH A TAXPAYER WOULD  
11 OTHERWISE MEET THE ELIGIBILITY REQUIREMENTS SET FORTH IN SUBDIVISIONS  
12 THREE AND/OR FOUR OF THIS SECTION, EXCEPT FOR OWNERSHIP REQUIREMENTS,  
13 AND WHERE, IN THE CASE OF AN ENHANCED EXEMPTION, THE INCOME OF THE  
14 SENIOR AND THE SPOUSE OF THE SENIOR CONSIDERED SEPARATELY FROM THE  
15 REMAINDER OF THE HOUSEHOLD WOULD MEET THE INCOME REQUIREMENTS SET FORTH  
16 IN SUBDIVISION FOUR OF THIS SECTION. SUCH BASIC OR AN ENHANCED EXEMPTION  
17 SHALL BE PROVIDED ON A PRO-RATED BASIS TO THE PROPERTY AS FOLLOWS:  
18 MULTIPLY THE EXEMPTION THAT WOULD BE GRANTED TO THE PROPERTY AS A WHOLE  
19 IF THE PROPERTY WERE ELIGIBLE FOR THE BASIC OR THE ENHANCED EXEMPTION,  
20 AS APPLICABLE, BY A FRACTION, THE NUMERATOR OF WHICH IS THE SQUARE  
21 FOOTAGE OF THE ROOM OR ROOMS USED BY SUCH SENIOR FAMILY MEMBER FOR  
22 LIVING SPACE, AND THE DENOMINATOR OF WHICH IS THE TOTAL SQUARE FOOTAGE  
23 OF THE RESIDENCE. EXCEPT AS PROVIDED IN THIS PARAGRAPH, OR AS INCONSIST-  
24 ENT WITH THE PURPOSES OF THIS PARAGRAPH, ALL OTHER REQUIREMENTS OF THIS  
25 SECTION SHALL BE APPLICABLE TO SUCH PRO-RATED BASIC OR ENHANCED  
26 EXEMPTION.

27 S 4. This act shall take effect on the first of January next succeed-  
28 ing the date on which it shall have become a law.