

2179--A

2013-2014 Regular Sessions

I N S E N A T E

January 14, 2013

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 (ww) to read as follows:
5 (WW) 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 IN EXCESS OF TWO HUNDRED FORTY DOLLARS FOR ANY
12 TAXABLE YEAR SHALL RECEIVE AN ADDITIONAL SEVENTY-FIVE DOLLAR CREDIT
13 AGAINST THE TAX IMPOSED UNDER SECTION SIX HUNDRED ONE OF THIS PART. IF
14 THE CREDIT OR CREDITS PROVIDED PURSUANT TO THIS SECTION SHALL EXCEED THE
15 TAXPAYER'S TAX FOR SUCH TAXABLE YEAR, THE EXCESS SHALL BE TREATED AS AN
16 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
17 PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED,
18 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON. 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 THE TAXPAYER'S NEW YORK ADJUSTED

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

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1 GROSS INCOME IS GREATER THAN FORTY-FIVE THOUSAND DOLLARS FOR A SINGLE
2 TAXPAYER OR SIXTY THOUSAND DOLLARS FOR MARRIED TAXPAYERS, OR IF THE
3 TAXPAYER HAS CLAIMED THE CREDIT FOR CERTAIN HOUSEHOLD AND DEPENDENT CARE
4 SERVICES AUTHORIZED IN THIS SECTION.

5 (2) AS USED IN THIS SUBSECTION:

6 (A) "TAXPAYER" IS A RESIDENT INDIVIDUAL OF THIS STATE, BUT THE TERM
7 DOES NOT INCLUDE A NONRESIDENT TAXPAYER OR A PART-YEAR RESIDENT TAXPAY-
8 ER.

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

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

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

50 (4) NO CREDIT OR CREDITS OR PORTION THEREOF SHALL BE GRANTED UNDER
51 THIS SUBSECTION WITH RESPECT TO CARE PROVIDED IN A RESIDENCE THAT IS
52 WHOLLY EXEMPTED FROM REAL PROPERTY TAXATION OR TO AN INDIVIDUAL WHO IS
53 NOT A RESIDENT INDIVIDUAL OF THE STATE FOR THE ENTIRE TAXABLE YEAR. THE
54 RIGHT TO CLAIM A CREDIT OR CREDITS OR A PORTION THEREOF, WHERE SUCH
55 CREDIT OR CREDITS HAVE BEEN DIVIDED UNDER THIS SUBSECTION, SHALL BE
56 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) PERSON WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE. A BASIC OR AN
10 ENHANCED EXEMPTION SHALL BE PROVIDED ON A PRO-RATED BASIS TO PROPERTY
11 WHERE A PERSON WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE RESIDES IN A
12 RESIDENCE THAT IS OWNED AND OCCUPIED BY A RELATIVE WHO IS WITHIN THE
13 THIRD DEGREE OF CONSANGUINITY WOULD OTHERWISE MEET THE ELIGIBILITY
14 REQUIREMENTS SET FORTH IN SUBDIVISIONS THREE OR FOUR OF THIS SECTION,
15 EXCEPT FOR OWNERSHIP REQUIREMENTS, AND WHERE, IN THE CASE OF AN ENHANCED
16 EXEMPTION, THE INCOME OF THE SENIOR AND THE SPOUSE OF THE SENIOR CONSID-
17 ERED SEPARATELY FROM THE REMAINDER OF THE HOUSEHOLD WOULD MEET THE
18 INCOME REQUIREMENTS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION. SUCH
19 BASIC OR AN ENHANCED EXEMPTION SHALL BE PROVIDED ON A PRO-RATED BASIS TO
20 THE PROPERTY AS FOLLOWS: MULTIPLY THE EXEMPTION THAT WOULD BE GRANTED TO
21 THE PROPERTY AS A WHOLE IF THE PROPERTY WERE ELIGIBLE FOR THE BASIC OR
22 THE ENHANCED EXEMPTION, AS APPLICABLE, BY A FRACTION, THE NUMERATOR OF
23 WHICH IS THE SQUARE FOOTAGE OF THE ROOM OR ROOMS USED BY SUCH PERSON WHO
24 IS AT LEAST SIXTY-FIVE YEARS OF AGE FOR LIVING SPACE, AND THE DENOMINA-
25 TOR OF WHICH IS THE TOTAL SQUARE FOOTAGE OF THE RESIDENCE. EXCEPT AS
26 PROVIDED IN THIS PARAGRAPH, OR AS INCONSISTENT WITH THE PURPOSES OF THIS
27 PARAGRAPH, ALL OTHER REQUIREMENTS OF THIS SECTION SHALL BE APPLICABLE TO
28 SUCH PRO-RATED BASIC OR ENHANCED EXEMPTION. THE EXEMPTION PROVIDED BY
29 THIS PARAGRAPH SHALL BE IN ADDITION TO ANY EXEMPTION PLACED ON THE PROP-
30 ERTY PURSUANT TO SUBDIVISION THREE OR FOUR OF THIS SECTION.

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