

2179--C

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- 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     (ccc) to read as follows:  
5     (CCC) ELDER CARE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT  
6     AGAINST THE TAX IMPOSED UNDER SECTION SIX HUNDRED ONE OF THIS PART IN AN  
7     AMOUNT EQUAL TO TWENTY PERCENT OF QUALIFIED CARE EXPENSES PAID BY THE  
8     TAXPAYER FOR THE CARE OF A QUALIFYING SENIOR FAMILY MEMBER OR FOUR  
9     HUNDRED FIFTEEN DOLLARS, WHICHEVER IS LESS. IF THE CREDIT OR CREDITS  
10    PROVIDED PURSUANT TO THIS SECTION SHALL EXCEED THE TAXPAYER'S TAX FOR  
11    SUCH TAXABLE YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX  
12    TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
13    SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO  
14    INTEREST SHALL BE PAID THEREON. NO CREDIT SHALL BE GRANTED UNDER THIS  
15    SUBSECTION IF (I) THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME IS  
16    GREATER THAN FORTY-FIVE THOUSAND DOLLARS FOR A SINGLE TAXPAYER OR SIXTY  
17    THOUSAND DOLLARS FOR MARRIED TAXPAYERS, OR (II) IF THE TAXPAYER HAS

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

LBD05880-09-4

1 CLAIMED THE CREDIT FOR CERTAIN HOUSEHOLD AND DEPENDENT CARE SERVICES  
2 AUTHORIZED IN THIS SECTION.

3 (2) AS USED IN THIS SUBSECTION:

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

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

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

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

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

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

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

7 (D) PERSON WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE. WHEN A RESIDENCE  
8 SERVES AS THE PRIMARY RESIDENCE FOR BOTH A PERSON WHO IS SIXTY-FIVE  
9 YEARS OF AGE OR OLDER ON THE DATE SPECIFIED IN PARAGRAPH (A) OF SUBDIVI-  
10 SION FOUR OF THIS SECTION AND A RELATIVE WHO IS WITHIN THE THIRD DEGREE  
11 OF CONSANGUINITY OR AFFINITY THAT IS THE OWNER OF SUCH RESIDENCE, A  
12 BASIC OR ENHANCED EXEMPTION SHALL BE AVAILABLE FOR SUCH PROPERTY ON A  
13 PRO-RATED BASIS IF SUCH PERSON WOULD OTHERWISE MEET THE ELIGIBILITY  
14 REQUIREMENTS SET FORTH IN SUBDIVISION 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 PERSON WHO IS SIXTY-FIVE YEARS OF AGE OR  
17 OLDER AND HIS OR HER SPOUSE CONSIDERED SEPARATELY FROM THE REMAINDER OF  
18 THE HOUSEHOLD WOULD MEET THE INCOME REQUIREMENTS SET FORTH IN SUBDIVI-  
19 SION FOUR OF THIS SECTION. SUCH BASIC OR ENHANCED EXEMPTION SHALL BE  
20 PROVIDED ON A PRO-RATED BASIS TO THE PROPERTY AS FOLLOWS: MULTIPLY THE  
21 EXEMPTION THAT WOULD BE GRANTED TO THE PROPERTY AS A WHOLE IF THE PROP-  
22 ERTY WERE ELIGIBLE FOR THE BASIC OR THE ENHANCED EXEMPTION, AS APPLICA-  
23 BLE, BY A FRACTION, THE NUMERATOR OF WHICH IS THE SQUARE FOOTAGE OF THE  
24 ROOM OR ROOMS USED BY SUCH PERSON WHO IS SIXTY-FIVE YEARS OF AGE OR  
25 OLDER AND HIS OR HER SPOUSE EXCLUSIVELY FOR LIVING SPACE, AND THE DENOM-  
26 INATOR OF WHICH IS THE TOTAL SQUARE FOOTAGE OF THE RESIDENCE. EXCEPT AS  
27 PROVIDED IN THIS PARAGRAPH, OR AS INCONSISTENT WITH THE PURPOSES OF THIS  
28 PARAGRAPH, ALL OTHER REQUIREMENTS OF THIS SECTION SHALL BE APPLICABLE TO  
29 SUCH PRO-RATED BASIC OR ENHANCED EXEMPTION. THE EXEMPTION PROVIDED BY  
30 THIS PARAGRAPH SHALL BE IN ADDITION TO ANY EXEMPTION PLACED ON THE PROP-  
31 ERTY PURSUANT TO SUBDIVISION THREE OR FOUR OF THIS SECTION.

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