

3266--A

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sens. KRUEGER, HASSELL-THOMPSON, MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- 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, in relation to creating the middle class circuit breaker tax credit and creating a tax reform study commission

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

1 Section 1. Subsections (yy) and (zz) of section 606 of the tax law are
2 redesignated subsections (yyy) and (zzz) and a new subsection (yy) is
3 added to read as follows:
4 (YY) MIDDLE CLASS CIRCUIT BREAKER CREDIT. (1) DEFINITIONS. FOR THE
5 PURPOSES OF THIS SUBSECTION:
6 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO
7 OWNS OR RENTS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES,
8 AND HAS RESIDED IN SUCH RESIDENTIAL REAL PROPERTY FOR NOT LESS THAN FIVE
9 YEARS.
10 (B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED
11 TAXPAYER OR QUALIFIED TAXPAYERS AND ALL OTHER PERSONS, NOT NECESSARILY
12 RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY OWNED BY THE
13 TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOM-
14 MODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE THAN ONE
15 HOUSEHOLD AT ONE TIME.
16 (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME
17 OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR
18 FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED
19 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,
20 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE
21 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH

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

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1 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-
2 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES
3 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY
4 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY
5 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;
6 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION
7 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS
8 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND
9 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-
10 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE
11 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR
12 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT
13 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
14 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
15 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
16 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
17 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE
18 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS
19 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN
20 PUBLIC LAW 103-286 OR ANY DISABILITY COMPENSATION RECEIVED BY VETERANS
21 ON ACCOUNT OF INJURY OR ILLNESS INCURRED OR AGGRAVATED DURING MILITARY
22 SERVICE IN THE WARS IN AFGHANISTAN AND IRAQ SINCE SEPTEMBER ELEVENTH,
23 TWO THOUSAND ONE. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY
24 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE
25 MEMBERS OF SUCH HOUSEHOLD.

26 (D) "ADJUSTED RENT" MEANS RENT PAID FOR THE RIGHT OF OCCUPANCY OF A
27 RESIDENCE.

28 (E) "REAL PROPERTY TAX EQUIVALENT" MEANS (1) FOR TAXABLE YEARS BEGIN-
29 NING IN TWO THOUSAND FIFTEEN, FIFTEEN PERCENT OF THE ADJUSTED RENT ACTU-
30 ALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE RIGHT OF
31 OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF (I) A RESI-
32 DENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDI-
33 VIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY
34 OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A MEMBER OF A
35 DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESI-
36 DENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF FIFTEEN PERCENT
37 OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT
38 PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE
39 MEMBERS OF HIS OR HER HOUSEHOLD; AND (2) FOR TAXABLE YEARS BEGINNING IN
40 TWO THOUSAND SEVENTEEN AND THEREAFTER, TWENTY PERCENT OF THE ADJUSTED
41 RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE
42 RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF
43 (I) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR
44 SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF
45 OCCUPANCY OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A
46 MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES
47 SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF TWENTY
48 PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS
49 THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE
50 MEMBERS OF HIS OR HER HOUSEHOLD.

51 (F) "NET REAL PROPERTY TAX" MEANS THE REAL PROPERTY TAXES ASSESSED ON
52 THE RESIDENTIAL REAL PROPERTY OWNED AND OCCUPIED BY THE TAXPAYER OR
53 TAXPAYERS AFTER ANY EXEMPTION OR ABATEMENT RECEIVED PURSUANT TO THE REAL
54 PROPERTY TAX LAW.

55 (2) CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE
56 TAXES IMPOSED BY THIS ARTICLE, EQUAL TO SEVENTY PERCENT OF THE AMOUNT BY

1 WHICH THE TAXPAYER'S NET REAL PROPERTY TAX OR THE TAXPAYER'S REAL PROP-
2 ERTY TAX EQUIVALENT EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS
3 DETERMINED BY PARAGRAPH THREE OF THIS SUBSECTION. IF SUCH CREDIT EXCEEDS
4 THE TAX FOR SUCH TAXABLE YEAR, AS REDUCED BY THE OTHER CREDITS PERMITTED
5 BY THIS ARTICLE, THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMP-
6 TROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN
7 OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED
8 AND THE AMOUNT OF THE CREDIT. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO
9 FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE,
10 A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER,
11 SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT
12 THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST.

13 (3) MAXIMUM REAL PROPERTY TAX. (A) A QUALIFIED TAXPAYER'S MAXIMUM REAL
14 PROPERTY TAX SHALL BE DETERMINED AS FOLLOWS:

15 (I) FOR TAX YEARS BEGINNING IN TWO THOUSAND FIFTEEN:	
16 HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
17 ONE HUNDRED THOUSAND	NINE PERCENT OF THE
18 DOLLARS OR LESS	HOUSEHOLD GROSS INCOME
19 MORE THAN ONE HUNDRED	NO LIMITATION.
20 THOUSAND DOLLARS	

21 (II) FOR TAX YEARS BEGINNING IN TWO THOUSAND SIXTEEN:	
22 HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
23 ONE HUNDRED THOUSAND	EIGHT AND ONE-HALF PERCENT OF THE
24 DOLLARS OR LESS	HOUSEHOLD GROSS INCOME
25 MORE THAN ONE HUNDRED	NO LIMITATION.
26 THOUSAND DOLLARS	

27 (III) FOR TAX YEARS BEGINNING IN TWO THOUSAND SEVENTEEN:	
28 HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
29 ONE HUNDRED THOUSAND DOLLARS	SEVEN AND ONE-HALF PERCENT OF
30 OR LESS	HOUSEHOLD GROSS INCOME
31 MORE THAN ONE HUNDRED THOUSAND	SEVEN AND ONE-HALF PERCENT OF
32 DOLLARS, BUT LESS THAN OR EQUAL TO	ONE HUNDRED THOUSAND DOLLARS
33 ONE HUNDRED FIFTY THOUSAND DOLLARS	PLUS EIGHT AND ONE-HALF PERCENT OF
34	HOUSEHOLD GROSS INCOME ABOVE
35	ONE HUNDRED THOUSAND DOLLARS
36 MORE THAN ONE HUNDRED FIFTY	NO LIMITATION.
37 THOUSAND DOLLARS	

38 (IV) FOR TAX YEARS BEGINNING IN TWO THOUSAND EIGHTEEN AND THEREAFTER:	
39 HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
40 ONE HUNDRED THOUSAND	SIX PERCENT OF HOUSEHOLD GROSS
41 DOLLARS OR LESS	INCOME
42 MORE THAN ONE HUNDRED THOUSAND	SIX PERCENT OF ONE HUNDRED
43 DOLLARS, BUT LESS THAN OR EQUAL TO	THOUSAND DOLLARS PLUS SEVEN
44 ONE HUNDRED FIFTY THOUSAND DOLLARS	PERCENT OF HOUSEHOLD GROSS INCOME
45	ABOVE ONE HUNDRED THOUSAND DOLLARS
46 MORE THAN ONE HUNDRED FIFTY	SIX PERCENT OF ONE HUNDRED THOUSAND
47 THOUSAND DOLLARS, BUT LESS THAN	DOLLARS PLUS SEVEN
48 OR EQUAL TO TWO HUNDRED FIFTY	PERCENT OF FIFTY THOUSAND DOLLARS
49 THOUSAND DOLLARS	PLUS EIGHT AND ONE-HALF PERCENT OF
50	HOUSEHOLD GROSS INCOME ABOVE ONE
51	HUNDRED FIFTY THOUSAND DOLLARS
52 MORE THAN TWO HUNDRED FIFTY	NO LIMITATION.
53 THOUSAND DOLLARS	

1 (B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME ESTABLISHED BY CLAUSE
2 (IV) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE INDEXED FOR
3 INFLATION FOR TAX YEARS BEGINNING IN TWO THOUSAND NINETEEN AND THEREAFT-
4 ER.

5 (4) EXCLUSIONS FROM ELIGIBILITY. NO CREDIT SHALL BE GRANTED UNDER THIS
6 SUBSECTION IF THE QUALIFIED TAXPAYER CLAIMS THE REAL PROPERTY TAX
7 CIRCUIT BREAKER CREDIT, PURSUANT TO SUBSECTION (E) OF THIS SECTION,
8 DURING THE TAXABLE YEAR.

9 S 2. There is hereby established a tax reform study commission to
10 provide the governor and the legislature with a long run plan for
11 reforming the state and local tax systems. The tax reform study commis-
12 sion shall consist of five members appointed by the governor, four
13 members each appointed by the speaker of the assembly and the temporary
14 president of the senate, and one member each appointed by the minority
15 leader of the senate and the minority leader of the assembly. In addi-
16 tion, on or before January 1, 2017, the tax reform study commission
17 shall provide the governor and the legislature with recommendations on
18 any changes that should be made in the definitions of income used in the
19 various property tax relief programs authorized by the laws of the state
20 of New York. Such recommendations shall be based on an examination of
21 such laws and of such laws in other states. In preparing such recommen-
22 dations, the tax reform study commission shall review the distributional
23 impact of the items of income included in the definition of household
24 income for purposes of the circuit breaker and other property tax relief
25 programs established by state law and make recommendations to the gover-
26 nor and the legislature for any changes in any of these definitions that
27 the tax reform study commission deems appropriate. The commissioner of
28 taxation and finance and the director of the office of real property
29 services shall provide the tax reform study commission with such data
30 and analysis as it may require.

31 S 3. This act shall take effect immediately.