

STATE OF NEW YORK

1119

2017-2018 Regular Sessions

IN ASSEMBLY

January 10, 2017

Introduced by M. of A. ROSENTHAL, ORTIZ, WEPRIN -- Multi-Sponsored by --
M. of A. ABBATE, BENEDETTO, COLTON, COOK, GLICK, HIKIND, PERRY,
TITONE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the provision of a credit
against state personal income tax for tax relief for certain school
taxpayer renters

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Section 1310 of the tax law is amended by adding a new
2 subsection (g) to read as follows:

3 (g) State school tax reduction credit for certain low income renters.
4 (1) For purposes of this subsection the following terms shall have the
5 following meanings:

6 (A) "Qualified taxpayer" means a resident individual of the state who
7 has occupied the same qualified residence for six months or more of the
8 taxable year with his or her child or children at least one of whom is
9 under the age of eighteen, who is required or chooses to file a return
10 under this article and whose household gross income does not exceed
11 sixty thousand dollars for the year in which the credit is claimed.

12 (B) "Household" or "members of the household" means a qualified
13 taxpayer and all other persons, not necessarily related, who have the
14 same qualified residence and share its furnishings, facilities and
15 accommodations. Such terms shall not include a tenant, subtenant, roomer
16 or boarder who is not related to the qualified taxpayer in any degree
17 specified in paragraphs one through eight of subsection (a) of section
18 one hundred fifty-two of the internal revenue code. Provided, however,
19 no person may be a member of more than one household at one time.

20 (C) "Household gross income" means the aggregate adjusted gross income
21 of all members of the household for the taxable year as reported for
22 federal income tax purposes, or which would be reported for federal
23 income tax purposes if a federal income tax return were required to be

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

LBD04966-01-7

1 filed, with the modifications in subsection (b) of section six hundred
2 twelve of this chapter, but without the modifications in subsection (c)
3 of such section, plus any portion from the gain from the sale or
4 exchange of property otherwise excluded from such amount, earned income
5 from sources without the United States excludable from federal gross
6 income by section nine hundred eleven of the internal revenue code;
7 support money not included in adjusted gross income; nontaxable strike
8 benefits; supplemental security income payments; the gross amount of any
9 pension or annuity benefits to the extent not included in such adjusted
10 gross income (including but not limited to railroad retirement benefits
11 and all payments received under the federal social security act and
12 veterans disability pensions); non-taxable interest received from the
13 state of New York, its agencies, instrumentalities, public corporations
14 or political subdivisions (including a public corporation created pursu-
15 ant to agreement or compact with another state or Canada); workers'
16 compensation; the gross amount of "loss of time" insurance; and the
17 amount of cash public assistance and relief, other than medical assist-
18 ance for the needy, paid to or for the benefit of the qualified taxpayer
19 or members of his household. Household gross income shall not include
20 surplus foods or other relief in kind or payments made to individuals
21 because of their status as victims of Nazi persecution, as defined in
22 P.L. 103-286. Provided, further, household gross income shall only
23 include all such income received by all members of the household while
24 members of such household.

25 (D) "Qualified residence" means a residential rental unit.

26 (E) "Adjusted rent" means annual rental paid for the right of occupan-
27 cy of a qualified residence, excluding charges for heat, gas, electric-
28 ity, furnishings and board. Where charges for heat, gas, electricity,
29 furnishings or board are included in rental but where such charges and
30 the amount thereof are not separately set forth in a written rental
31 agreement, for purposes of determining adjusted rent the qualified
32 taxpayer shall reduce rental paid as follows:

33 (i) for heat, or heat and gas, deduct fifteen percent of rental paid;

34 (ii) for heat, gas or electricity, deduct twenty percent of rental
35 paid;

36 (iii) for heat, gas, electricity and furnishings, deduct twenty-five
37 percent of rental paid;

38 (iv) for heat, gas, electricity, furnishings and board, deduct fifty
39 percent of rental paid.

40 If the department of taxation and finance determines that the adjusted
41 rent shown on the return is excessive, the commissioner may reduce such
42 rent, for purposes of the computation of the credit, to an amount
43 substantially equivalent to rent for a comparable accommodation.

44 (2) For taxable years beginning after two thousand sixteen, a quali-
45 fied taxpayer shall be allowed an additional state school tax reduction
46 credit against the taxes authorized by this article reduced by the cred-
47 its permitted by this article. If the credit exceeds the tax as so
48 reduced, the taxpayer may receive, and the comptroller, subject to a
49 certificate of the tax commission, shall pay as an overpayment, without
50 interest, the amount of such excess.

51 (3) For qualified taxpayers the amount of the credit allowable under
52 this subsection shall be three percent of the adjusted rent paid for
53 such qualified residence.

54 (4) If a qualified taxpayer occupies a qualified residence for a peri-
55 od of less than twelve months during the taxable year or occupies two or
56 more qualified residences during different periods in such taxable year,

1 the credit allowed pursuant to this subsection shall be computed in such
2 manner as the department of taxation and finance may, by regulation
3 prescribe, in order to properly reflect the credit or portion thereof
4 attributable to such qualified residence or residences and such period
5 or periods.

6 (5) Only one credit per household and per qualified taxpayer shall be
7 allowed per taxable year under this subsection. When two or more members
8 of a household are able to meet the qualifications for a qualified
9 taxpayer, the credit shall be equally divided between or among such
10 individuals unless such individuals file with the department of taxation
11 and finance a written agreement among such individuals setting forth a
12 different division.

13 (A) Provided, however, where a joint income tax return has been filed
14 pursuant to the provisions of section thirteen hundred six of this arti-
15 cle by a qualified taxpayer and his or her spouse (or where both spouses
16 are qualified taxpayers and have filed such joint return), the credit,
17 or the portion of the credit if divided, to which the husband and wife
18 are entitled shall be applied against the tax of both spouses and any
19 overpayment shall be made to both spouses.

20 (B) Where any return required to be filed pursuant to the provisions
21 of section thirteen hundred six of this article is combined with any
22 return of tax imposed pursuant to the authority of this chapter or any
23 other law if such tax is administered by the department of taxation and
24 finance, the credit or the portion of the credit if divided, allowed to
25 the qualified taxpayer may be applied by the department toward any
26 liability for the aforementioned taxes.

27 (6) No credit shall be granted under this subsection:

28 (A) If household gross income for the taxable year exceeds sixty thou-
29 sand dollars;

30 (B) To an individual with respect to whom a deduction under subsection
31 (c) of section one hundred fifty-one of the internal revenue code is
32 allowable to another taxpayer for the taxable year; or

33 (C) To an individual who is not a resident individual of the state for
34 the entire taxable year.

35 (7) The right to claim a credit or the portion of a credit, where such
36 credit has been divided under this subsection, shall be personal to the
37 qualified taxpayer and shall not survive his death, but such right may
38 be exercised on behalf of a claimant by his legal guardian or attorney
39 in fact during his lifetime.

40 (8) Returns under this section shall be in such form as shall be
41 prescribed by the department of taxation and finance, which shall make
42 available such forms and instruction for filing such returns.

43 (9) The department may require a qualified taxpayer to furnish the
44 following information in support of his claim for credit under the
45 subsection: household gross income, rent paid, name and address of owner
46 or managing agent of the property rented, the names of members of the
47 household and other qualifying taxpayers occupying the residence and
48 their identifying numbers including social security numbers, household
49 gross income, size and nature of property claimed as residence and all
50 other information which may be required by the department to determine
51 the credit.

52 (10) Notwithstanding any other provision of this article, the credit
53 allowed under this subsection shall be determined after the determi-
54 nation and application of any other credits permitted under the
55 provisions of this section.

56 § 2. This act shall take effect immediately.