S T A T E O F N E W Y O R K

2793

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. ENGLEBRIGHT, SCHIMMINGER, PHEFFER, SWEENEY -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to increasing the personal income tax real property tax circuit breaker credit

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

Section 1. Paragraph 2 and the paragraph heading of paragraph 3 of subsection (e) of section 606 of the tax law, as amended by chapter 28 of the laws of 1987, are amended to read as follows:

(2) A qualified taxpayer shall be allowed a credit as provided in paragraph three hereof FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN AND IN PARAGRAPH THREE-A OF THIS SUBSECTION FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN against the taxes imposed by this article reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced for such year under this article the qualified taxpayer may receive, and the comptroller, subject to a certificate of the [state tax commission] COMMISSIONER, shall pay as an overpayment, without interest, any excess between such tax as so reduced and the amount of the credit. If a qualified taxpayer is not required to file a return pursuant to section six hundred fifty-one OF THIS ARTICLE, a qualified taxpayer may nevertheless receive and the comptroller, subject to a certificate of the [state tax commission] COMMISSIONER, shall pay as an overpayment the full amount of the credit, without interest.

Determination of credit FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TEN.

S 2. Subsection (e) of section 606 of the tax law is amended by adding a new paragraph 3-A to read as follows:

(3-A) DETERMINATION OF CREDIT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN. (A) FOR QUALIFIED TAXPAYERS WHO HAVE ATTAINED THE AGE OF SIXTY-FIVE YEARS BEFORE THE BEGINNING OF OR DURING

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

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THE TAXABLE YEAR THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE FIFTY PERCENT, OR IN THE CASE OF A QUALIFIED TAXPAYER WHO HAS ELECTED TO INCLUDE AN ADDITIONAL AMOUNT PURSUANT TO SUBPARAGRAPH (E) OF PARAGRAPH ONE OF THIS SUBSECTION, TWENTY-FIVE PERCENT, OF THE EXCESS OF REAL PROPERTY TAXES OR THE EXCESS OF REAL PROPERTY TAX EQUIVALENT DETERMINED AS FOLLOWS:

IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR IS:	EXCESS REAL PROPERTY TAXES ARE THE EXCESS OF REAL PROPERTY TAX EQUIVALENT OR THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OVER THE FOLLOWING BASE AMOUNT:
$5,000 OR LESS	$ 0
OVER $5,000 BUT NOT OVER $9,000	$100
OVER $9,000 BUT NOT OVER $13,000	$270
OVER $13,000 BUT NOT OVER $17,000	$520
OVER $17,000 BUT NOT OVER $21,000	$850
OVER $21,000 BUT NOT OVER $25,000	$1260

NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETERMINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED THE AMOUNT DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR IS:	THE MAXIMUM CREDIT IS:
$5,000 OR LESS	$650
OVER $5,000 BUT NOT OVER $9,000	$550
OVER $9,000 BUT NOT OVER $13,000	$450
OVER $13,000 BUT NOT OVER $17,000	$350
OVER $17,000 BUT NOT OVER $21,000	$250
OVER $21,000 BUT NOT OVER $25,000	$150

(B) FOR ALL OTHER QUALIFIED TAXPAYERS THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE FIFTY PERCENT OF EXCESS REAL PROPERTY TAXES OR THE EXCESS OF THE REAL PROPERTY TAX EQUIVALENT DETERMINED AS FOLLOWS:

IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR IS:	EXCESS REAL PROPERTY TAXES ARE THE EXCESS OF REAL PROPERTY TAX EQUIVALENT OR THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OVER THE FOLLOWING BASE AMOUNT:
$5,000 OR LESS	$ 0
OVER $5,000 BUT NOT OVER $9,000	$100
OVER $9,000 BUT NOT OVER $13,000	$270
OVER $13,000 BUT NOT OVER $17,000	$520
OVER $17,000 BUT NOT OVER $21,000	$850
OVER $21,000 BUT NOT OVER $25,000	$1260

NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETERMINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED THE AMOUNT DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR IS:	THE MAXIMUM CREDIT IS:
$5,000 OR LESS	$260
OVER $5,000 BUT NOT OVER $9,000	$225
OVER $9,000 BUT NOT OVER $13,000	$180
OVER $13,000 BUT NOT OVER $17,000	$145

OVER $17,000 BUT NOT OVER $21,000	$110
OVER $21,000 BUT NOT OVER $25,000	$ 75

S 3. Paragraph 7 of subsection (e) of section 606 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(7) No credit shall be granted under this subsection:

(A) If household gross income for the taxable year exceeds [eighteen] TWENTY-FIVE thousand dollars.

(B) To a property owner unless: (i) the property is used for residential purposes, (ii) not more than twenty percent of the rental income, if any, from the property is from rental for nonresidential purposes and (iii) the property is occupied as a residence in whole or in part by one or more of the owners of the property.

(C) To a property owner who owns real property, the [full] value of which exceeds: (I) eighty-five thousand dollars; OR (II) AN AMOUNT WHICH EQUALS SEVENTY-FIVE PERCENT OF THE AVERAGE HOME VALUE IN THE COUNTY OF RESIDENCE, WHICHEVER IS MORE.

(D) [To a tenant if the adjusted rent for the residence exceeds four hundred fifty dollars per month on average.

(E)] To an individual with respect to whom a deduction under subsection (c) of section one hundred fifty-one of the internal revenue code is allowable to another taxpayer for the taxable year.

[(F)] (E) With respect to a residence that is wholly exempted from real property taxation.

[(G)] (F) To an individual who is not a resident individual of the state for the entire taxable year.

S 4. Paragraph 13 of subsection (e) of section 606 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(13) THE CREDIT ALLOWED UNDER THIS SUBSECTION SHALL BE MADE AVAILABLE ON ALL RETURNS PRESCRIBED BY THE COMMISSIONER FOR THE ADMINISTRATION OF THE TAXES IMPOSED UNDER THIS ARTICLE. Notwithstanding any other provision of this article, the credit allowed under this subsection shall be determined after the determination and application of any other credits permitted under the provisions of this article.

S 5. This act shall take effect immediately.