

8702

2009-2010 Regular Sessions

I N A S S E M B L Y

June 4, 2009

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

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (qq) to read as follows:
3 (QQ) MIDDLE CLASS CIRCUIT BREAKER CREDIT. (1) DEFINITIONS. FOR THE
4 PURPOSES OF THIS SUBSECTION:
5 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO
6 OWNS OR RENTS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES,
7 AND HAS RESIDED IN SUCH RESIDENTIAL REAL PROPERTY FOR NOT LESS THAN FIVE
8 YEARS.
9 (B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED
10 TAXPAYER OR QUALIFIED TAXPAYERS AND ALL OTHER PERSONS, NOT NECESSARILY
11 RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY OWNED BY THE
12 TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOM-
13 MODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE THAN ONE
14 HOUSEHOLD AT ONE TIME.
15 (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME
16 OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR
17 FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED
18 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,
19 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE
20 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH
21 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-
22 ERTY OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES
23 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY
24 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY
25 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;

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

LBD14131-01-9

1 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION
2 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS
3 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND
4 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-
5 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE
6 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR
7 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT
8 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
9 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
10 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
11 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
12 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE
13 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS
14 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN
15 PUBLIC LAW 103-286 OR ANY DISABILITY COMPENSATION RECEIVED BY VETERANS
16 ON ACCOUNT OF INJURY OR ILLNESS INCURRED OR AGGRAVATED DURING MILITARY
17 SERVICE IN THE WARS IN AFGHANISTAN AND IRAQ SINCE SEPTEMBER ELEVENTH,
18 TWO THOUSAND ONE. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY
19 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE
20 MEMBERS OF SUCH HOUSEHOLD.

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

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

46 (F) "NET REAL PROPERTY TAX" MEANS THE REAL PROPERTY TAXES ASSESSED ON
47 THE RESIDENTIAL REAL PROPERTY OWNED AND OCCUPIED BY THE TAXPAYER OR
48 TAXPAYERS AFTER ANY EXEMPTION OR ABATEMENT RECEIVED PURSUANT TO THE REAL
49 PROPERTY TAX LAW.

50 (2) CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE
51 TAXES IMPOSED BY THIS ARTICLE, EQUAL TO SEVENTY PERCENT OF THE AMOUNT BY
52 WHICH THE TAXPAYER'S NET REAL PROPERTY TAX OR THE TAXPAYER'S REAL PROP-
53 erty TAX EQUIVALENT EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS
54 DETERMINED BY PARAGRAPH THREE OF THIS SUBSECTION. IF SUCH CREDIT EXCEEDS
55 THE TAX FOR SUCH TAXABLE YEAR, AS REDUCED BY THE OTHER CREDITS PERMITTED
56 BY THIS ARTICLE, THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMP-

TROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, 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 DEPARTMENT, SHALL PAY AS AN OVERPAYMENT THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST.

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

(I) FOR TAX YEARS BEGINNING IN TWO THOUSAND NINE:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	NINE PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS	NO LIMITATION.

(II) FOR TAX YEARS BEGINNING IN TWO THOUSAND TEN:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	EIGHT AND ONE-HALF PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS	NO LIMITATION.

(III) FOR TAX YEARS BEGINNING IN TWO THOUSAND ELEVEN:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	SEVEN AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS	SEVEN AND ONE-HALF PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED THOUSAND DOLLARS
MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

(IV) FOR TAX YEARS BEGINNING IN TWO THOUSAND TWELVE AND THEREAFTER:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	SIX PERCENT OF HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS	SIX PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS SEVEN PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED THOUSAND DOLLARS
MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS	SIX PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS SEVEN PERCENT OF FIFTY THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED FIFTY THOUSAND DOLLARS
MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

(B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME ESTABLISHED BY CLAUSE (IV) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE INDEXED FOR INFLATION FOR TAX YEARS BEGINNING IN TWO THOUSAND THIRTEEN AND THEREAFTER.

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

5 S 2. There is hereby established a tax reform study commission to
6 provide the governor and the legislature with a long run plan for
7 reforming the state and local tax systems. The tax reform study commis-
8 sion shall consist of five members appointed by the governor, four
9 members each appointed by the speaker of the assembly and the temporary
10 president of the senate, and one member each appointed by the minority
11 leader of the senate and the minority leader of the assembly. In addi-
12 tion, on or before the first day of January, two thousand eleven, the
13 tax reform study commission shall provide the governor and the legisla-
14 ture with recommendations on any changes that should be made in the
15 definitions of income used in the various property tax relief programs
16 authorized by the laws of the state of New York. Such recommendations
17 shall be based on an examination of such laws and of such laws in other
18 states. In preparing such recommendations, the tax reform study commis-
19 sion shall review the distributional impact of the items of income
20 included in the definition of household income for purposes of the
21 circuit breaker and other property tax relief programs established by
22 state law and make recommendations to the governor and the legislature
23 for any changes in any of these definitions that the tax reform study
24 commission deems appropriate. The commissioner of taxation and finance
25 and the director of the office of real property services shall provide
26 the tax reform study commission with such data and analysis as it may
27 require.

28 S 3. This act shall take effect immediately.