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

253

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to the school district property tax credit and establishing the maximum residential real property, personal income tax credit

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

Section 1. Subparagraph (E) of paragraph 1 of subsection (e) of section 606 of the tax law, as amended by chapter 105 of the laws of 2006, is amended to read as follows:

(E) "Qualifying real property taxes" means all real property taxes, special ad valorem levies and special assessments, exclusive of penalties and interest, levied on the residence of a qualified taxpayer and paid during the taxable year [less the credit claimed under subsection (n-1) of this section]. In addition, for taxable years beginning after December thirty-first, nineteen hundred eighty-four, a qualified taxpayer may elect to include any additional amount that would have been levied in the absence of an exemption from real property taxation pursuant to section four hundred sixty-seven of the real property tax law. If tenant-stockholders in a cooperative housing corporation have met the requirements of section two hundred sixteen of the internal revenue code by which they are allowed a deduction for real estate taxes, the amount of taxes so allowable, or which would be allowable if the taxpayer had filed returns on a cash basis, shall be qualifying real property taxes. If a residence is owned by two or more individuals as joint tenants or tenants in common, and one or more than one individual is not a member of the household, qualifying real property taxes is that part of such taxes on the residence which reflects the ownership percentage of the qualified taxpayer and members of his household. If a residence is an

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

LBD00111-01-9

integral part of a larger unit, qualifying real property taxes shall be limited to that amount of such taxes paid as may be reasonably apportioned to such residence. If a household owns and occupies two or more residences during different periods in the same taxable year, qualifying real property taxes shall be the sum of the prorated qualifying real property taxes attributable to the household during the periods such household occupies each of such residences. If the household owns and occupies a residence for part of the taxable year and rents a residence for part of the same taxable year, it may include both the proration of qualifying real property taxes on the residence owned and the real property tax equivalent with respect to the months the residence is rented. Provided, however, for purposes of the credit allowed under this subsection, qualifying real property taxes may be included by a qualified taxpayer only to the extent that such taxpayer or the spouse of such taxpayer occupying such residence for six months or more of the taxable year owns or has owned the residence and paid such taxes.

S 2. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) MAXIMUM RESIDENTIAL REAL PROPERTY TAX CREDIT. (1) DEFINITIONS. FOR THE PURPOSES OF THIS SUBSECTION:

(A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO OWNS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES, AND HAS RESIDED IN SUCH RESIDENTIAL REAL PROPERTY FOR NOT LESS THAN FIVE YEARS.

(B) "HOUSEHOLD" MEANS THE TAXPAYER OR TAXPAYERS AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY OWNED BY THE TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

(C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED, WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROPERTY OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS; SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETERANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPENSATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN PUBLIC LAW 103-286. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE MEMBERS OF SUCH HOUSEHOLD.

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

(2) CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE, EQUAL TO SEVENTY PERCENT OF THE AMOUNT WHICH THE TAXPAYER'S NET REAL PROPERTY TAX EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS DETERMINED BY PARAGRAPH THREE OF THIS SUBSECTION, PROVIDED, HOWEVER, SUCH CREDIT SHALL NOT EXCEED FIVE THOUSAND DOLLARS. IF SUCH CREDIT EXCEEDS THE TAX FOR SUCH TAXABLE YEAR, AS REDUCED BY THE OTHER CREDITS PERMITTED BY THIS ARTICLE, THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, 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) IN THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCKLAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED TWENTY THOUSAND DOLLARS OR LESS	SIX PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED TWENTY THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS	SEVEN PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS	EIGHT PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

(II) IN ALL OTHER COUNTIES IN THE STATE:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
NINETY THOUSAND DOLLARS OR LESS	SIX PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN NINETY THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO	SEVEN PERCENT OF THE HOUSEHOLD GROSS INCOME

ONE HUNDRED FIFTY THOUSAND DOLLARS	
MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS	EIGHT PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

(B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME FOR ELIGIBILITY FOR THE MAXIMUM REAL PROPERTY TAX CREDIT, ESTABLISHED BY SUBPARAGRAPH (A) OF THIS PARAGRAPH, SHALL BE INDEXED FOR INFLATION.

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

(5) EXCLUSION FROM DUAL ELIGIBILITY. THE AMOUNT OF THE CREDIT GRANTED UNDER THIS SUBSECTION SHALL BE REDUCED BY THE AMOUNT OF THE REBATE CHECK RECEIVED PURSUANT TO SECTION ONE HUNDRED SEVENTY-EIGHT OF THIS CHAPTER.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall apply to taxable years commencing on or after such date.