

4239

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I N S E N A T E

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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 creating the middle class
circuit breaker tax credit

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

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

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

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

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

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

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

1 BY THIS ARTICLE, THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMP-
2 TROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN
3 OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED
4 AND THE AMOUNT OF THE CREDIT. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO
5 FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE,
6 A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER,
7 SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT
8 THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST.

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

11 (I) FOR TAX YEARS BEGINNING IN TWO THOUSAND NINE:
12 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX
13 ONE HUNDRED THOUSAND NINE PERCENT OF THE
14 DOLLARS OR LESS HOUSEHOLD GROSS INCOME
15 MORE THAN ONE HUNDRED NO LIMITATION.
16 THOUSAND DOLLARS

17 (II) FOR TAX YEARS BEGINNING IN TWO THOUSAND TEN:
18 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX
19 ONE HUNDRED THOUSAND EIGHT AND ONE-HALF PERCENT OF THE
20 DOLLARS OR LESS HOUSEHOLD GROSS INCOME
21 MORE THAN ONE HUNDRED NO LIMITATION.
22 THOUSAND DOLLARS

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

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

50 (B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME ESTABLISHED BY CLAUSE
51 (IV) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE INDEXED FOR
52 INFLATION FOR TAX YEARS BEGINNING IN TWO THOUSAND THIRTEEN AND THEREAFT-
53 ER.

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. This act shall take effect immediately.