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

1103

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. SAYWARD, REILICH, FINCH, THIELE, KOLB, WALKER -- Multi-Sponsored by -- M. of A. BACALLES, CONTE, CROUCH, DUPREY, GIGLIO, HAWLEY, P. LOPEZ, RAIA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a personal income tax credit for a cap on real property tax based off of a household's gross income

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

Section 1. Short title. This act shall be known and may be cited as "Twenty-first century STAR".

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

(QQ) CAP ON REAL PROPERTY TAX. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE. A CAP ON REAL PROPERTY TAX SHALL BE ESTABLISHED BASED ON A HOUSEHOLD'S GROSS INCOME AND INDEXED TO THE CONSUMER PRICE INDEX.

(2) THE NET REAL PROPERTY TAX FOR ANY TAXABLE YEAR ON A PARCEL OF OWNER-OCCUPIED RESIDENTIAL REAL PROPERTY SHALL NOT EXCEED AN AMOUNT EQUAL TO THE FOLLOWING PERCENTAGE OF THE HOUSEHOLD GROSS INCOME:

HOUSEHOLD GROSS INCOME	CAP ON REAL PROPERTY TAX
$50,000 OR LESS	3% OF HOUSEHOLD GROSS INCOME
MORE THAN $50,000 BUT LESS THAN OR EQUAL TO $100,000	5% OF HOUSEHOLD GROSS INCOME
MORE THAN $100,000 BUT LESS THAN OR EQUAL TO $150,000	6% OF HOUSEHOLD GROSS INCOME
MORE THAN $150,000 BUT LESS THAN OR EQUAL TO $200,000	7% OF HOUSEHOLD GROSS INCOME
MORE THAN $200,000	NO LIMITATION

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

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(3) A TAXPAYER SHALL FILE INCOME TAX RETURNS IN THE MANNER PRESCRIBED BY THIS ARTICLE. ANY AMOUNT PAID OVER THE REAL PROPERTY TAX CAP SHALL BE RETURNED TO THE TAXPAYER IN THE FORM OF A REFUNDABLE PERSONAL INCOME TAX CREDIT. SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW SHALL NOT BE AFFECTED BY ANY PROVISION OF THIS SUBSECTION.

(4) THE PERSONAL INCOME TAX CREDIT PURSUANT TO THIS SECTION SHALL ONLY BE AVAILABLE TO NEW YORK STATE RESIDENTS FOR A PRIMARY RESIDENCE. SUCH CREDIT SHALL BE CLAIMED ON THE NEW YORK STATE RESIDENT INCOME TAX RETURN, FORM IT-201.

(5) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) A "HOMEOWNER" SHALL MEAN ANY PERSON:

(I) WHO IS 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;

(II) WHO PAID REAL PROPERTY TAXES ON SUCH PERSON'S RESIDENCE;

(III) WHO COULD NOT BE CLAIMED AS A DEPENDENT ON ANOTHER TAXPAYER'S FEDERAL INCOME TAX RETURN; AND

(IV) WHOSE RESIDENCE WAS NOT COMPLETELY EXEMPTED FROM REAL PROPERTY TAXES.

(B) "MEMBERS OF A HOUSEHOLD" INCLUDE ALL WHO SHARE A RESIDENCE AND ITS FURNISHINGS, FACILITIES, AND ACCOMMODATIONS WHETHER SUCH PERSONS ARE RELATED OR NOT.

HOWEVER, TENANTS, SUBTENANTS, ROOMERS, OR BOARDERS ARE NOT MEMBERS OF A HOUSEHOLD UNLESS SUCH PERSONS ARE RELATED IN ONE OF THE FOLLOWING WAYS:

(I) A SON, DAUGHTER, OR A DESCENDENT OF EITHER; (II) A STEPSON OR STEPDAUGHTER; (III) A BROTHER, SISTER, STEPBROTHER, OR STEPSISTER; (IV) A FATHER, MOTHER, OR AN ANCESTOR OF EITHER; (V) A STEPFATHER OR STEPMOTHER; (VI) A NIECE OR NEPHEW; (VII) AN AUNT OR UNCLE; OR (VIII) A SON-IN-LAW, DAUGHTER-IN-LAW, FATHER-IN-LAW, MOTHER-IN-LAW, BROTHER-IN-LAW, OR SISTER-IN-LAW.

PROVIDED, FURTHER, THAT NO ONE CAN BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

(C) "HOUSEHOLD GROSS INCOME" MEANS THE ANNUAL TOTAL OF THE FOLLOWING INCOME ITEMS THAT A HOMEOWNER AND ALL MEMBERS OF HIS OR HER HOUSEHOLD RECEIVED DURING THE TAX YEAR;

(I) FEDERAL ADJUSTED GROSS INCOME (EVEN IF SUCH PERSON DOES NOT HAVE TO FILE A FEDERAL RETURN);

(II) NEW YORK STATE ADDITIONS TO FEDERAL ADJUSTED GROSS INCOME. FOR A LIST OF THESE ADDITIONS, SEE PUBLICATION 22, GENERAL INFORMATION ON NEW YORK STATE'S REAL PROPERTY TAX CREDIT FOR HOMEOWNERS AND RENTERS, OR THE INSTRUCTIONS FOR FORM IT-201. FOR FORM IT-200 FILERS, THE NEW YORK STATE ADDITIONS TO FEDERAL ADJUSTED GROSS INCOME ARE SHOWN ON FORM IT-200, LINE 9, PUBLIC EMPLOYEE 414(H) RETIREMENT CONTRIBUTIONS AND LINE 10, IRC 125 AMOUNTS FROM THE NEW YORK CITY FLEXIBLE BENEFITS PROGRAM. FOR FORM IT-201 FILERS, THE NEW YORK STATE ADDITIONS TO FEDERAL ADJUSTED GROSS INCOME ARE SHOWN ON FORM IT-201, LINES 19 THROUGH 22;

(III) SUPPORT MONEY, INCLUDING FOSTER CARE SUPPORT PAYMENTS;

(IV) INCOME EARNED ABROAD EXEMPTED BY SECTION 911 OF THE INTERNAL REVENUE CODE;

(V) SUPPLEMENTAL SECURITY INCOME (SSI) PAYMENTS;

(VI) NONTAXABLE INTEREST RECEIVED FROM NEW YORK STATE, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR POLITICAL SUBDIVISIONS;

(VII) WORKERS' COMPENSATION;

(VIII) THE GROSS AMOUNT OF LOSS-OF-TIME INSURANCE. (FOR EXAMPLE, AN ACCIDENT OR HEALTH INSURANCE POLICY AND DISABILITY BENEFITS RECEIVED UNDER A NO-FAULT AUTOMOBILE POLICY, ETC.);

(IX) CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE NEEDY (FOR EXAMPLE, CASH GRANTS TO CLIENTS, EMERGENCY AID TO ADULTS, VALUE OF FOOD VOUCHERS RECEIVED BY CLIENTS, ETC.), EXCEPT AMOUNTS RECEIVED FROM THE HOME ENERGY ASSISTANCE PROGRAM (HEAP);

(X) NONTAXABLE STRIKE BENEFITS;

(XI) THE GROSS AMOUNT OF PENSIONS AND ANNUITIES, INCLUDING RAILROAD RETIREMENT BENEFITS;

(XII) ALL PAYMENTS RECEIVED UNDER THE SOCIAL SECURITY ACT AND VETERANS DISABILITY PENSIONS REDUCED BY ANY MEDICARE PREMIUMS DEDUCTED FROM YOUR BENEFIT REPORTED ON FEDERAL FORM SSA-1099, SOCIAL SECURITY BENEFIT STATEMENT.

HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE FOOD STAMPS, MEDICARE, MEDICAID, SCHOLARSHIPS, GRANTS, SURPLUS FOOD, OR OTHER RELIEF IN KIND. IT ALSO SHALL NOT INCLUDE PAYMENTS MADE TO VETERANS UNDER THE FEDERAL VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION STANDARDS ACT BECAUSE OF EXPOSURE TO HERBICIDES CONTAINING DIOXIN (AGENT ORANGE), OR PURSUANT TO CERTAIN AGENT ORANGE PRODUCT LIABILITY LITIGATION.

ALSO, HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE PAYMENTS MADE TO INDIVIDUALS BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN FEDERAL PUBLIC LAW 103-286.

(D) A "RESIDENCE" MEANS A DWELLING THAT A PERSON OWNS THAT IS LOCATED IN NEW YORK STATE. FOR PURPOSES OF THIS SUBPARAGRAPH, A DWELLING SHALL MEAN THE MINIMUM LOT SIZE REQUIRED BY THE COUNTY TO CONSTITUTE A RESIDENTIAL UNIT. IF SUCH RESIDENCE IS ON MORE THAN ONE ACRE OF LAND, ONLY THE AMOUNT OF REAL PROPERTY TAXES THAT APPLIES TO THE RESIDENCE AND ONLY ONE ACRE AROUND IT MAY BE USED TO FIGURE THE CREDIT. EACH RESIDENCE WITHIN A MULTIPLE DWELLING UNIT MAY QUALIFY. A CONDOMINIUM OR A COOPERATIVE WITHIN A SINGLE DWELLING IS ALSO A RESIDENCE.

A TRAILER OR MOBILE HOME THAT IS USED ONLY FOR RESIDENTIAL PURPOSES IS ALSO A RESIDENCE IF THE TRAILER OR MOBILE HOME IS ASSESSED FOR REAL PROPERTY TAX PURPOSES.

(E) "REAL PROPERTY TAXES PAID" ARE:

(I) ALL CURRENT, PRIOR, AND PREPAID REAL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND ASSESSMENTS LEVIED AND PAID UPON A RESIDENCE OWNED OR PREVIOUSLY OWNED BY A QUALIFIED TAXPAYER (OR SPOUSE, IF THE SPOUSE OCCUPIED THE RESIDENCE FOR AT LEAST SIX MONTHS) DURING THE TAX YEAR. SUCH PERSON MAY ELECT TO INCLUDE REAL PROPERTY TAXES THAT ARE EXEMPTED FROM TAX UNDER SECTION FOUR HUNDRED SIXTY-SEVEN (FOR PERSONS SIXTY-FIVE AND OLDER) OF THE REAL PROPERTY TAX LAW (VETERANS' TAX EXEMPTION DOES NOT QUALIFY).

(II) REAL PROPERTY TAXES PAID ALSO INCLUDE ANY REAL ESTATE TAXES ALLOWED (OR WHICH WOULD BE ALLOWABLE IF THE TAXPAYER HAD FILED A RETURN ON A CASH BASIS) AS A DEDUCTION FOR TENANT-STOCKHOLDERS IN A COOPERATIVE HOUSING CORPORATION UNDER SECTION 216 OF THE INTERNAL REVENUE CODE.

(III) IF ANY PART OF A RESIDENCE WAS OWNED BY SOMEONE WHO WAS NOT A MEMBER OF A HOUSEHOLD, INCLUDE ONLY THE REAL PROPERTY TAXES PAID THAT APPLY TO THE PART SUCH PERSON AND OTHER QUALIFIED MEMBERS OF A HOUSEHOLD OWN.

IF A RESIDENCE WAS PART OF A LARGER UNIT, INCLUDE ONLY THE AMOUNT OF REAL PROPERTY TAXES PAID THAT CAN BE REASONABLY APPLIED TO SUCH PERSON'S RESIDENCE.

IF A HOMEOWNER OWNED AND OCCUPIED MORE THAN ONE RESIDENCE DURING THE TAX YEAR, ADD TOGETHER THE PRORATED PART OF REAL PROPERTY TAXES PAID FOR THE PERIOD YOU OCCUPIED EACH RESIDENCE.

S 3. This act shall take effect immediately and shall apply to the 2008 tax year and thereafter.