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

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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, CHRISTENSEN, ENGLEBRIGHT, MAGEE, MORELLE, GUNTHER -- Multi-Sponsored by -- M. of A. ARROYO, AUBRY, GANTT, GREENE, HIKIND, JOHN, KOON, V. LOPEZ, PRETLOW, SCHIMMINGER, SEMINERIO, SWEENEY -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing for a dependent credit under the personal income tax

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

Section 1. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) NEW YORK STATE DEPENDENT CREDIT. (1) FOR PURPOSES OF THIS SUBSECTION, THE TERM "DEPENDENT" SHALL HAVE THE SAME MEANING AS THE MEANING ASSIGNED TO SUCH TERM IN SECTION ONE HUNDRED FIFTY-ONE-C OF THE INTERNAL REVENUE CODE.

(2) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY SUBSECTIONS (A) THROUGH (D) OF SECTION SIX HUNDRED ONE OF 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 COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED AND THE AMOUNT OF THE CREDIT. IF A TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE BY THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE FULL AMOUNT OF THE CREDIT.

(3) A TAXPAYER SHALL BE ALLOWED A CREDIT PURSUANT TO THIS SUBSECTION FOR EACH DEPENDENT AND THE CREDIT SHALL EQUAL ONE HUNDRED DOLLARS.

PROVIDED, HOWEVER, THE AMOUNT OF SUCH CREDIT ALLOWED UNDER THIS PARAGRAPH SHALL BE REDUCED (BUT NOT BELOW ZERO) BY AN AMOUNT WHICH BEARS THE

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

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SAME RATIO TO THE CREDIT (DETERMINED WITHOUT REGARD TO THIS PARAGRAPH) AS THE EXCESS OF THE TAXPAYER'S ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER,

(I) IN THE CASE OF MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES, ONE HUNDRED THOUSAND DOLLARS,

(II) IN THE CASE OF HEADS OF HOUSEHOLDS, SEVENTY-FIVE THOUSAND DOLLARS,

(III) IN THE CASE OF UNMARRIED INDIVIDUALS AND INDIVIDUALS FILING SEPARATE RETURNS, FIFTY THOUSAND DOLLARS, BEARS TO TWENTY-FIVE THOUSAND DOLLARS.

(4) IN THE CASE OF A NONRESIDENT TAXPAYER, THE CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED AGAINST THE TAX DETERMINED UNDER SUBSECTIONS (A) THROUGH (D) OF SECTION SIX HUNDRED ONE OF THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE TAX DETERMINED UNDER SUCH SUBSECTIONS FOR THE TAXABLE YEAR REDUCED BY THE CREDITS PERMITTED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION.

(5) IN THE CASE OF A PART-YEAR RESIDENT TAXPAYER, THE CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED AS PROVIDED IN PARAGRAPH FOUR OF THIS SUBSECTION AND ANY EXCESS CREDIT AFTER THE APPLICATION OF THE SECOND SENTENCE OF SUCH PARAGRAPH SHALL BE ALLOWED AGAINST THE TAXES IMPOSED BY SECTIONS SIX HUNDRED TWO AND SIX HUNDRED THREE OF THIS ARTICLE. ANY REMAINING EXCESS, AFTER SUCH APPLICATION, SHALL BE REFUNDED AS PROVIDED IN PARAGRAPH TWO OF THIS SUBSECTION, PROVIDED, HOWEVER, THAT ANY OVER-PAYMENT UNDER SUCH PARAGRAPH SHALL BE LIMITED TO THE AMOUNT OF THE REMAINING EXCESS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS FEDERAL ADJUSTED GROSS INCOME FOR THE PERIOD OF RESIDENCE, COMPUTED AS IF THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES WERE LIMITED TO THE PERIOD OF RESIDENCE, AND THE DENOMINATOR OF WHICH IS FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR.

(6) IN THE CASE WHERE A HUSBAND AND WIFE FILE SEPARATELY, THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE EQUALLY DIVIDED AMONG SUCH INDIVIDUALS.

S 2. This act shall take effect immediately.