

3952

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. OPPENHEIMER -- 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 a tax credit for disabled persons; qualification

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

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (c-2) to read as follows:
3 (C-2) DISABLED PERSONS REAL PROPERTY TAX CREDIT. (1) FOR THE PURPOSES
4 OF THIS SECTION:
5 (I) AS USED IN THIS SECTION, "DISABLED" MEANS A PHYSICAL, MENTAL OR
6 MEDICAL IMPAIRMENT, RESULTING FROM ANATOMICAL, PHYSIOLOGICAL OR NEURO-
7 LOGICAL CONDITIONS, WHICH PREVENTS THE EXERCISE OF A NORMAL BODILY FUNC-
8 TION OR IS DEMONSTRABLE BY MEDICALLY ACCEPTED CLINICAL LABORATORY DIAG-
9 NOSTIC TECHNIQUES AND IS OF A NATURE SUFFICIENT TO QUALIFY ANY SUCH
10 PERSON OR PERSONS AS ELIGIBLE FOR FEDERAL SOCIAL SECURITY DISABILITY
11 BENEFITS.
12 (II) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A DISABLED
13 TAXPAYER AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO HAVE THE
14 SAME RESIDENCE AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS.
15 SUCH TERMS SHALL NOT INCLUDE A TENANT, SUBTENANT, ROOMER OR BOARDER WHO
16 IS NOT RELATED TO THE DISABLED TAXPAYER IN ANY DEGREE SPECIFIED IN PARA-
17 GRAPHS ONE THROUGH EIGHT OF SUBSECTION (A) OF SECTION ONE HUNDRED
18 FIFTY-TWO OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, NO PERSON
19 MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.
20 (III) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS
21 INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED
22 FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED
23 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,
24 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE

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

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1 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH
2 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-
3 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES
4 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY
5 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY
6 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;
7 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION
8 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS
9 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND
10 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-
11 ANS' DISABILITY PENSIONS); DISABILITY BENEFITS EXCLUDABLE FROM SUCH
12 ADJUSTED GROSS INCOME BY SUBSECTION (D) OF SECTION ONE HUNDRED FIVE OF
13 THE INTERNAL REVENUE CODE; ALL PAYMENTS RECEIVED UNDER THE STATE UNEM-
14 PLOYMENT INSURANCE LAWS; NONTAXABLE INTEREST RECEIVED FROM THE STATE OF
15 NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS OR POLI-
16 TICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO
17 AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
18 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
19 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
20 NEEDY, PAID TO OR FOR THE BENEFIT OF THE DISABLED TAXPAYER OR MEMBERS OF
21 HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE SURPLUS
22 FOODS OR OTHER RELIEF IN KIND. PROVIDED, FURTHER, HOUSEHOLD GROSS
23 INCOME SHALL ONLY INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE
24 HOUSEHOLD WHILE MEMBERS OF SUCH HOUSEHOLD.

25 (IV) "RESIDENCE" MEANS A DWELLING IN THIS STATE, WHETHER OWNED OR
26 RENTED, AND SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE, AS
27 IS REASONABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY
28 CONSIST OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUD-
29 ING A COOPERATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE
30 DWELLING. RESIDENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY
31 FOR RESIDENTIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARA-
32 GRAPH (G) OF SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL
33 PROPERTY TAX LAW.

34 (V) "QUALIFYING REAL PROPERTY TAXES" MEANS ALL REAL PROPERTY TAXES,
35 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-
36 TIES AND INTEREST, LEVIED ON THE RESIDENCE OF A DISABLED TAXPAYER AND
37 PAID DURING THE TAXABLE YEAR, AS WELL AS ANY ADDITIONAL AMOUNT THAT
38 WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION FROM REAL PROPERTY
39 TAXATION PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL PROP-
40 erty TAX LAW. IF TENANT-STOCKHOLDERS IN A COOPERATIVE HOUSING CORPO-
41 RATION HAVE MET THE REQUIREMENTS OF SECTION TWO HUNDRED SIXTEEN OF THE
42 INTERNAL REVENUE CODE BY WHICH THEY ARE ALLOWED A DEDUCTION FOR REAL
43 ESTATE TAXES, THE AMOUNT OF TAXES SO ALLOWABLE, OR WHICH WOULD BE ALLOW-
44 ABLE IF THE TAXPAYER HAD FILED RETURNS ON A CASH BASIS, SHALL BE QUALI-
45 FYING REAL PROPERTY TAXES. IF A RESIDENCE IS OWNED BY TWO OR MORE INDI-
46 VIDUALS AS JOINT TENANTS OR TENANTS IN COMMON, AND ONE OR MORE THAN ONE
47 INDIVIDUAL IS NOT A MEMBER OF THE HOUSEHOLD, QUALIFYING REAL PROPERTY
48 TAXES IS THAT PART OF SUCH TAXES ON THE RESIDENCE WHICH REFLECTS THE
49 OWNERSHIP PERCENTAGE OF THE DISABLED TAXPAYER AND MEMBERS OF HIS OR HER
50 HOUSEHOLD. IF A RESIDENCE IS AN INTEGRAL PART OF A LARGER UNIT, QUALI-
51 FYING REAL PROPERTY TAXES SHALL BE LIMITED TO THAT AMOUNT OF SUCH TAXES
52 PAID AS MAY BE REASONABLY APPORTIONED TO SUCH RESIDENCE. IF A HOUSEHOLD
53 OWNS AND OCCUPIES TWO OR MORE RESIDENCES DURING DIFFERENT PERIODS IN
54 THE SAME TAXABLE YEAR, QUALIFYING REAL PROPERTY TAXES SHALL BE THE SUM
55 OF THE PRORATED QUALIFYING REAL PROPERTY TAXES ATTRIBUTABLE TO THE
56 HOUSEHOLD DURING THE PERIODS SUCH HOUSEHOLD OCCUPIES EACH OF SUCH RESI-

1 DENCES. IF THE HOUSEHOLD OWNS AND OCCUPIES A RESIDENCE FOR PART OF THE
2 TAXABLE YEAR AND RENTS A RESIDENCE FOR PART OF THE SAME TAXABLE YEAR,
3 IT MAY INCLUDE BOTH THE PRORATION OF QUALIFYING REAL PROPERTY TAXES ON
4 THE RESIDENCE OWNED AND THE REAL PROPERTY TAX EQUIVALENT WITH RESPECT TO
5 THE MONTHS THE RESIDENCE IS RENTED. PROVIDED, HOWEVER, FOR PURPOSES OF
6 THE CREDIT ALLOWED UNDER THIS SUBSECTION, QUALIFYING REAL PROPERTY TAXES
7 MAY BE INCLUDED BY A DISABLED TAXPAYER ONLY TO THE EXTENT THAT SUCH
8 TAXPAYER OR THE SPOUSE OF SUCH TAXPAYER OCCUPYING SUCH RESIDENCE FOR SIX
9 MONTHS OR MORE OF THE TAXABLE YEAR OWNS OR HAS OWNED THE RESIDENCE AND
10 PAID SUCH TAXES.

11 (VI) "REAL PROPERTY TAX EQUIVALENT" MEANS TWENTY-FIVE PERCENT OF THE
12 ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY
13 FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE
14 YEAR.

15 IF (A) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS CO-TENANTS,
16 OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT
17 OF OCCUPANCY OF SUCH RESIDENCE, AND (B) EACH OF SUCH INDIVIDUALS IS A
18 MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES
19 SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF TWENTY-
20 FIVE PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH
21 REFLECTS THAT PORTION OF THE RENT ATTRIBUTABLE TO THE DISABLED TAXPAYER
22 AND THE MEMBERS OF HIS OR HER HOUSEHOLD.

23 (VII) "ADJUSTED RENT" MEANS RENTAL PAID FOR THE RIGHT OF OCCUPANCY OF
24 A RESIDENCE, EXCLUDING CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS
25 AND BOARD. WHERE CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS OR
26 BOARD ARE INCLUDED IN RENTAL BUT WHERE SUCH CHARGES AND THE AMOUNT THERE-
27 OF ARE NOT SEPARATELY SET FORTH IN A WRITTEN RENTAL AGREEMENT, FOR
28 PURPOSES OF DETERMINING ADJUSTED RENT THE DISABLED TAXPAYER SHALL REDUCE
29 RENTAL PAID AS FOLLOWS:

30 (A) FOR HEAT, OR HEAT AND GAS, DEDUCT FIFTEEN PERCENT OF RENTAL PAID.

31 (B) FOR HEAT, GAS AND ELECTRICITY, DEDUCT TWENTY PERCENT OF RENTAL
32 PAID.

33 (C) FOR HEAT, GAS, ELECTRICITY AND FURNISHINGS, DEDUCT TWENTY-FIVE
34 PERCENT OF RENTAL PAID.

35 (D) FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD, DEDUCT FIFTY
36 PERCENT OF RENTAL PAID.

37 IF THE COMMISSIONER DETERMINES THAT THE ADJUSTED RENT SHOWN ON THE
38 RETURN IS EXCESSIVE, THE COMMISSIONER MAY REDUCE SUCH RENT, FOR PURPOSES
39 OF THE COMPUTATION OF THE CREDIT, TO AN AMOUNT SUBSTANTIALLY EQUIVALENT
40 TO RENT FOR A COMPARABLE ACCOMMODATION.

41 (2) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVEN AND THEREAFTER,
42 A DISABLED TAXPAYER SHALL BE ALLOWED A CREDIT, AS HEREINAFTER PROVIDED
43 IN PARAGRAPH THREE OF THIS SUBSECTION AGAINST THE TAXES IMPOSED BY THIS
44 ARTICLE REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT
45 EXCEEDS THE TAX, AS SO REDUCED, FOR SUCH YEAR UNDER THIS ARTICLE, THE
46 DISABLED TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIF-
47 ICATE FROM THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTER-
48 EST, ANY EXCESS BETWEEN SUCH TAX, AS SO REDUCED, AND THE AMOUNT OF THE
49 CREDIT. IF A DISABLED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT
50 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A DISABLED TAXPAYER
51 MAY, NEVERTHELESS, RECEIVE AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE
52 OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT THE FULL AMOUNT OF THE
53 CREDIT, WITHOUT INTEREST.

54 (3) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE AND THEREAFTER,
55 FOR DISABLED TAXPAYERS THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS
56 SUBSECTION SHALL BE FIFTY PERCENT OR IN THE CASE OF A DISABLED TAXPAYER

1 WHO HAS ELECTED TO INCLUDE AN ADDITIONAL AMOUNT PURSUANT TO SUBPARAGRAPH
 2 (V) OF PARAGRAPH ONE OF THIS SUBSECTION, TWENTY-FIVE PERCENT, OF THE
 3 EXCESS OF REAL PROPERTY TAXES OR OF THE EXCESS OF REAL PROPERTY TAX
 4 EQUIVALENT DETERMINED AS FOLLOWS:

EXCESS REAL PROPERTY TAXES
 ARE THE EXCESS OF THE REAL
 PROPERTY TAX EQUIVALENT OR
 THE EXCESS OF QUALIFYING
 REAL PROPERTY TAXES OVER
 THE FOLLOWING PERCENTAGE OF
 HOUSEHOLD GROSS INCOME:

5
 6
 7
 8
 9 IF HOUSEHOLD GROSS
 10 INCOME FOR THE TAX-
 11 ABLE YEAR IS:

12	\$ 0 TO \$ 3,000	3 1/2
13	\$3,001 TO \$ 5,000	4
14	\$5,001 TO \$ 7,000	4 1/2
15	\$7,001 TO \$ 9,000	5
16	\$9,001 TO \$11,000	5 1/2
17	\$11,001 TO \$14,000	6
18	\$14,001 TO \$18,000	6 1/2

19 NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETER-
 20 MINED UNDER THIS PARAGRAPH WITH RESPECT TO ANY TAXPAYER SHALL NOT EXCEED
 21 AN AMOUNT SHOWN IN COLUMN TWO BELOW.

22 COLUMN 1
 23 IF HOUSEHOLD GROSS
 24 INCOME FOR THE
 25 TAXABLE YEAR IS:

COLUMN 2
 THE MAXIMUM CREDIT FOR
 DISABLED TAXPAYERS
 SHALL BE:

26	\$ 0 TO \$ 1,000	\$375
27	\$1,001 TO \$ 2,000	\$358
28	\$2,001 TO \$ 3,000	\$341
29	\$3,001 TO \$ 4,000	\$324
30	\$4,001 TO \$ 5,000	\$307
31	\$5,001 TO \$ 6,000	\$290
32	\$6,001 TO \$ 7,000	\$273
33	\$7,001 TO \$ 8,000	\$256
34	\$8,001 TO \$ 9,000	\$239
35	\$9,001 TO \$10,000	\$222
36	\$10,001 TO \$11,000	\$205
37	\$11,001 TO \$12,000	\$188
38	\$12,001 TO \$13,000	\$171
39	\$13,001 TO \$14,000	\$154
40	\$14,001 TO \$15,000	\$137
41	\$15,001 TO \$16,000	\$120
42	\$16,001 TO \$17,000	\$103
43	\$17,001 TO \$18,000	\$ 86

44 (4) IF A DISABLED TAXPAYER OCCUPIES A RESIDENCE FOR A PERIOD OF LESS
 45 THAN TWELVE MONTHS DURING THE TAXABLE YEAR OR OCCUPIES TWO OR MORE RESI-
 46 DENCES DURING DIFFERENT PERIODS IN SUCH TAXABLE YEAR, THE CREDIT ALLOWED
 47 PURSUANT TO THIS SUBSECTION SHALL BE COMPUTED IN SUCH MANNER AS THE
 48 COMMISSIONER MAY, BY REGULATION, PRESCRIBE IN ORDER TO PROPERLY REFLECT
 49 THE CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESI-
 50 DENCES AND SUCH PERIOD OR PERIODS.

51 (5) THE COMMISSIONER MAY PRESCRIBE THAT THE CREDIT UNDER THIS
 52 SUBSECTION SHALL BE DETERMINED IN WHOLE OR IN PART BY THE USE OF TABLES
 53 PRESCRIBED BY SUCH COMMISSIONER. SUCH TABLES SHALL SET FORTH THE CREDIT
 54 TO THE NEAREST DOLLAR.

1 (6) ONLY ONE CREDIT PER HOUSEHOLD AND PER A DISABLED TAXPAYER SHALL
2 BE ALLOWED PER TAXABLE YEAR UNDER THIS SUBSECTION. WHEN TWO OR MORE
3 MEMBERS OF A HOUSEHOLD ARE ABLE TO MEET THE QUALIFICATIONS FOR A DISA-
4 BLED TAXPAYER, THE CREDIT SHALL BE EQUALLY DIVIDED BETWEEN OR AMONG SUCH
5 INDIVIDUALS UNLESS SUCH INDIVIDUALS FILE WITH THE COMMISSIONER A WRIT-
6 TEN AGREEMENT AMONG SUCH INDIVIDUALS SETTING FORTH A DIFFERENT DIVISION.

7 (I) PROVIDED, HOWEVER, WHERE A JOINT INCOME TAX RETURN HAS BEEN FILED
8 PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS
9 ARTICLE BY A DISABLED TAXPAYER AND HIS OR HER SPOUSE (OR WHERE BOTH
10 SPOUSES ARE DISABLED TAXPAYERS AND HAVE FILED SUCH JOINT RETURN), THE
11 CREDIT, OR THE PORTION OF THE CREDIT IF DIVIDED, TO WHICH THE HUSBAND
12 AND WIFE ARE ENTITLED SHALL BE APPLIED AGAINST THE TAX OF BOTH SPOUSES
13 AND ANY OVERPAYMENT SHALL BE MADE TO BOTH SPOUSES.

14 (II) WHERE A DISABLED TAXPAYER AND HIS OR HER SPOUSE (OR WHERE BOTH
15 SPOUSES ARE DISABLED TAXPAYERS) FILE THEIR SEPARATE RETURNS ON A SINGLE
16 FORM UNDER SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, THE CREDIT, OR
17 THE PORTION OF THE CREDIT IF DIVIDED, ALLOWED TO THE DISABLED TAXPAYER
18 MAY BE OFFSET BY THE COMMISSIONER AGAINST THE TAX LIABILITY OF THE OTHER
19 SPOUSE PROVIDED, HOWEVER, IF THE RETURN OF EITHER SPOUSE INCLUDES A
20 DEMAND THAT ANY OVERPAYMENT OF TAXES MADE BY HIM OR HER SHALL BE APPLIED
21 ONLY ON ACCOUNT OF HIS OR HER SEPARATE LIABILITY, THE CREDIT, OR THE
22 PORTION OF THE CREDIT IF DIVIDED, SHALL ALSO BE SO APPLIED.

23 (III) WHERE ANY RETURN REQUIRED TO BE FILED PURSUANT TO THE PROVISIONS
24 OF SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE IS COMBINED WITH THE
25 RETURN OF TAX IMPOSED BY A LOCAL LAW OF THE CITY OF NEW YORK PURSUANT TO
26 THE AUTHORITY OF ARTICLE THIRTY OF THIS CHAPTER OR FORMER ARTICLE TWO-E
27 OF THE GENERAL CITY LAW, THE CREDIT OR THE PORTION OF THE CREDIT IF
28 DIVIDED, ALLOWED TO THE DISABLED TAXPAYER MAY BE APPLIED BY THE COMMIS-
29 SIONER TOWARD ANY LIABILITY FOR THE STATE TAXES IMPOSED UNDER THIS CHAP-
30 TER AND THE AFOREMENTIONED LOCAL TAXES.

31 (7) NO CREDIT SHALL BE GRANTED UNDER THIS SUBSECTION:

32 (I) FOR THE TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVEN AND THERE-
33 AFTER IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR EXCEEDS EIGHTEEN
34 THOUSAND DOLLARS.

35 (II) TO A PROPERTY OWNER UNLESS: (A) THE PROPERTY IS USED FOR RESIDEN-
36 TIAL PURPOSES; AND (B) NOT MORE THAN TWENTY PERCENT OF THE RENTAL
37 INCOME, IF ANY, FROM THE PROPERTY IS FROM RENTAL FOR NONRESIDENTIAL
38 PURPOSES; AND (C) THE PROPERTY IS OCCUPIED AS A RESIDENCE IN WHOLE OR IN
39 PART BY ONE OR MORE OF THE OWNERS OF THE PROPERTY.

40 (III) TO AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SECTION
41 ONE HUNDRED FIFTY-ONE (E) OF THE INTERNAL REVENUE CODE IS ALLOWABLE TO
42 ANOTHER TAXPAYER FOR THE TAXABLE YEAR.

43 (IV) TO A TENANT IF ADJUSTED RENT FOR THE RESIDENCE EXCEEDS THREE
44 HUNDRED DOLLARS PER MONTH AND FOR TAXABLE YEARS BEGINNING IN TWO THOU-
45 SAND SEVEN AND THEREAFTER, IF THE ADJUSTED RENT EXCEEDS FOUR HUNDRED
46 FIFTY DOLLARS PER MONTH ON AVERAGE.

47 (V) TO AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SECTION
48 ONE HUNDRED FIFTY-ONE (E) OF THE INTERNAL REVENUE CODE IS ALLOWABLE TO
49 ANOTHER TAXPAYER FOR THE TAXABLE YEAR.

50 (VI) WITH RESPECT TO A RESIDENCE THAT IS WHOLLY EXEMPTED FROM REAL
51 PROPERTY TAXATION.

52 (VII) TO AN INDIVIDUAL WHO IS NOT A RESIDENT INDIVIDUAL OF THE STATE
53 FOR THE ENTIRE TAXABLE YEAR.

54 (8) THE RIGHT TO CLAIM A CREDIT WHERE SUCH CREDIT HAS BEEN DIVIDED
55 UNDER THIS SUBSECTION, SHALL BE PERSONAL TO THE DISABLED TAXPAYER AND
56 SHALL NOT SURVIVE HIS OR HER DEATH, BUT SUCH RIGHT MAY BE EXERCISED ON

1 BEHALF OF A CLAIMANT BY HIS OR HER LEGAL GUARDIAN OR ATTORNEY IN FACT
2 DURING HIS OR HER LIFETIME.

3 (9) IF A DISABLED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT
4 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A CREDIT
5 MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS
6 FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED PURSU-
7 ANT TO SUCH SECTION HAD THE DISABLED TAXPAYER HAD A TAXABLE YEAR ENDING
8 ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE IN SUCH
9 FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHO SHALL MAKE AVAIL-
10 ABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

11 (10) THE COMMISSIONER MAY REQUIRE A DISABLED TAXPAYER TO FURNISH THE
12 FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER
13 THIS SUBSECTION: HOUSEHOLD GROSS INCOME, RENT PAID, NAME AND ADDRESS OF
14 OWNER OR MANAGING AGENT OF THE PROPERTY RENTED, REAL PROPERTY TAXES
15 LEVIED OR THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION
16 FROM REAL PROPERTY TAX PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF
17 THE REAL PROPERTY TAX LAW, THE NAMES OF MEMBERS OF THE HOUSEHOLD AND
18 OTHER DISABLED TAXPAYERS OCCUPYING THE SAME RESIDENCE AND THEIR IDENTI-
19 FYING NUMBERS INCLUDING SOCIAL SECURITY NUMBERS, HOUSEHOLD GROSS INCOME,
20 SIZE AND NATURE OF PROPERTY CLAIMED AS RESIDENCE AND ALL OTHER INFORMA-
21 TION WHICH MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE CREDIT.

22 (11) THE PROVISIONS OF THIS ARTICLE, INCLUDING THE PROVISIONS OF
23 SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT, AND SIX
24 HUNDRED FIFTY-NINE AND THE PROVISIONS OF PART SIX OF THIS ARTICLE RELAT-
25 ING TO PROCEDURE AND ADMINISTRATION, INCLUDING THE JUDICIAL REVIEW OF
26 THE DECISIONS OF THE TAX APPEALS TRIBUNAL, EXCEPT SO MUCH OF SECTION SIX
27 HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A CLAIM FOR CREDIT OR
28 REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN PARAGRAPH NINE OF
29 THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED FIFTY-SEVEN, SIX HUNDRED
30 EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS ARTICLE, SHALL APPLY TO
31 THE PROVISIONS OF THIS SUBSECTION IN THE SAME MANNER AND WITH THE SAME
32 FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE PROVISIONS HAD BEEN INCOR-
33 PORATED IN FULL INTO THIS SUBSECTION AND HAD EXPRESSLY REFERRED TO THE
34 CREDIT ALLOWED OR RETURNS FILED UNDER THIS SUBSECTION, EXCEPT TO THE
35 EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION
36 OF THIS SUBSECTION OR IS NOT RELEVANT TO THIS SUBSECTION. AS USED IN
37 SUCH SECTIONS AND SUCH PART, THE TERM "TAXPAYER" SHALL INCLUDE A DISA-
38 BLED TAXPAYER UNDER THIS SUBSECTION AND, NOTWITHSTANDING THE PROVISIONS
39 OF SUBSECTION (E) OF SECTION SIX HUNDRED NINETY-SEVEN OF THIS ARTICLE,
40 WHERE A DISABLED TAXPAYER HAS PROTESTED THE DENIAL OF A CLAIM FOR CREDIT
41 UNDER THIS SUBSECTION AND THE TIME TO FILE A PETITION FOR REDETERMI-
42 NATION OF A DEFICIENCY OR FOR A REFUND HAS NOT EXPIRED, HE OR SHE SHALL,
43 SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE COMMISSIONER, RECEIVE
44 SUCH INFORMATION: (I) WHICH IS CONTAINED IN ANY RETURN FILED UNDER THIS
45 ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR THE TAXABLE YEAR FOR
46 WHICH THE CREDIT IS CLAIMED; AND (II) WHICH THE COMMISSIONER FINDS IS
47 RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH CLAIM WAS PROPERLY
48 DENIED. THE COMMISSIONER SHALL HAVE THE AUTHORITY TO PROMULGATE SUCH
49 RULES AND REGULATIONS AS MAY BE NECESSARY FOR THE PROCESSING, DETERMI-
50 NATION AND GRANTING OF CREDITS AND REFUNDS UNDER THIS SUBSECTION.

51 (12) THE COMMISSIONER MAY REQUEST THE COOPERATION OF THE STATE BOARD
52 OF REAL PROPERTY SERVICES IN CARRYING OUT THE PROVISIONS OF THIS
53 SUBSECTION. SUCH BOARD MAY PROMULGATE SUCH RULES AND REGULATIONS,
54 SUBJECT TO PRIOR CONSULTATION WITH THE COMMISSIONER, AS MAY BE NECES-
55 SARY TO PROVIDE SUCH ASSISTANCE WITH RESPECT TO THE DETERMINATION OF

1 FULL VALUE OF REAL PROPERTY FOR PURPOSES OF THE CREDIT ALLOWED UNDER
2 THIS SUBSECTION.

3 (13) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, THE CREDIT
4 ALLOWED UNDER THIS SUBSECTION SHALL BE DETERMINED AFTER THE DETERMI-
5 NATION AND APPLICATION OF ANY OTHER CREDITS PERMITTED UNDER THE
6 PROVISIONS OF THIS ARTICLE.

7 S 2. This act shall take effect immediately and shall apply to all
8 taxable years commencing after December 31, 2009.