

4239

2009-2010 Regular Sessions

I N   S E N A T E

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Introduced by Sens. KRUEGER, DIAZ, ONORATO, SAMPSON, SCHNEIDERMAN --  
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

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) FOR TAX YEARS BEGINNING IN TWO THOUSAND NINE:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	NINE PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS	NO LIMITATION.

(II) FOR TAX YEARS BEGINNING IN TWO THOUSAND TEN:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	EIGHT AND ONE-HALF PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS	NO LIMITATION.

(III) FOR TAX YEARS BEGINNING IN TWO THOUSAND ELEVEN:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	SEVEN AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS	SEVEN AND ONE-HALF PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED THOUSAND DOLLARS
MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

(IV) FOR TAX YEARS BEGINNING IN TWO THOUSAND TWELVE AND THEREAFTER:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	SIX PERCENT OF HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS	SIX PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS SEVEN PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED THOUSAND DOLLARS
MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS	SIX PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS SEVEN PERCENT OF FIFTY THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED FIFTY THOUSAND DOLLARS
MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

(B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME ESTABLISHED BY CLAUSE (IV) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE INDEXED FOR INFLATION FOR TAX YEARS BEGINNING IN TWO THOUSAND THIRTEEN AND THEREAFTER.

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.