

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

4239--A

2009-2010 Regular Sessions

I N S E N A T E

April 20, 2009

Introduced by Sens. KRUEGER, ADDABBO, BONACIC, BRESLIN, DIAZ, HASSELL-THOMPSON, LITTLE, MONTGOMERY, ONORATO, SAMPSON, SCHNEIDERMAN, STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to creating the middle class circuit breaker tax credit and creating a tax reform study commission

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 (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-

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

LBD10999-02-9

1 ERTY OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES
2 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY
3 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY
4 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;
5 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION
6 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS
7 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND
8 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-
9 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE
10 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR
11 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT
12 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
13 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
14 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
15 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
16 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE
17 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS
18 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN
19 PUBLIC LAW 103-286 OR ANY DISABILITY COMPENSATION RECEIVED BY VETERANS
20 ON ACCOUNT OF INJURY OR ILLNESS INCURRED OR AGGRAVATED DURING MILITARY
21 SERVICE IN THE WARS IN AFGHANISTAN AND IRAQ SINCE SEPTEMBER ELEVENTH,
22 TWO THOUSAND ONE. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY
23 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE
24 MEMBERS OF SUCH HOUSEHOLD.

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

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

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

54 (2) CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE
55 TAXES IMPOSED BY THIS ARTICLE, EQUAL TO SEVENTY PERCENT OF THE AMOUNT BY
56 WHICH THE TAXPAYER'S NET REAL PROPERTY TAX OR THE TAXPAYER'S REAL PROP-

1 ERTY TAX EQUIVALENT EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS
2 DETERMINED BY PARAGRAPH THREE OF THIS SUBSECTION. IF SUCH CREDIT EXCEEDS
3 THE TAX FOR SUCH TAXABLE YEAR, AS REDUCED BY THE OTHER CREDITS PERMITTED
4 BY THIS ARTICLE, THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMP-
5 TROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN
6 OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED
7 AND THE AMOUNT OF THE CREDIT. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO
8 FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE,
9 A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER,
10 SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT
11 THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST.

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

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

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

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

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

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

5 (4) EXCLUSIONS FROM ELIGIBILITY. NO CREDIT SHALL BE GRANTED UNDER THIS
6 SUBSECTION IF THE QUALIFIED TAXPAYER CLAIMS THE REAL PROPERTY TAX
7 CIRCUIT BREAKER CREDIT, PURSUANT TO SUBSECTION (E) OF THIS SECTION,
8 DURING THE TAXABLE YEAR.

9 S 2. There is hereby established a tax reform study commission to
10 provide the governor and the legislature with a long run plan for
11 reforming the state and local tax systems. The tax reform study commis-
12 sion shall consist of five members appointed by the governor, four
13 members each appointed by the speaker of the assembly and the temporary
14 president of the senate, and one member each appointed by the minority
15 leader of the senate and the minority leader of the assembly. In addi-
16 tion, on or before the first day of January, two thousand eleven, the
17 tax reform study commission shall provide the governor and the legisla-
18 ture with recommendations on any changes that should be made in the
19 definitions of income used in the various property tax relief programs
20 authorized by the laws of the state of New York. Such recommendations
21 shall be based on an examination of such laws and of such laws in other
22 states. In preparing such recommendations, the tax reform study commis-
23 sion shall review the distributional impact of the items of income
24 included in the definition of household income for purposes of the
25 circuit breaker and other property tax relief programs established by
26 state law and make recommendations to the governor and the legislature
27 for any changes in any of these definitions that the tax reform study
28 commission deems appropriate. The commissioner of taxation and finance
29 and the director of the office of real property services shall provide
30 the tax reform study commission with such data and analysis as it may
31 require.

32 S 3. This act shall take effect immediately.