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

4149--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 1, 2011

Introduced by M. of A. ENGLEBRIGHT, P. RIVERA, HEASTIE, ABBATE, CAHILL, MAGNARELLI -- Multi-Sponsored by -- M. of A. ARROYO, BOYLAND, COLTON, COOK, JACOBS, MARKEY, McENENY, PEOPLES-STOKES, PERRY, J. RIVERA, SCHIMMINGER, SWEENEY, WEISENBERG -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to exempting distributions from individual retirement accounts and individual retirement annuities from state personal income taxation when such distributions are used to purchase long-term health care insurance

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

Section 1. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 3-d to read as follows:

(3-D) DISTRIBUTIONS RECEIVED BY AN INDIVIDUAL, NOT OTHERWISE EXCLUDED PURSUANT TO PARAGRAPH THREE OR THREE-A OF THIS SUBSECTION, TO THE EXTENT INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES, WHICH ARE ATTRIBUTABLE TO PERSONAL SERVICES PERFORMED BY SUCH INDIVIDUAL FROM EMPLOYMENT, WHICH ARISE (I) FROM AN EMPLOYER-EMPLOYEE RELATIONSHIP OR (II) FROM CONTRIBUTIONS TO A RETIREMENT PLAN WHICH ARE DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES, TO THE EXTENT SUCH DISTRIBUTIONS ARE USED DURING THE TAXABLE YEAR TO PURCHASE A POLICY OF LONG-TERM CARE INSURANCE, AS DEFINED IN SECTION ELEVEN HUNDRED SEVENTEEN OF THE INSURANCE LAW, FOR SUCH INDIVIDUAL OR A DEPENDENT OF SUCH INDIVIDUAL. SUCH DISTRIBUTIONS SHALL INCLUDE DISTRIBUTIONS FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY, AS DEFINED IN SECTION FOUR HUNDRED EIGHT OF THE INTERNAL REVENUE CODE, AND DISTRIBUTIONS FROM SELF-EMPLOYED INDIVIDUAL AND OWNER-EMPLOYEE RETIREMENT PLANS WHICH QUALIFY UNDER SECTION FOUR HUNDRED ONE OF THE INTERNAL REVENUE CODE.

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

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PROVIDED, HOWEVER, THAT ANY DISTRIBUTIONS EXCLUDED PURSUANT TO THIS PARAGRAPH SHALL BE SUBTRACTED FROM THE TOTAL AMOUNT OF PREMIUMS PAID WHEN COMPUTING THE AMOUNT OF ALLOWABLE CREDIT PURSUANT TO SUBSECTION (AA) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE.

S 2. Subsection (aa) of section 606 of the tax law, as amended by section 1 of part P of chapter 61 of the laws of 2005, is amended to read as follows:

(aa) Long-term care insurance credit. (1) Residents. A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of the premium paid during the taxable year for long-term care insurance, PROVIDED THAT ANY AMOUNT SUBTRACTED FROM FEDERAL ADJUSTED GROSS INCOME PURSUANT TO PARAGRAPH THREE-D OF SECTION SIX HUNDRED TWELVE OF THIS ARTICLE SHALL BE SUBTRACTED FROM THE AMOUNT OF PREMIUM PAID DURING THE TAXABLE YEAR AND THE TWENTY PERCENT CREDIT SHALL BE BASED UPON SUCH RECOMPUTED AMOUNT OF PREMIUM PAID. In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law. If the amount of the credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(2) Nonresidents and part-year residents. In the case of a nonresident taxpayer or a part-year resident taxpayer, the credit determined under this subsection shall be limited to the amount determined by multiplying the amount of such credit by the New York source fraction as set forth in paragraph three of subsection (e) of section six hundred one of this article. The credit as so limited shall be applied as provided in paragraph one of this subsection, PROVIDED THAT ANY AMOUNT SUBTRACTED FROM FEDERAL ADJUSTED GROSS INCOME PURSUANT TO PARAGRAPH THREE-D OF SECTION SIX HUNDRED TWELVE OF THIS ARTICLE AND SECTION SIX HUNDRED THIRTY-ONE OF THIS ARTICLE SHALL BE SUBTRACTED FROM THE AMOUNT OF PREMIUM PAID DURING THE TAXABLE YEAR AND THE TWENTY PERCENT CREDIT SHALL BE BASED UPON SUCH RECOMPUTED AMOUNT OF PREMIUM PAID.

S 3. This act shall take effect immediately and shall apply to taxable years commencing on January first in the year in which this act shall take effect and all subsequent taxable years.