

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

5542--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 23, 2011

Introduced by M. of A. ENGLEBRIGHT, CAHILL, GUNTHER, GALEF, GABRYSZAK, JAFFEE, ROSENTHAL, SCHROEDER, COLTON, COOK, SCHIMEL, HOOPER, LATIMER -- Multi-Sponsored by -- M. of A. BARCLAY, BURLING, CALHOUN, CROUCH, DESTITO, DUPREY, GIGLIO, JACOBS, JORDAN, LUPARDO, MAGEE, MCENENY, J. MILLER, MOLINARO, PERRY, PHEFFER, RABBITT, RAIA, SAYWARD, SWEENEY, THIELE, WEISENBERG -- read once and referred to the Committee on Ways and Means -- 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 (ss) to read as follows:
3 (SS) 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

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

LBD03920-03-1

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); NONTAXABLE INTEREST RECEIVED FROM THE STATE
12 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR
13 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT
14 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
15 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
16 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
17 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
18 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE
19 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS
20 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN
21 PUBLIC LAW 103-286 OR ANY DISABILITY COMPENSATION RECEIVED BY VETERANS
22 ON ACCOUNT OF INJURY OR ILLNESS INCURRED OR AGGRAVATED DURING MILITARY
23 SERVICE IN THE WARS IN AFGHANISTAN AND IRAQ SINCE SEPTEMBER ELEVENTH,
24 TWO THOUSAND ONE. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY
25 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE
26 MEMBERS OF SUCH HOUSEHOLD.

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

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

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

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

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

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

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

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

40 (IV) FOR TAX YEARS BEGINNING IN TWO THOUSAND SIXTEEN AND THEREAFTER:	
41 HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
42 ONE HUNDRED THOUSAND	SIX PERCENT OF HOUSEHOLD GROSS
43 DOLLARS OR LESS	INCOME
44 MORE THAN ONE HUNDRED THOUSAND	SIX PERCENT OF ONE HUNDRED
45 DOLLARS, BUT LESS THAN OR EQUAL TO	THOUSAND DOLLARS PLUS SEVEN
46 ONE HUNDRED FIFTY THOUSAND DOLLARS	PERCENT OF HOUSEHOLD GROSS INCOME
47	ABOVE ONE HUNDRED THOUSAND DOLLARS
48 MORE THAN ONE HUNDRED FIFTY	SIX PERCENT OF ONE HUNDRED THOUSAND
49 THOUSAND DOLLARS, BUT LESS THAN	DOLLARS PLUS SEVEN
50 OR EQUAL TO TWO HUNDRED FIFTY	PERCENT OF FIFTY THOUSAND DOLLARS
51 THOUSAND DOLLARS	PLUS EIGHT AND ONE-HALF PERCENT OF
52	HOUSEHOLD GROSS INCOME ABOVE ONE

HUNDRED FIFTY THOUSAND DOLLARS
NO LIMITATION.

MORE THAN TWO HUNDRED FIFTY
THOUSAND DOLLARS

(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 SEVENTEEN AND THERE-
AFTER.

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

S 2. There is hereby established a tax reform study commission to
provide the governor and the legislature with a long run plan for
reforming the state and local tax systems. The tax reform study commis-
sion shall consist of five members appointed by the governor, four
members each appointed by the speaker of the assembly and the temporary
president of the senate, and one member each appointed by the minority
leader of the senate and the minority leader of the assembly. In addi-
tion, on or before January 1, 2015, the tax reform study commission
shall provide the governor and the legislature with recommendations on
any changes that should be made in the definitions of income used in the
various property tax relief programs authorized by the laws of the state
of New York. Such recommendations shall be based on an examination of
such laws and of such laws in other states. In preparing such recommen-
dations, the tax reform study commission shall review the distributional
impact of the items of income included in the definition of household
income for purposes of the circuit breaker and other property tax relief
programs established by state law and make recommendations to the gover-
nor and the legislature for any changes in any of these definitions that
the tax reform study commission deems appropriate. The commissioner of
taxation and finance and the director of the office of real property
services shall provide the tax reform study commission with such data
and analysis as it may require.

S 3. This act shall take effect immediately.