

228--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. MAZIARZ, BONACIC, DeFRANCISCO, FLANAGAN, GOLDEN, JOHNSON, LARKIN, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- 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:

1 Section 1. Subsection (c) of section 612 of the tax law is amended by
2 adding a new paragraph 3-d to read as follows:
3 (3-D) DISTRIBUTIONS RECEIVED BY AN INDIVIDUAL, NOT OTHERWISE EXCLUDED
4 PURSUANT TO PARAGRAPH THREE OR THREE-A OF THIS SUBSECTION, TO THE EXTENT
5 INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES, WHICH ARE
6 ATTRIBUTABLE TO PERSONAL SERVICES PERFORMED BY SUCH INDIVIDUAL FROM
7 EMPLOYMENT, WHICH ARISE (I) FROM AN EMPLOYER-EMPLOYEE RELATIONSHIP OR
8 (II) FROM CONTRIBUTIONS TO A RETIREMENT PLAN WHICH ARE DEDUCTIBLE FOR
9 FEDERAL INCOME TAX PURPOSES, TO THE EXTENT SUCH DISTRIBUTIONS ARE USED
10 DURING THE TAXABLE YEAR TO PURCHASE A POLICY OF LONG-TERM CARE INSUR-
11 ANCE, AS DEFINED IN SECTION ELEVEN HUNDRED SEVENTEEN OF THE INSURANCE
12 LAW, FOR SUCH INDIVIDUAL OR A DEPENDENT OF SUCH INDIVIDUAL. SUCH
13 DISTRIBUTIONS SHALL INCLUDE DISTRIBUTIONS FROM AN INDIVIDUAL RETIREMENT
14 ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY, AS DEFINED IN SECTION FOUR
15 HUNDRED EIGHT OF THE INTERNAL REVENUE CODE, AND DISTRIBUTIONS FROM
16 SELF-EMPLOYED INDIVIDUAL AND OWNER-EMPLOYEE RETIREMENT PLANS WHICH QUAL-
17 IFY 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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1 PROVIDED, HOWEVER, THAT ANY DISTRIBUTIONS EXCLUDED PURSUANT TO THIS
2 PARAGRAPH SHALL BE SUBTRACTED FROM THE TOTAL AMOUNT OF PREMIUMS PAID
3 WHEN COMPUTING THE AMOUNT OF ALLOWABLE CREDIT PURSUANT TO SUBSECTION
4 (AA) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE.

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

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

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

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