

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

1941

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. GALEF, PAULIN, CAHILL, GUNTHER, JAFFEE, LIFTON, RIVERA, ZEBROWSKI, SCHIMEL, KOLB, FINCH, GIGLIO, McDONOUGH -- Multi-Sponsored by -- M. of A. BARCLAY, CORWIN, DUPREY, GABRYSZAK, HAWLEY, JORDAN, RABBITT, RAIA, SALADINO, SCARBOROUGH, SWEENEY, THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the school district property tax credit and establishing the maximum residential real property, personal income tax credit

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

1 Section 1. Subparagraph (E) of paragraph 1 of subsection (e) of
2 section 606 of the tax law, as amended by chapter 105 of the laws of
3 2006, is amended to read as follows:
4 (E) "Qualifying real property taxes" means all real property taxes,
5 special ad valorem levies and special assessments, exclusive of penal-
6 ties and interest, levied on the residence of a qualified taxpayer and
7 paid during the taxable year [less the credit claimed under subsection
8 (n-1) of this section]. In addition, for taxable years beginning after
9 December thirty-first, nineteen hundred eighty-four, a qualified taxpay-
10 er may elect to include any additional amount that would have been
11 levied in the absence of an exemption from real property taxation pursu-
12 ant to section four hundred sixty-seven of the real property tax law. If
13 tenant-stockholders in a cooperative housing corporation have met the
14 requirements of section two hundred sixteen of the internal revenue code
15 by which they are allowed a deduction for real estate taxes, the amount
16 of taxes so allowable, or which would be allowable if the taxpayer had
17 filed returns on a cash basis, shall be qualifying real property taxes.
18 If a residence is owned by two or more individuals as joint tenants or
19 tenants in common, and one or more than one individual is not a member
20 of the household, qualifying real property taxes is that part of such

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

LBD01144-01-3

1 taxes on the residence which reflects the ownership percentage of the
2 qualified taxpayer and members of his household. If a residence is an
3 integral part of a larger unit, qualifying real property taxes shall be
4 limited to that amount of such taxes paid as may be reasonably appor-
5 tioned to such residence. If a household owns and occupies two or more
6 residences during different periods in the same taxable year, qualifying
7 real property taxes shall be the sum of the prorated qualifying real
8 property taxes attributable to the household during the periods such
9 household occupies each of such residences. If the household owns and
10 occupies a residence for part of the taxable year and rents a residence
11 for part of the same taxable year, it may include both the proration of
12 qualifying real property taxes on the residence owned and the real prop-
13 erty tax equivalent with respect to the months the residence is rented.
14 Provided, however, for purposes of the credit allowed under this
15 subsection, qualifying real property taxes may be included by a quali-
16 fied taxpayer only to the extent that such taxpayer or the spouse of
17 such taxpayer occupying such residence for six months or more of the
18 taxable year owns or has owned the residence and paid such taxes.

19 S 2. Section 606 of the tax law is amended by adding a new subsection
20 (vv) to read as follows:

21 (VV) MAXIMUM RESIDENTIAL REAL PROPERTY TAX CREDIT. (1) DEFINITIONS.
22 FOR THE PURPOSES OF THIS SUBSECTION:

23 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO
24 OWNS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES, AND HAS
25 RESIDED IN SUCH RESIDENTIAL REAL PROPERTY FOR NOT LESS THAN FIVE YEARS.

26 (B) "HOUSEHOLD" MEANS THE TAXPAYER OR TAXPAYERS AND ALL OTHER PERSONS,
27 NOT NECESSARILY RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY
28 OWNED BY THE TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILI-
29 TIES AND ACCOMMODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE
30 THAN ONE HOUSEHOLD AT ONE TIME.

31 (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME
32 OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR
33 FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED
34 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,
35 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE
36 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH
37 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-
38 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES
39 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY
40 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY
41 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;
42 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION
43 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS
44 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND
45 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-
46 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE
47 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR
48 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT
49 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
50 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
51 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
52 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
53 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE
54 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS
55 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN
56 PUBLIC LAW 103-286. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY

1 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE
2 MEMBERS OF SUCH HOUSEHOLD.

3 (D) "NET REAL PROPERTY TAX" MEANS THE REAL PROPERTY TAXES ASSESSED ON
4 THE RESIDENTIAL REAL PROPERTY OWNED AND OCCUPIED BY THE TAXPAYER OR
5 TAXPAYERS AFTER ANY EXEMPTION OR ABATEMENT RECEIVED PURSUANT TO THE REAL
6 PROPERTY TAX LAW.

7 (2) CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE
8 TAXES IMPOSED BY THIS ARTICLE, EQUAL TO SEVENTY PERCENT OF THE AMOUNT
9 WHICH THE TAXPAYER'S NET REAL PROPERTY TAX EXCEEDS THE TAXPAYER'S MAXI-
10 MUM REAL PROPERTY TAX, AS DETERMINED BY PARAGRAPH THREE OF THIS
11 SUBSECTION, PROVIDED, HOWEVER, SUCH CREDIT SHALL NOT EXCEED FIVE THOU-
12 SAND DOLLARS. IF SUCH CREDIT EXCEEDS THE TAX FOR SUCH TAXABLE YEAR, AS
13 REDUCED BY THE OTHER CREDITS PERMITTED BY THIS ARTICLE, THE QUALIFIED
14 TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF
15 THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, ANY
16 EXCESS BETWEEN SUCH TAX AS SO REDUCED AND THE AMOUNT OF THE CREDIT. IF A
17 QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION
18 SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED TAXPAYER MAY NEVER-
19 THELESS RECEIVE AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE
20 DEPARTMENT, SHALL PAY AS AN OVERPAYMENT THE FULL AMOUNT OF THE CREDIT,
21 WITHOUT INTEREST.

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

24 (I) IN THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK,
25 ROCKLAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS:

26	HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
27	ONE HUNDRED TWENTY THOUSAND	SIX PERCENT OF THE
28	DOLLARS OR LESS	HOUSEHOLD GROSS INCOME
29	MORE THAN ONE HUNDRED	SEVEN PERCENT OF
30	TWENTY THOUSAND	THE HOUSEHOLD
31	DOLLARS, BUT	GROSS INCOME
32	LESS THAN OR EQUAL TO	
33	ONE HUNDRED SEVENTY-FIVE	
34	THOUSAND DOLLARS	
35	MORE THAN ONE HUNDRED	EIGHT PERCENT OF
36	SEVENTY-FIVE THOUSAND	THE HOUSEHOLD
37	DOLLARS, BUT LESS THAN	GROSS INCOME
38	OR EQUAL TO TWO HUNDRED	
39	FIFTY THOUSAND DOLLARS	

40	MORE THAN TWO HUNDRED	NO LIMITATION.
41	FIFTY THOUSAND	
42	DOLLARS	

43 (II) IN ALL OTHER COUNTIES IN THE STATE:

44	HOUSEHOLD GROSS	MAXIMUM REAL
45	INCOME	PROPERTY TAX
46	NINETY THOUSAND	SIX PERCENT OF THE
47	DOLLARS OR LESS	HOUSEHOLD GROSS INCOME
48	MORE THAN NINETY	SEVEN PERCENT OF

1 THOUSAND DOLLARS, BUT THE HOUSEHOLD
2 LESS THAN OR EQUAL TO GROSS INCOME
3 ONE HUNDRED FIFTY
4 THOUSAND DOLLARS

5 MORE THAN ONE HUNDRED EIGHT PERCENT OF
6 FIFTY THOUSAND DOLLARS, THE HOUSEHOLD
7 BUT LESS THAN OR EQUAL GROSS INCOME
8 TO TWO HUNDRED FIFTY THOUSAND
9 DOLLARS

10 MORE THAN TWO HUNDRED FIFTY NO LIMITATION.
11 THOUSAND DOLLARS

12 (B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME FOR ELIGIBILITY FOR THE
13 MAXIMUM REAL PROPERTY TAX CREDIT, ESTABLISHED BY SUBPARAGRAPH (A) OF
14 THIS PARAGRAPH, SHALL BE INDEXED FOR INFLATION.

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

19 S 3. This act shall take effect on the first of January next succeed-
20 ing the date on which it shall have become a law, and shall apply to
21 taxable years commencing on or after such date.