

6764--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 18, 2013

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Introduced by M. of A. FARRELL -- 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 a credit against personal income taxes imposed by certain cities for certain household and dependent care services necessary for gainful employment

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

1     Section 1. Section 1310 of the tax law is amended by adding a new  
2     subsection (g) to read as follows:  
3     (G) CREDIT FOR CERTAIN HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY  
4     FOR GAINFUL EMPLOYMENT. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW  
5     TO THE CONTRARY, ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE,  
6     ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS AUTHORIZED AND EMPOWERED  
7     TO ADOPT AND AMEND LOCAL LAWS GRANTING IN SUCH CITY, ON OR AFTER TAXABLE  
8     YEARS BEGINNING JANUARY FIRST, TWO THOUSAND THIRTEEN, A CREDIT AGAINST  
9     THE CITY PERSONAL INCOME TAX EQUAL TO THE APPLICABLE PERCENTAGE OF THE  
10    CREDIT ALLOWED UNDER PARAGRAPH TWO OF SUBSECTION (A) OF SECTION TWENTY-  
11    ONE OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO WHETHER THE TAXPAYER  
12    IN FACT CLAIMED THE CREDIT UNDER SUCH SECTION TWENTY-ONE FOR THE TAXABLE  
13    YEAR), TO A TAXPAYER WHO CLAIMED A CREDIT PURSUANT TO SUBSECTION (C) OF  
14    SECTION SIX HUNDRED SIX OF THIS CHAPTER FOR THE SAME TAXABLE YEAR, WITH  
15    RESPECT TO QUALIFYING INDIVIDUALS AS DEFINED IN PARAGRAPH ONE OF  
16    SUBSECTION (B) OF SECTION TWENTY-ONE OF THE INTERNAL REVENUE CODE (WITH-  
17    OUT REGARD TO WHETHER THE TAXPAYER IN FACT CLAIMED THE CREDIT UNDER SUCH  
18    SECTION TWENTY-ONE FOR THE TAXABLE YEAR) WHO ARE DEPENDENTS OF THE  
19    TAXPAYER, AND WHO HAVE NOT ATTAINED THE AGE OF FOUR. THE APPLICABLE  
20    PERCENTAGE SHALL BE DETERMINED AS FOLLOWS:  
21    (A) IF HOUSEHOLD GROSS INCOME AS DEFINED IN SUBPARAGRAPH (A) OF PARA-  
22    GRAPH THREE OF SUBDIVISION (B) OF SECTION 11-1706 OF THE ADMINISTRATIVE

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

LBD10246-02-3

1 CODE OF THE CITY OF NEW YORK IS FORTY-FIVE THOUSAND DOLLARS OR LESS, THE  
2 APPLICABLE PERCENTAGE SHALL BE NINETY PERCENT.

3 (B) IF SUCH HOUSEHOLD GROSS INCOME IS GREATER THAN FORTY-FIVE THOUSAND  
4 DOLLARS BUT NOT GREATER THAN SIXTY THOUSAND DOLLARS, THE APPLICABLE  
5 PERCENTAGE SHALL BE FIFTY PERCENT PLUS THE PRODUCT OF FORTY PERCENT  
6 MULTIPLIED BY ONE MINUS A FRACTION, THE NUMERATOR OF WHICH IS SUCH  
7 HOUSEHOLD GROSS INCOME LESS FORTY-FIVE THOUSAND DOLLARS AND THE DENOMI-  
8 NATOR OF WHICH IS FIFTEEN THOUSAND DOLLARS.

9 (C) IF SUCH HOUSEHOLD GROSS INCOME IS GREATER THAN SIXTY THOUSAND  
10 DOLLARS BUT NOT GREATER THAN ONE HUNDRED FIFTY THOUSAND DOLLARS, THE  
11 APPLICABLE PERCENTAGE SHALL BE FIFTY PERCENT.

12 (D) IF SUCH HOUSEHOLD GROSS INCOME IS GREATER THAN ONE HUNDRED FIFTY  
13 THOUSAND DOLLARS BUT NOT GREATER THAN ONE HUNDRED SEVENTY-FIVE THOUSAND  
14 DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE FIFTY PERCENT MULTIPLIED BY  
15 ONE MINUS A FRACTION, THE NUMERATOR OF WHICH IS SUCH HOUSEHOLD GROSS  
16 INCOME LESS ONE HUNDRED FIFTY THOUSAND DOLLARS AND THE DENOMINATOR OF  
17 WHICH IS TWENTY-FIVE THOUSAND DOLLARS.

18 (E) IF SUCH HOUSEHOLD GROSS INCOME IS GREATER THAN ONE HUNDRED SEVEN-  
19 TY-FIVE THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE ZERO.

20 (2) THE CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED AGAINST THE  
21 TAXES IMPOSED BY THIS ARTICLE REDUCED BY THE CREDITS PERMITTED BY THIS  
22 ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO REDUCED, THE TAXPAYER MAY  
23 RECEIVE, AND THE STATE COMPTROLLER, SUBJECT TO THE CERTIFICATE OF THE  
24 COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE AMOUNT  
25 OF SUCH EXCESS, PROVIDED, HOWEVER, IN THE CASE OF A TAXPAYER WHO IS A  
26 PART-YEAR RESIDENT OF THE CITY ANY SUCH OVERPAYMENT UNDER THIS PARAGRAPH  
27 SHALL BE LIMITED TO THE AMOUNT OF SUCH EXCESS MULTIPLIED BY A FRACTION,  
28 THE NUMERATOR OF WHICH IS FEDERAL ADJUSTED GROSS INCOME FOR THE PERIOD  
29 OF RESIDENCE, COMPUTED AS IF THE TAXABLE YEAR FOR FEDERAL INCOME TAX  
30 PURPOSES WERE LIMITED TO THE PERIOD OF RESIDENCE, AND THE DENOMINATOR OF  
31 WHICH IS FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR.

32 (3) IN THE CASE OF A MARRIED COUPLE WHO FILED A JOINT FEDERAL RETURN,  
33 BUT WHO ARE REQUIRED TO DETERMINE THEIR CITY TAXES SEPARATELY, THE CRED-  
34 IT ALLOWED PURSUANT TO THIS SUBSECTION MAY ONLY BE APPLIED AGAINST THE  
35 TAX IMPOSED ON THE SPOUSE WITH THE LOWER TAXABLE INCOME, COMPUTED WITH-  
36 OUT REGARD TO SUCH CREDIT, PROVIDED, HOWEVER, IF THE SPOUSE WITH THE  
37 LOWER TAXABLE INCOME IS A NONRESIDENT OF SUCH CITY, NO CREDIT SHALL BE  
38 ALLOWED UNDER THIS SUBSECTION. IN THE CASE OF A MARRIED COUPLE WHO ARE  
39 NOT REQUIRED TO FILE A FEDERAL RETURN, THE CREDIT UNDER THIS SUBSECTION  
40 SHALL BE ALLOWED ONLY IF SUCH TAXPAYERS FILE A JOINT CITY INCOME TAX  
41 RETURN.

42 (4) ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBSECTION MAY PROVIDE FOR  
43 A CREDIT AS AUTHORIZED BY THIS SUBSECTION FOR A MAXIMUM OF THREE AND  
44 ONE-HALF CONSECUTIVE CALENDAR YEARS; PROVIDED, HOWEVER, THAT ANY SUCH  
45 CREDIT MAY NOT APPLY BEFORE JULY FIRST, TWO THOUSAND THIRTEEN OR AFTER  
46 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVEN-  
47 TEEN; PROVIDED FURTHER, HOWEVER, THAT ANY CREDIT PERMITTED BY THIS  
48 SUBSECTION TO A TAXPAYER IN THE TAXABLE YEAR BEGINNING ON JANUARY FIRST,  
49 TWO THOUSAND THIRTEEN, SHALL BE PRORATED ON THE BASIS OF THE NUMBER OF  
50 DAYS REMAINING IN THE CALENDAR YEAR OF SUCH TAXABLE YEAR.

51 S 2. This act shall take effect immediately.