

1066

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MAZIARZ, BONACIC, DeFRANCISCO, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

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

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

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

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

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