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

4548--A

2013-2014 Regular Sessions

I N S E N A T E

April 10, 2013

Introduced by Sen. FELDER -- 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 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:

Section 1. Section 1310 of the tax law is amended by adding a new subsection (g) to read as follows:

(G) CREDIT FOR CERTAIN HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS GRANTING IN SUCH CITY, ON OR AFTER TAXABLE YEARS BEGINNING JANUARY FIRST, TWO THOUSAND FOURTEEN, A CREDIT AGAINST THE CITY PERSONAL INCOME TAX EQUAL TO THE APPLICABLE PERCENTAGE OF THE CREDIT ALLOWED UNDER PARAGRAPH TWO OF SUBSECTION (A) OF SECTION TWENTY-ONE OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO WHETHER THE TAXPAYER IN FACT CLAIMED THE CREDIT UNDER SUCH SECTION TWENTY-ONE FOR THE TAXABLE YEAR), TO A TAXPAYER WHO CLAIMED A CREDIT PURSUANT TO SUBSECTION (C) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER FOR THE SAME TAXABLE YEAR, WITH RESPECT TO QUALIFYING INDIVIDUALS AS DEFINED IN PARAGRAPH ONE OF SUBSECTION (B) OF SECTION TWENTY-ONE OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO WHETHER THE TAXPAYER IN FACT CLAIMED THE CREDIT UNDER SUCH SECTION TWENTY-ONE FOR THE TAXABLE YEAR) WHO ARE DEPENDENTS OF THE TAXPAYER, AND WHO HAVE NOT ATTAINED THE AGE OF FOUR. THE APPLICABLE PERCENTAGE SHALL BE DETERMINED AS FOLLOWS:

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

LBD10176-02-4

(A) IF HOUSEHOLD GROSS INCOME AS DEFINED IN SUBPARAGRAPH (A) OF PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION 11-1706 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK IS FORTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL BE NINETY PERCENT.

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

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

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

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

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

(3) IN THE CASE OF A MARRIED COUPLE WHO FILED A JOINT FEDERAL RETURN, BUT WHO ARE REQUIRED TO DETERMINE THEIR CITY TAXES SEPARATELY, THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION MAY ONLY BE APPLIED AGAINST THE TAX IMPOSED ON THE SPOUSE WITH THE LOWER TAXABLE INCOME, COMPUTED WITHOUT REGARD TO SUCH CREDIT, PROVIDED, HOWEVER, IF THE SPOUSE WITH THE LOWER TAXABLE INCOME IS A NONRESIDENT OF SUCH CITY, NO CREDIT SHALL BE ALLOWED UNDER THIS SUBSECTION. IN THE CASE OF A MARRIED COUPLE WHO ARE NOT REQUIRED TO FILE A FEDERAL RETURN, THE CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED ONLY IF SUCH TAXPAYERS FILE A JOINT CITY INCOME TAX RETURN.

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

S 2. This act shall take effect immediately.