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

6318

2015-2016 Regular Sessions

I N A S S E M B L Y

March 20, 2015

Introduced by M. of A. SILVER, BICHOTTE, LENTOL, SIMANOWITZ, WEPRIN, ORTIZ, BROOK-KRASNY -- Multi-Sponsored by -- M. of A. ARROYO, BENEDETTO, BRAUNSTEIN, BRINDISI, COLTON, COOK, CRESPO, CYMBROWITZ, DenDEKKER, GJONAJ, GOLDFEDER, HEVESI, MARKEY, McDONALD, MILLER, MOSLEY, PEOPLES-STOKES, PERRY, PRETLOW, RIVERA, ROBINSON, RODRIGUEZ, RUSSELL, SKARTADOS, TITUS, WEINSTEIN, WRIGHT -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to creating the primary or secondary education tuition credit

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

Section 1. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) PRIMARY OR SECONDARY EDUCATION TUITION CREDIT. (1) GENERAL. A RESIDENT TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN PARAGRAPH FOUR OF THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR ALLOWABLE PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES.

(2) ALLOWABLE AND QUALIFIED PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES. FOR THE PURPOSES OF THIS CREDIT:

(A) THE TERM "ALLOWABLE PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES" SHALL MEAN THE AMOUNT OF QUALIFIED PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES OF ELIGIBLE STUDENTS PAID BY THE TAXPAYER DURING THE TAXABLE YEAR, IN EXCESS OF ONE THOUSAND DOLLARS BUT NO MORE THAN FIVE THOUSAND DOLLARS;

(B) THE TERM "ELIGIBLE STUDENT" SHALL MEAN ANY DEPENDENT OF THE TAXPAYER WITH RESPECT TO WHOM THE TAXPAYER IS ALLOWED AN EXEMPTION UNDER SECTION SIX HUNDRED SIXTEEN OF THIS ARTICLE FOR THE TAXABLE YEAR;

(C) THE TERM "QUALIFIED PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES" SHALL MEAN THE TUITION REQUIRED FOR THE ENROLLMENT OR ATTENDANCE OF AN ELIGIBLE STUDENT AT AN INSTITUTION OF PRIMARY OR SECONDARY EDUCATION, INCLUDING TUTORING IN CONNECTION WITH SUCH COURSE OF STUDY AT

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

LBD09898-03-5

SUCH INSTITUTION. IN ADDITION, SUCH EXPENSE SHALL INCLUDE NURSERY AND KINDERGARTEN TUITION. PROVIDED, HOWEVER, TUITION PAYMENTS MADE PURSUANT TO THE RECEIPT OF ANY SCHOLARSHIPS OR FINANCIAL AID SHALL BE EXCLUDED FROM THE DEFINITION OF "QUALIFIED PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES".

(D) EXPENSES PAID BY DEPENDENT. IF AN EXEMPTION UNDER SECTION SIX HUNDRED SIXTEEN OF THIS ARTICLE WITH RESPECT TO AN INDIVIDUAL IS ALLOWED TO ANOTHER TAXPAYER FOR A TAXABLE YEAR BEGINNING IN THE CALENDAR YEAR IN WHICH SUCH INDIVIDUAL'S TAXABLE YEAR BEGINS,

(I) NO CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED TO SUCH INDIVIDUAL FOR SUCH INDIVIDUAL'S TAXABLE YEAR, AND

(II) FOR PURPOSES OF SUCH CREDIT QUALIFIED PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES PAID BY SUCH INDIVIDUAL DURING SUCH INDIVIDUAL'S TAXABLE YEAR SHALL BE TREATED AS PAID BY SUCH OTHER TAXPAYER.

(3) INSTITUTION OF PRIMARY OR SECONDARY EDUCATION. FOR THE PURPOSES OF THIS CREDIT, THE TERM "INSTITUTION OF PRIMARY OR SECONDARY EDUCATION" SHALL MEAN ANY NOT-FOR-PROFIT ELEMENTARY OR SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL LOCATED IN THIS STATE, INCLUDING ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE CONSTITUTION.

(4) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO TWELVE AND ONE-HALF PERCENT OF ALLOWABLE PRIMARY OR SECONDARY EDUCATION EXPENSES PER ELIGIBLE STUDENT.

(5) REFUNDABILITY. THE CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED AGAINST THE TAXES IMPOSED BY THIS ARTICLE FOR THE TAXABLE YEAR REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO REDUCED, THE TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE AMOUNT OF SUCH EXCESS.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2015, provided, however, allowable primary or secondary tuition expenses incurred and paid on or after July 1, 2015, shall be eligible for the primary or secondary education tuition credit for taxable year 2015.