

6458--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

March 25, 2015

---

Introduced by M. of A. ENGLEBRIGHT, CAHILL, GUNTHER, GALEF, JAFFEE, ROSENTHAL, COLTON, COOK, SCHIMEL, HOOPER, SKARTADOS -- Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, DUPREY, GIGLIO, LUPARDO, MAGEE, PERRY, RAI, TENNEY, THIELE -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to creating the middle class circuit breaker tax credit and creating a tax reform study commission

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

1     Section 1. Section 606 of the tax law is amended by adding a new  
2     subsection (ccc) to read as follows:  
3     (CCC) MIDDLE CLASS CIRCUIT BREAKER CREDIT. (1) DEFINITIONS. FOR THE  
4     PURPOSES OF THIS SUBSECTION:  
5     (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO  
6     OWNS OR RENTS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES,  
7     AND HAS RESIDED IN SUCH RESIDENTIAL REAL PROPERTY FOR NOT LESS THAN FIVE  
8     YEARS.  
9     (B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED  
10    TAXPAYER OR QUALIFIED TAXPAYERS AND ALL OTHER PERSONS, NOT NECESSARILY  
11    RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY OWNED BY THE  
12    TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOM-  
13    MODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE THAN ONE  
14    HOUSEHOLD AT ONE TIME.  
15    (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME  
16    OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR  
17    FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED  
18    GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,  
19    WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE

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

LBD05460-03-6

1 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH  
2 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-  
3 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES  
4 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY  
5 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY  
6 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;  
7 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION  
8 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS  
9 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND  
10 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-  
11 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE  
12 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR  
13 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT  
14 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-  
15 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF  
16 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE  
17 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS  
18 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE  
19 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS  
20 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN  
21 PUBLIC LAW 103-286 OR ANY DISABILITY COMPENSATION RECEIVED BY VETERANS  
22 ON ACCOUNT OF INJURY OR ILLNESS INCURRED OR AGGRAVATED DURING MILITARY  
23 SERVICE IN THE WARS IN AFGHANISTAN AND IRAQ SINCE SEPTEMBER ELEVENTH,  
24 TWO THOUSAND ONE. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY  
25 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE  
26 MEMBERS OF SUCH HOUSEHOLD.

27 (D) "ADJUSTED RENT" MEANS RENT PAID FOR THE RIGHT OF OCCUPANCY OF A  
28 RESIDENCE.

29 (E) "REAL PROPERTY TAX EQUIVALENT" MEANS (1) FOR TAXABLE YEARS BEGIN-  
30 NING IN TWO THOUSAND SEVENTEEN, FIFTEEN PERCENT OF THE ADJUSTED RENT  
31 ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE RIGHT OF  
32 OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF (I) A RESI-  
33 DENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDIV-  
34 IDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY  
35 OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A MEMBER OF A  
36 DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESI-  
37 DENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF FIFTEEN PERCENT  
38 OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT  
39 PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE  
40 MEMBERS OF HIS OR HER HOUSEHOLD; AND (2) FOR TAXABLE YEARS BEGINNING IN  
41 TWO THOUSAND NINETEEN AND THEREAFTER, TWENTY PERCENT OF THE ADJUSTED  
42 RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE  
43 RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF  
44 (I) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR  
45 SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF  
46 OCCUPANCY OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A  
47 MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES  
48 SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF TWENTY  
49 PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS  
50 THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE  
51 MEMBERS OF HIS OR HER HOUSEHOLD.

52 (F) "NET REAL PROPERTY TAX" MEANS THE REAL PROPERTY TAXES ASSESSED ON  
53 THE RESIDENTIAL REAL PROPERTY OWNED AND OCCUPIED BY THE TAXPAYER OR  
54 TAXPAYERS AFTER ANY EXEMPTION OR ABATEMENT RECEIVED PURSUANT TO THE REAL  
55 PROPERTY TAX LAW.

1 (2) CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE  
2 TAXES IMPOSED BY THIS ARTICLE, EQUAL TO SEVENTY PERCENT OF THE AMOUNT BY  
3 WHICH THE TAXPAYER'S NET REAL PROPERTY TAX OR THE TAXPAYER'S REAL PROP-  
4 erty TAX EQUIVALENT EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS  
5 DETERMINED BY PARAGRAPH THREE OF THIS SUBSECTION. IF SUCH CREDIT EXCEEDS  
6 THE TAX FOR SUCH TAXABLE YEAR, AS REDUCED BY THE OTHER CREDITS PERMITTED  
7 BY THIS ARTICLE, THE QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMP-  
8 TROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN  
9 OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED  
10 AND THE AMOUNT OF THE CREDIT. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO  
11 FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE,  
12 A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE AND THE COMPTROLLER,  
13 SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT  
14 THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST.

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

17 (I) FOR TAX YEARS BEGINNING IN TWO THOUSAND SEVENTEEN:  
18 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX  
19 ONE HUNDRED THOUSAND NINE PERCENT OF THE  
20 DOLLARS OR LESS HOUSEHOLD GROSS INCOME  
21 MORE THAN ONE HUNDRED NO LIMITATION.  
22 THOUSAND DOLLARS

23 (II) FOR TAX YEARS BEGINNING IN TWO THOUSAND EIGHTEEN:  
24 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX  
25 ONE HUNDRED THOUSAND EIGHT AND ONE-HALF PERCENT OF THE  
26 DOLLARS OR LESS HOUSEHOLD GROSS INCOME  
27 MORE THAN ONE HUNDRED NO LIMITATION.  
28 THOUSAND DOLLARS

29 (III) FOR TAX YEARS BEGINNING IN TWO THOUSAND NINETEEN:  
30 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX  
31 ONE HUNDRED THOUSAND DOLLARS SEVEN AND ONE-HALF PERCENT OF  
32 OR LESS HOUSEHOLD GROSS INCOME  
33 MORE THAN ONE HUNDRED THOUSAND SEVEN AND ONE-HALF PERCENT OF  
34 DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED THOUSAND DOLLARS  
35 ONE HUNDRED FIFTY THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF  
36 HOUSEHOLD GROSS INCOME ABOVE  
37 ONE HUNDRED THOUSAND DOLLARS  
38 MORE THAN ONE HUNDRED FIFTY NO LIMITATION.  
39 THOUSAND DOLLARS

40 (IV) FOR TAX YEARS BEGINNING IN TWO THOUSAND TWENTY AND THEREAFTER:  
41 HOUSEHOLD GROSS INCOME MAXIMUM REAL PROPERTY TAX  
42 ONE HUNDRED THOUSAND SIX PERCENT OF HOUSEHOLD GROSS  
43 DOLLARS OR LESS INCOME  
44 MORE THAN ONE HUNDRED THOUSAND SIX PERCENT OF ONE HUNDRED  
45 DOLLARS, BUT LESS THAN OR EQUAL TO THOUSAND DOLLARS PLUS SEVEN  
46 ONE HUNDRED FIFTY THOUSAND DOLLARS PERCENT OF HOUSEHOLD GROSS INCOME  
47 ABOVE ONE HUNDRED THOUSAND DOLLARS  
48 MORE THAN ONE HUNDRED FIFTY SIX PERCENT OF ONE HUNDRED THOUSAND  
49 THOUSAND DOLLARS, BUT LESS THAN DOLLARS PLUS SEVEN  
50 OR EQUAL TO TWO HUNDRED FIFTY PERCENT OF FIFTY THOUSAND DOLLARS  
51 THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF  
52 HOUSEHOLD GROSS INCOME ABOVE ONE

1 HUNDRED FIFTY THOUSAND DOLLARS  
2 MORE THAN TWO HUNDRED FIFTY NO LIMITATION.  
3 THOUSAND DOLLARS

4 (B) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME ESTABLISHED BY CLAUSE  
5 (IV) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE INDEXED FOR  
6 INFLATION FOR TAX YEARS BEGINNING IN TWO THOUSAND TWENTY-ONE AND THERE-  
7 AFTER.

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

12 S 2. There is hereby established a tax reform study commission to  
13 provide the governor and the legislature with a long run plan for  
14 reforming the state and local tax systems. The tax reform study commis-  
15 sion shall consist of five members appointed by the governor, four  
16 members each appointed by the speaker of the assembly and the temporary  
17 president of the senate, and one member each appointed by the minority  
18 leader of the senate and the minority leader of the assembly. In addi-  
19 tion, on or before January 1, 2019, the tax reform study commission  
20 shall provide the governor and the legislature with recommendations on  
21 any changes that should be made in the definitions of income used in the  
22 various property tax relief programs authorized by the laws of the state  
23 of New York. Such recommendations shall be based on an examination of  
24 such laws and of such laws in other states. In preparing such recommen-  
25 dations, the tax reform study commission shall review the distributional  
26 impact of the items of income included in the definition of household  
27 income for purposes of the circuit breaker and other property tax relief  
28 programs established by state law and make recommendations to the gover-  
29 nor and the legislature for any changes in any of these definitions that  
30 the tax reform study commission deems appropriate. The commissioner of  
31 taxation and finance and the director of the office of real property  
32 services shall provide the tax reform study commission with such data  
33 and analysis as it may require.

34 S 3. This act shall take effect immediately.