

2692

2015-2016 Regular Sessions

I N S E N A T E

January 28, 2015

Introduced by Sen. GOLDEN -- 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 establishing the "caregiver's assistance act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "caregiver's assistance act".

3 S 2. Section 606 of the tax law is amended by adding a new subsection
4 (ccc) to read as follows:

5 (CCC) ELDER CARE CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT
6 AGAINST THE TAX IMPOSED UNDER SECTION SIX HUNDRED ONE OF THIS PART IN AN
7 AMOUNT EQUAL TO TWENTY PERCENT OF QUALIFIED CARE EXPENSES PAID BY THE
8 TAXPAYER FOR THE CARE OF A QUALIFYING SENIOR FAMILY MEMBER OR FIVE
9 HUNDRED FIFTY-FIVE DOLLARS, WHICHEVER IS LESS. IF THE CREDIT OR CREDITS
10 PROVIDED PURSUANT TO THIS SECTION SHALL EXCEED THE TAXPAYER'S TAX FOR
11 SUCH TAXABLE YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX
12 TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION
13 SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO
14 INTEREST SHALL BE PAID THEREON. NO CREDIT SHALL BE GRANTED UNDER THIS
15 SUBSECTION IF (I) THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME IS
16 GREATER THAN FORTY-FIVE THOUSAND DOLLARS FOR A SINGLE TAXPAYER OR SIXTY
17 THOUSAND DOLLARS FOR MARRIED TAXPAYERS, OR (II) IF THE TAXPAYER HAS
18 CLAIMED THE CREDIT FOR CERTAIN HOUSEHOLD AND DEPENDENT CARE SERVICES
19 AUTHORIZED IN THIS SECTION FOR QUALIFIED CARE EXPENSES PAID FOR THE CARE
20 OF A QUALIFYING SENIOR FAMILY MEMBER.

21 (2) AS USED IN THIS SUBSECTION:

22 (A) "TAXPAYER" IS A RESIDENT INDIVIDUAL OF THIS STATE, BUT THE TERM
23 DOES NOT INCLUDE A NONRESIDENT TAXPAYER OR A PART-YEAR RESIDENT TAXPAY-
24 ER.

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

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1 (B) "QUALIFYING SENIOR FAMILY MEMBER" IS A RELATIVE OF THE TAXPAYER
2 WITHIN THE THIRD DEGREE OF CONSANGUINITY WHO RESIDES WITH THE TAXPAYER
3 AND WHO IS AT LEAST SIXTY YEARS OF AGE ON OR BEFORE DECEMBER
4 THIRTY-FIRST OF THE YEAR FOR WHICH CREDIT IS CLAIMED AND WHOSE NEW YORK
5 ADJUSTED GROSS INCOME IS THIRTEEN THOUSAND DOLLARS OR LESS FOR A SINGLE
6 FAMILY MEMBER OR TWENTY THOUSAND DOLLARS OR LESS FOR A SENIOR FAMILY
7 MEMBER AND HIS OR HER SPOUSE. A QUALIFYING SENIOR FAMILY MEMBER INCLUDES
8 A PERSON WHO OTHERWISE MEETS THE QUALIFICATIONS SPECIFIED IN THE PRECED-
9 ING SENTENCE BUT WHO OCCUPIES A SEPARATE ROOM OR ROOMS IN OR AT THE
10 RESIDENCE OF THE TAXPAYER, SUCH AS THOSE COMMONLY REFERRED TO AS MOTH-
11 ER-IN-LAW APARTMENTS, BUT SHALL NOT INCLUDE A TENANT, SUBTENANT, ROOMER
12 OR BOARDER WHO PAYS A LEASE OR RENTAL FEE TO THE TAXPAYER FOR THE SPACE.

13 (C) "QUALIFIED CARE EXPENSES" ARE PAYMENTS MADE BY THE TAXPAYER FOR
14 GOODS AND SERVICES NECESSARY TO ALLOW THE QUALIFYING SENIOR FAMILY
15 MEMBER TO BE MAINTAINED IN THE TAXPAYER'S RESIDENCE WHICH GOODS AND
16 SERVICES ARE: (I) PROVIDED TO OR FOR THE BENEFIT OF THE QUALIFYING
17 SENIOR FAMILY MEMBER OR TO ASSIST THE TAXPAYER IN CARING FOR THE QUALI-
18 FYING SENIOR FAMILY MEMBER; OR PROVIDED BY AN ORGANIZATION OR AN INDIV-
19 VIDUAL NOT RELATED TO THE TAXPAYER OR THE QUALIFYING SENIOR FAMILY
20 MEMBER; AND (II) NOT COMPENSATED FOR BY INSURANCE OR FEDERAL OR STATE
21 PROGRAMS. SUCH EXPENSES INCLUDE, BUT ARE NOT LIMITED TO, HOME HEALTH
22 AGENCY SERVICES, ADULT DAY CARE, COMPANIONSHIP SERVICES, PERSONAL CARE
23 ATTENDANT SERVICES, HOMEMAKER SERVICES, RESPITE CARE, HEALTH CARE EQUIP-
24 MENT AND SUPPLIES, HOME MODIFICATION, OR ANY SERVICES NECESSARY TO
25 PROVIDE HELP IN TWO OR MORE ACTIVITIES IN DAILY LIVING, OR FOR THE
26 PROVISION OF ASSISTIVE DEVICES.

27 (3) WHEN TWO OR MORE MEMBERS OF A HOUSEHOLD MEET THE QUALIFICATIONS
28 FOR A CREDIT OR CREDITS PURSUANT TO THIS SUBSECTION, THE CREDIT OR CRED-
29 ITS SHALL BE EQUALLY DIVIDED BETWEEN OR AMONG SUCH INDIVIDUALS UNLESS
30 SUCH INDIVIDUALS FILE WITH THE COMMISSIONER A WRITTEN AGREEMENT SETTING
31 FORTH A DIFFERENT DIVISION. WHERE A JOINT INCOME TAX RETURN HAS BEEN
32 FILED PURSUANT TO THIS CHAPTER BY A TAXPAYER AND HIS OR HER SPOUSE (OR
33 WHERE BOTH SPOUSES ARE TAXPAYERS AND HAVE FILED SUCH JOINT RETURN), WHO
34 QUALIFY FOR SUCH CREDIT OR CREDITS, THE CREDIT OR CREDITS, OR THE
35 PORTION THEREOF IF DIVIDED, TO WHICH THE HUSBAND AND WIFE ARE ENTITLED
36 SHALL BE APPLIED AGAINST THE TAX OF BOTH SPOUSES AND ANY OVERPAYMENT
37 SHALL BE MADE TO BOTH SPOUSES. WHERE ANY RETURN REQUIRED TO BE FILED
38 PURSUANT TO THIS CHAPTER IS COMBINED WITH ANY RETURN OF TAX IMPOSED
39 PURSUANT TO THE AUTHORITY OF THIS CHAPTER OR ANY OTHER LAW IF SUCH TAX
40 IS ADMINISTERED BY THE COMMISSIONER, THE CREDIT OR CREDITS OR THE
41 PORTION THEREOF IF DIVIDED, ALLOWED TO THE TAXPAYER MAY BE APPLIED BY
42 THE COMMISSIONER TOWARD ANY LIABILITY FOR THE AFOREMENTIONED TAXES.

43 (4) NO CREDIT OR CREDITS OR PORTION THEREOF SHALL BE GRANTED UNDER
44 THIS SUBSECTION WITH RESPECT TO CARE PROVIDED IN A RESIDENCE THAT IS
45 WHOLLY EXEMPTED FROM REAL PROPERTY TAXATION OR TO AN INDIVIDUAL WHO IS
46 NOT A RESIDENT INDIVIDUAL OF THE STATE FOR THE ENTIRE TAXABLE YEAR.

47 (5) THE COMMISSIONER MAY REQUIRE A TAXPAYER TO FURNISH AS SUPPORT OF
48 HIS OR HER CLAIM FOR CREDIT UNDER THIS SUBSECTION RECEIPTS FOR QUALIFIED
49 CARE EXPENSES OR OTHER SUCH PROOFS OF PAYMENT AS SHALL SATISFY THE
50 COMMISSIONER.

51 S 3. This act shall take effect on the first of January next succeed-
52 ing the date on which it shall have become a law.