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

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, RAIA, 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:

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

(CCC) MIDDLE CLASS CIRCUIT BREAKER CREDIT. (1) DEFINITIONS. FOR THE PURPOSES OF THIS SUBSECTION:

(A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO OWNS OR RENTS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES, AND HAS RESIDED IN SUCH RESIDENTIAL REAL PROPERTY FOR NOT LESS THAN FIVE YEARS.

(B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED TAXPAYER OR QUALIFIED TAXPAYERS AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO ALL RESIDE IN THE RESIDENTIAL REAL PROPERTY OWNED BY THE TAXPAYER OR TAXPAYERS, AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS; PROVIDED THAT NO PERSON MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

(C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED, 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

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

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

(E) "REAL PROPERTY TAX EQUIVALENT" MEANS (1) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, FIFTEEN PERCENT OF THE ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF (I) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF FIFTEEN PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE MEMBERS OF HIS OR HER HOUSEHOLD; AND (2) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINETEEN AND THEREAFTER, TWENTY PERCENT OF THE ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF (I) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF TWENTY PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE MEMBERS OF HIS OR HER HOUSEHOLD.

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

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

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

(I) FOR TAX YEARS BEGINNING IN TWO THOUSAND SEVENTEEN:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	NINE PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS	NO LIMITATION.

(II) FOR TAX YEARS BEGINNING IN TWO THOUSAND EIGHTEEN:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	EIGHT AND ONE-HALF PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS	NO LIMITATION.

(III) FOR TAX YEARS BEGINNING IN TWO THOUSAND NINETEEN:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	SEVEN AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS	SEVEN AND ONE-HALF PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED THOUSAND DOLLARS
MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

(IV) FOR TAX YEARS BEGINNING IN TWO THOUSAND TWENTY AND THEREAFTER:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	SIX PERCENT OF HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS	SIX PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS SEVEN PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE HUNDRED THOUSAND DOLLARS
MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS	SIX PERCENT OF ONE HUNDRED THOUSAND DOLLARS PLUS SEVEN PERCENT OF FIFTY THOUSAND DOLLARS PLUS EIGHT AND ONE-HALF PERCENT OF HOUSEHOLD GROSS INCOME ABOVE ONE

	HUNDRED FIFTY THOUSAND DOLLARS
MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS	NO LIMITATION.

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

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

S 2. There is hereby established a tax reform study commission to provide the governor and the legislature with a long run plan for reforming the state and local tax systems. The tax reform study commission shall consist of five members appointed by the governor, four members each appointed by the speaker of the assembly and the temporary president of the senate, and one member each appointed by the minority leader of the senate and the minority leader of the assembly. In addition, on or before January 1, 2019, the tax reform study commission shall provide the governor and the legislature with recommendations on any changes that should be made in the definitions of income used in the various property tax relief programs authorized by the laws of the state of New York. Such recommendations shall be based on an examination of such laws and of such laws in other states. In preparing such recommendations, the tax reform study commission shall review the distributional impact of the items of income included in the definition of household income for purposes of the circuit breaker and other property tax relief programs established by state law and make recommendations to the governor and the legislature for any changes in any of these definitions that the tax reform study commission deems appropriate. The commissioner of taxation and finance and the director of the office of real property services shall provide the tax reform study commission with such data and analysis as it may require.

S 3. This act shall take effect immediately.