

8233

2015-2016 Regular Sessions

I N A S S E M B L Y

June 12, 2015

Introduced by M. of A. NOLAN, BICHOTTE, BRENNAN, SILVER -- 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 expense deduction

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

1 Section 1. Section 612 of the tax law is amended by adding a new
2 subdivision (w) to read as follows:
3 (w) PRIMARY OR SECONDARY EDUCATION EXPENSE DEDUCTION. (1) GENERAL. A
4 RESIDENT TAXPAYER WHOSE NEW YORK ADJUSTED GROSS INCOME IS LESS THAN ONE
5 HUNDRED TWENTY THOUSAND DOLLARS SHALL BE ALLOWED A DEDUCTION, TO BE
6 COMPUTED AS PROVIDED IN PARAGRAPH FIVE OF THIS SUBSECTION, AGAINST THE
7 TAX IMPOSED BY ARTICLE TWENTY-TWO OF THIS CHAPTER, FOR ALLOWABLE PRIMARY
8 OR SECONDARY EDUCATION EXPENSES.
9 (2) ALLOWABLE PRIMARY OR SECONDARY EDUCATION EXPENSES. FOR THE
10 PURPOSES OF THIS DEDUCTION:
11 (A) THE TERM "ALLOWABLE PRIMARY OR SECONDARY EDUCATION EXPENSES" SHALL
12 MEAN THE AMOUNT OF QUALIFIED PRIMARY OR SECONDARY EDUCATION EXPENSES OF
13 ELIGIBLE STUDENTS PAID BY THE TAXPAYER DURING THE TAXABLE YEAR, BUT NO
14 MORE THAN THREE THOUSAND DOLLARS PER ELIGIBLE STUDENT, NOT TO EXCEED
15 TWELVE THOUSAND DOLLARS PER TAXPAYER;
16 (B) THE TERM "ELIGIBLE STUDENT" SHALL MEAN ANY DEPENDENT OF THE
17 TAXPAYER WITH RESPECT TO WHOM THE TAXPAYER IS ALLOWED AN EXEMPTION UNDER
18 SECTION SIX HUNDRED SIXTEEN OF THIS PART FOR THE TAXABLE YEAR;
19 (C) THE TERM "QUALIFIED PRIMARY OR SECONDARY EDUCATION EXPENSES" SHALL
20 INCLUDE COSTS FOR THE ENROLLMENT OR ATTENDANCE OF AN ELIGIBLE STUDENT AT
21 AN INSTITUTION OF PRIMARY OR SECONDARY EDUCATION AND EXPENSES INCURRED
22 AND PAID BY THE TAXPAYER, INCLUDING BUT NOT LIMITED TO, BOOKS, SUPPLIES,
23 SUPPLEMENTARY TUTORING, COMPUTER EQUIPMENT (INCLUDING RELATED SOFTWARE
24 AND SERVICES), AND OTHER EQUIPMENT, OR SUPPLEMENTARY MATERIAL, THAT ARE
25 USED IN ELEMENTARY AND SECONDARY SCHOOLS IN TEACHING, SUPPLEMENTING OR

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

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1 ENRICHING THOSE SUBJECTS AND CURRICULA LEGALLY AND COMMONLY TAUGHT IN
2 PUBLIC ELEMENTARY AND SECONDARY SCHOOLS IN THIS STATE AND FOR RELATED
3 ACTIVITIES, BUT SHALL NOT INCLUDE COSTS RELATED TO INSTRUCTION OR
4 INSTRUCTIONAL BOOKS AND MATERIALS USED IN THE TEACHING OF RELIGIOUS
5 TENETS, DOCTRINES, OR WORSHIP OR THE PURPOSE OF WHICH IS TO INCULCATE
6 SUCH DOCTRINES, WORSHIP OR TENETS. PROVIDED, HOWEVER, PAYMENTS MADE
7 PURSUANT TO THE RECEIPT OF ANY SCHOLARSHIPS OR FINANCIAL AID SHALL BE
8 EXCLUDED FROM THE DEFINITION OF "QUALIFIED PRIMARY OR SECONDARY EDUCA-
9 TION EXPENSES".

10 (3) EXPENSES PAID BY ANOTHER TAXPAYER. IF AN EXEMPTION UNDER SECTION
11 SIX HUNDRED SIXTEEN OF THIS PART WITH RESPECT TO AN INDIVIDUAL IS
12 ALLOWED TO ANOTHER TAXPAYER FOR A TAXABLE YEAR BEGINNING IN THE CALENDAR
13 YEAR IN WHICH SUCH INDIVIDUAL'S TAXABLE YEAR BEGINS, SUCH QUALIFIED
14 PRIMARY OR SECONDARY EDUCATION EXPENSES PAID BY SUCH INDIVIDUAL DURING
15 SUCH INDIVIDUAL'S TAXABLE YEAR SHALL BE TREATED AS PAID BY SUCH OTHER
16 TAXPAYER.

17 (4) INSTITUTION OF PRIMARY OR SECONDARY EDUCATION. FOR THE PURPOSES OF
18 THIS DEDUCTION, THE TERM "INSTITUTION OF PRIMARY OR SECONDARY EDUCATION"
19 SHALL MEAN ANY NOT-FOR-PROFIT ELEMENTARY OR SECONDARY SECTARIAN OR
20 NONSECTARIAN SCHOOL LOCATED IN THIS STATE, INCLUDING ANY FREE ELEMENTARY
21 OR SECONDARY SCHOOL IN THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE
22 CONSTITUTION.

23 (5) AMOUNT OF DEDUCTION. THE AMOUNT OF THE DEDUCTION SHALL BE UP TO
24 THREE THOUSAND DOLLARS OF ALLOWABLE PRIMARY OR SECONDARY EDUCATION
25 EXPENSES PER ELIGIBLE STUDENT, NOT TO EXCEED TWELVE THOUSAND DOLLARS PER
26 TAXPAYER.

27 (6) THE AMOUNT OF ANY DEDUCTION ALLOWED UNDER THIS SUBDIVISION SHALL
28 NOT BE USED AS THE BASIS OF THE CALCULATION OF ANY OTHER DEDUCTIONS OR
29 CREDITS UNDER THIS CHAPTER.

30 S 2. Subsection (c) of section 612 of the tax law is amended by adding
31 two new paragraphs 42 and 43 to read as follows:

32 (42) THE AMOUNT OF ALLOWABLE EDUCATION EXPENSES, AS DEFINED IN PARA-
33 GRAPH TWO OF SUBSECTION (W) OF THIS SECTION, PER ELIGIBLE STUDENT, NOT
34 TO EXCEED TWELVE THOUSAND DOLLARS.

35 (43) EXPENSES, NOT IN EXCESS OF TWO HUNDRED FIFTY DOLLARS, PAID OR
36 INCURRED BY AN ELIGIBLE EDUCATOR IN CONNECTION WITH BOOKS, SUPPLIES
37 (OTHER THAN NONATHLETIC SUPPLIES FOR COURSES OF INSTRUCTION IN HEALTH OR
38 PHYSICAL EDUCATION), COMPUTER EQUIPMENT (INCLUDING RELATED SOFTWARE AND
39 SERVICES) AND OTHER EQUIPMENT, AND SUPPLEMENTARY MATERIALS USED BY THE
40 ELIGIBLE EDUCATOR IN THE CLASSROOM. FOR PURPOSES OF THIS PARAGRAPH, THE
41 TERM "ELIGIBLE EDUCATOR" MEANS, WITH RESPECT TO ANY TAXABLE YEAR, AN
42 INDIVIDUAL WHO IS A PRIMARY OR SECONDARY SCHOOL TEACHER, INSTRUCTOR,
43 COUNSELOR, PRINCIPAL OR AIDE IN AN "INSTITUTION OF PRIMARY OR SECONDARY
44 EDUCATION" WHICH SHALL MEAN ANY NOT-FOR-PROFIT ELEMENTARY OR SECONDARY
45 SECTARIAN OR NONSECTARIAN SCHOOL LOCATED IN THIS STATE, INCLUDING ANY
46 FREE ELEMENTARY OR SECONDARY SCHOOL IN THIS STATE PURSUANT TO ARTICLE
47 ELEVEN OF THE CONSTITUTION FOR AT LEAST NINE HUNDRED HOURS DURING A
48 SCHOOL YEAR.

49 S 3. This act shall take effect immediately and shall apply to taxable
50 years beginning on or after January 1, 2016.