

9699

I N A S S E M B L Y

April 5, 2016

Introduced by M. of A. O'DONNELL -- read once and referred to the
Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a childcare
advance which enables certain taxpayers to defer payment of a portion
of their tax liability

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

1 Section 1. The tax law is amended by adding a new section 608 to read
2 as follows:
3 S 608. CHILDCARE ADVANCE. (A) BEGINNING IN THE TAX YEAR TWO THOUSAND
4 SIXTEEN, ANY RESIDENT TAXPAYER WHO, IN A TAXABLE YEAR, HAS "EMPLOYMENT
5 RELATED EXPENSES" AS DEFINED IN THE INTERNAL REVENUE CODE SECTION
6 21(B)(2) FOR A DEPENDENT UNDER AGE FIVE AND WOULD BE ELIGIBLE TO USE
7 THOSE EXPENSES AS THE BASIS FOR CALCULATING A CREDIT UNDER INTERNAL
8 REVENUE CODE SECTION 21 (WITHOUT REGARD TO WHETHER THE TAXPAYER IN FACT
9 CLAIMED THE CREDIT UNDER SUCH SECTION FOR SUCH TAXABLE YEAR), MAY DEFER
10 PAYMENT OF THEIR TAX LIABILITY FOR THAT TAXABLE YEAR UNDER THIS ARTICLE
11 BY THE AMOUNT OF THOSE EXPENSES BUT NOT TO EXCEED TWO THOUSAND DOLLARS.
12 (B) ANY TAXPAYER WHO DEFERS TAX LIABILITY UNDER SUBDIVISION (A) OF
13 THIS SECTION SHALL BE LIABLE: (I) ONCE THE TAXPAYER IS NO LONGER TAKING
14 THE DEFERRAL, FOR THE FULL AMOUNT PREVIOUSLY DEFERRED DIVIDED INTO EQUAL
15 PAYMENTS OVER TEN YEARS, EXCEPT THAT (II) IN ANY FUTURE YEARS THE
16 TAXPAYER TAKES THE DEFERRAL, THAT TAXPAYER IS LIABLE ONLY FOR ONE-TENTH
17 OF EACH DEFERRAL TAKEN FIVE OR MORE YEARS PRIOR UNTIL EACH OF THOSE
18 DEFERRALS IS REPAYED. AT NO POINT SHALL THE TAXPAYER BE LIABLE FOR
19 AMOUNTS PREVIOUSLY REPAYED. REPAYMENT SHALL BE MADE WITHOUT INTEREST.
20 (C) ANY TAXPAYER WHO DEFERS TAX LIABILITY UNDER SUBDIVISION (A) OF
21 THIS SECTION, AND WHO MOVES TO A RESIDENCE OUTSIDE THE STATE OF NEW YORK
22 IN A STATE, TERRITORY OR COUNTRY WHICH DOES NOT MAINTAIN EFFECTIVE AND
23 APPLICABLE RECIPROCITY WITH THE STATE OF NEW YORK, SHALL BE LIABLE FOR
24 THE ENTIRE AMOUNT DEFERRED ON THE TAX FILING FOR THE TAX YEAR IN WHICH
25 SUCH CHANGE OF RESIDENCE OCCURS, BUT SUBJECT TO APPROVAL OF THE DEPART-
26 MENT SHALL BE DIRECTED TO REPAY THAT LIABILITY THROUGH A PAYMENT PLAN
27 APPROVED BY THE DEPARTMENT.

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

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1 (D) AT THE END OF EVERY TAX YEAR, THE DEPARTMENT SHALL NOTIFY EACH
2 TAXPAYER WHO HAS DEFERRED TAX LIABILITY UNDER SUBDIVISION (A) OF THIS
3 SECTION OF THE TOTAL AMOUNT OF THEIR DEFERRED LIABILITY, THE TAX YEAR IN
4 WHICH REPAYMENT WILL BEGIN, AND AN ESTIMATE OF THE AMOUNT FOR WHICH THE
5 TAXPAYER WILL BE LIABLE EACH YEAR ONCE THE ELIGIBILITY EXPIRES.

6 (E) NOTHING IN THIS SECTION SHALL PREVENT A TAXPAYER FROM REPAYING
7 ACCUMULATED LIABILITY EARLIER THAN THE SCHEDULE SET FORTH IN SUBDIVISION
8 (B) OF THIS SECTION, OR TAKING LESS THAN THE TOTAL AMOUNT ALLOWABLE
9 UNDER SUBDIVISION (A) OF THIS SECTION IN ANY GIVEN TAX YEAR.

10 (F) THE DEPARTMENT MAY PROVIDE FOR THE REPAYMENT OF DEFERRALS UNDER
11 THIS SECTION TO BE MADE THROUGH PAYROLL WITHHOLDING IN ACCORDANCE WITH
12 SECTION SIX HUNDRED SEVENTY-ONE OF THIS ARTICLE, AND SHALL ADDRESS
13 REPAYMENT IN CASES OF DIVORCE.

14 S 2. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after January 1, 2016 and
16 shall apply to tax years commencing on and after such date.