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

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:

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

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

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

(2) AS USED IN THIS SUBSECTION:

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

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

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

(C) "QUALIFIED CARE EXPENSES" ARE PAYMENTS MADE BY THE TAXPAYER FOR GOODS AND SERVICES NECESSARY TO ALLOW THE QUALIFYING SENIOR FAMILY MEMBER TO BE MAINTAINED IN THE TAXPAYER'S RESIDENCE WHICH GOODS AND SERVICES ARE: (I) PROVIDED TO OR FOR THE BENEFIT OF THE QUALIFYING SENIOR FAMILY MEMBER OR TO ASSIST THE TAXPAYER IN CARING FOR THE QUALIFYING SENIOR FAMILY MEMBER; OR PROVIDED BY AN ORGANIZATION OR AN INDIVIDUAL NOT RELATED TO THE TAXPAYER OR THE QUALIFYING SENIOR FAMILY MEMBER; AND (II) NOT COMPENSATED FOR BY INSURANCE OR FEDERAL OR STATE PROGRAMS. SUCH EXPENSES INCLUDE, BUT ARE NOT LIMITED TO, HOME HEALTH AGENCY SERVICES, ADULT DAY CARE, COMPANIONSHIP SERVICES, PERSONAL CARE ATTENDANT SERVICES, HOMEMAKER SERVICES, RESPITE CARE, HEALTH CARE EQUIPMENT AND SUPPLIES, HOME MODIFICATION, OR ANY SERVICES NECESSARY TO PROVIDE HELP IN TWO OR MORE ACTIVITIES IN DAILY LIVING, OR FOR THE PROVISION OF ASSISTIVE DEVICES.

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

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

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

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.