

5229--A

2015-2016 Regular Sessions

I N S E N A T E

May 8, 2015

Introduced by Sens. KLEIN, AVELLA, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the insurance law, in relation to credits for premiums paid for long-term care insurance policies

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

1 Section 1. Subdivision 1 of section 190 of the tax law, as amended by
2 section 102 of part A of chapter 59 of the laws of 2014, is amended to
3 read as follows:
4 1. General. A taxpayer shall be allowed a credit against the tax
5 imposed by this article equal to [twenty percent] THE FOLLOWING PERCENT-
6 AGES of the premium paid during the taxable year for long-term care
7 insurance OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSU-
8 ANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION
9 (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW:
10 (A) FORTY PERCENT IF THE INSURED IS LESS THAN FORTY YEARS OF AGE AT
11 THE END OF THE TAX YEAR FOR THE FIRST FOUR POLICY YEARS;
12 (B) THIRTY PERCENT IF THE INSURED IS LESS THAN FIFTY YEARS OF AGE, BUT
13 FORTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR THE FIRST
14 FOUR POLICY YEARS;
15 (C) TWENTY-FIVE PERCENT IF THE INSURED IS LESS THAN FIFTY-FIVE YEARS
16 OF AGE, BUT FIFTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR
17 THE FIRST FOUR POLICY YEARS; OR
18 (D) TWENTY PERCENT IF THE INSURED IS FIFTY-FIVE OR MORE YEARS OF AGE
19 AT THE END OF THE TAX YEAR, AND FOR ALL OTHER INSUREDS WHO HAVE HAD A
20 POLICY FOR FIVE YEARS OR MORE.

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

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1 In order to qualify for such credit, the taxpayer's premium payment
2 must be for the purchase of or for continuing coverage under a long-term
3 care insurance policy that qualifies for such credit pursuant to section
4 one thousand one hundred seventeen of the insurance law.

5 S 2. Paragraph (a) of subdivision 14 of section 210-B of the tax law,
6 as added by section 17 of part A of chapter 59 of the laws of 2014, is
7 amended to read as follows:

8 (a) General. A taxpayer shall be allowed a credit against the tax
9 imposed by this article equal to [twenty percent] THE FOLLOWING PERCENT-
10 AGES of the premium paid during the taxable year for long-term care
11 insurance OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSU-
12 ANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION
13 (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW:

14 (I) FORTY PERCENT IF THE INSURED IS LESS THAN FORTY YEARS OF AGE AT
15 THE END OF THE TAX YEAR FOR THE FIRST FOUR POLICY YEARS;

16 (II) THIRTY PERCENT IF THE INSURED IS LESS THAN FIFTY YEARS OF AGE,
17 BUT FORTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR THE FIRST
18 FOUR POLICY YEARS;

19 (III) TWENTY-FIVE PERCENT IF THE INSURED IS LESS THAN FIFTY-FIVE YEARS
20 OF AGE, BUT FIFTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR
21 THE FIRST FOUR POLICY YEARS; OR

22 (IV) TWENTY PERCENT IF THE INSURED IS FIFTY-FIVE OR MORE YEARS OF AGE
23 AT THE END OF THE TAX YEAR, AND FOR ALL OTHER INSUREDS WHO HAVE HAD A
24 POLICY FOR FIVE YEARS OR MORE.

25 In order to qualify for such credit, the taxpayer's premium payment
26 must be for the purchase of or for continuing coverage under a long-term
27 care insurance policy that qualifies for such credit pursuant to section
28 one thousand one hundred seventeen of the insurance law.

29 S 3. Paragraph 1 of subsection (aa) of section 606 of the tax law, as
30 amended by section 1 of part P of chapter 61 of the laws of 2005, is
31 amended to read as follows:

32 (1) Residents. A taxpayer shall be allowed a credit against the tax
33 imposed by this article equal to [twenty percent] THE FOLLOWING PERCENT-
34 AGES of the premium paid during the taxable year for long-term care
35 insurance OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSU-
36 ANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION
37 (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW:

38 (A) FORTY PERCENT IF THE INSURED IS LESS THAN FORTY YEARS OF AGE AT
39 THE END OF THE TAX YEAR FOR THE FIRST FOUR POLICY YEARS;

40 (B) THIRTY PERCENT IF THE INSURED IS LESS THAN FIFTY YEARS OF AGE, BUT
41 FORTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR THE FIRST
42 FOUR POLICY YEARS;

43 (C) TWENTY-FIVE PERCENT IF THE INSURED IS LESS THAN FIFTY-FIVE YEARS
44 OF AGE, BUT FIFTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR
45 THE FIRST FOUR POLICY YEARS; OR

46 (D) TWENTY PERCENT IF THE INSURED IS FIFTY-FIVE OR MORE YEARS OF AGE
47 AT THE END OF THE TAX YEAR, AND FOR ALL OTHER INSUREDS WHO HAVE HAD A
48 POLICY FOR FIVE YEARS OR MORE.

49 In order to qualify for such credit, the taxpayer's premium payment
50 must be for the purchase of or for continuing coverage under a long-term
51 care insurance policy that qualifies for such credit pursuant to section
52 one thousand one hundred seventeen of the insurance law. If the amount
53 of the credit allowable under this subsection for any taxable year shall
54 exceed the taxpayer's tax for such year, the excess may be carried over
55 to the following year or years and may be deducted from the taxpayer's
56 tax for such year or years.

1 S 4. Paragraph 1 of subdivision (m) of section 1511 of the tax law, as
2 amended by section 21 of part B of chapter 58 of the laws of 2004, is
3 amended to read as follows:

4 (1) A taxpayer shall be allowed a credit against the tax imposed by
5 this article equal to [twenty percent] THE FOLLOWING PERCENTAGES of the
6 premium paid during the taxable year for long-term care insurance OR FOR
7 A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARA-
8 GRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION
9 ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW:

10 (A) FORTY PERCENT IF THE INSURED IS LESS THAN FIFTY YEARS OF AGE AT
11 THE END OF THE TAX YEAR FOR THE FIRST FOUR POLICY YEARS;

12 (B) THIRTY PERCENT IF THE INSURED IS LESS THAN FIFTY YEARS OF AGE, BUT
13 FORTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR THE FIRST
14 FOUR POLICY YEARS;

15 (C) TWENTY-FIVE PERCENT IF THE INSURED IS LESS THAN FIFTY-FIVE YEARS
16 OF AGE, BUT FIFTY OR MORE YEARS OF AGE, AT THE END OF THE TAX YEAR FOR
17 THE FIRST FOUR POLICY YEARS; OR

18 (D) TWENTY PERCENT IF THE INSURED IS FIFTY-FIVE OR MORE YEARS OF AGE
19 AT THE END OF THE TAX YEAR, AND FOR ALL OTHER INSUREDS WHO HAVE HAD A
20 POLICY FOR FIVE YEARS OR MORE.

21 In order to qualify for such credit, the taxpayer's premium payment
22 must be for the purchase of or for continuing coverage under a long-term
23 care insurance policy that qualifies for such credit pursuant to section
24 one thousand one hundred seventeen of the insurance law.

25 S 5. Paragraphs 1 and 2 of subsection (g) of section 1117 of the
26 insurance law, paragraph 1 as amended by chapter 417 of the laws of
27 2001, paragraph 2 as amended by section 12 of part E of chapter 63 of
28 the laws of 2000 and subparagraphs (A) and (B) of paragraph 2 as amended
29 by chapter 311 of the laws of 2002, are amended to read as follows:

30 (1) Except for certain group contracts described in paragraph four of
31 this subsection, in order for premium payments for long-term care insur-
32 ance, OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT
33 TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION (A)
34 OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS ARTICLE, to qualify
35 for purposes of section one hundred ninety, subdivision [twenty-five-a]
36 FOURTEEN of section two hundred [ten] TEN-B, subsection (aa) of section
37 six hundred six[, subsection (k) of section one thousand four hundred
38 fifty-six] and subsection (m) of section one thousand five hundred elev-
39 en of the tax law, the long-term care insurance OR SUCH POLICY RIDER
40 must be approved by the superintendent pursuant to this subsection.
41 Prior to approving any such insurance OR POLICY RIDER, the superinten-
42 dent shall conclude that it meets minimum standards, including minimum
43 loss ratio standards under this section or section three thousand two
44 hundred twenty-nine of this chapter and is a qualified long-term care
45 insurance contract as defined in section 7702B of the internal revenue
46 code.

47 (2) (A) No insurer, agent, broker, person, business or corporation
48 doing business in or into this state shall in any manner state, adver-
49 tise or claim that a long-term care insurance policy, OR A POLICY RIDER
50 TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARAGRAPH (C), (D),
51 (E), OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION ONE THOUSAND
52 ONE HUNDRED THIRTEEN OF THIS ARTICLE, qualifies for purposes of the
53 above-referenced provisions of the tax law unless either: (i) the super-
54 intendent has issued a letter or other written instrument to the insurer
55 stating that the policy OR POLICY RIDER has been determined to qualify
56 under this subsection, or (ii) the policy OR POLICY RIDER qualifies

1 under paragraph four of this subsection without the need for approval by
2 the superintendent.

3 (B) Any policy OR POLICY RIDER which is held out or purported to be a
4 long-term care insurance policy by any insurer, agent, broker, person,
5 business or corporation doing business in or into this state which has
6 not been determined by the superintendent to qualify and which does not
7 qualify under paragraph four of this subsection for purposes of the
8 above referenced provisions of the tax law shall so state clearly, legi-
9 bly and in close physical proximity to any description of the policy OR
10 POLICY RIDER as a long-term care insurance policy that it does not so
11 qualify. This subsection shall also be deemed to cover any statement,
12 advertisement or claim concerning such policy by any insurer, agent,
13 broker, person, business or corporation doing business in or into this
14 state.

15 (C) Violation of this paragraph shall be considered a misrepresen-
16 tation under section [twenty-one] TWO THOUSAND ONE hundred twenty-three
17 of this chapter.

18 S 6. This act shall take effect on the first of April next succeeding
19 the date on which it shall have become a law.