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

7542

I N S E N A T E

May 9, 2016

Introduced by Sen. KAMINSKY -- 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 a residential real property tax credit

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) RESIDENTIAL REAL PROPERTY TAX CREDIT. (1) DEFINITIONS. FOR THE PURPOSES OF THIS SUBSECTION:

(A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO OWNS THE RESIDENTIAL REAL PROPERTY IN WHICH HE OR SHE RESIDES.

(B) "HOUSEHOLD" MEANS THE TAXPAYER OR 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 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

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

LBD14843-02-6

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. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE MEMBERS OF SUCH HOUSEHOLD.

(D) "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 FIFTY PERCENT OF THE AMOUNT WHICH THE TAXPAYER'S NET REAL PROPERTY TAX EXCEEDS THE TAXPAYER'S MAXIMUM REAL PROPERTY TAX, AS DETERMINED BY PARAGRAPH THREE OF THIS SUBSECTION, PROVIDED, HOWEVER, SUCH CREDIT SHALL NOT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS. 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) RESIDENTIAL REAL PROPERTY TAX CREDIT. (A) A QUALIFIED TAXPAYER'S RESIDENTIAL REAL PROPERTY TAX CREDIT SHALL BE DETERMINED AS FOLLOWS:

IN ALL COUNTIES IN THE STATE:

HOUSEHOLD GROSS INCOME	MAXIMUM REAL PROPERTY TAX
ONE HUNDRED THOUSAND DOLLARS OR LESS	SIX PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS	SEVEN PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS, BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS	EIGHT PERCENT OF THE HOUSEHOLD GROSS INCOME
MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS	NOT ELIGIBLE TO RECEIVE TAX CREDIT

(B) ANY HOUSEHOLD THAT HAS A GROSS INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS AND PAYS TEN PERCENT OR MORE OF THEIR HOUSEHOLD INCOME IN PROPERTY TAX MAY ALSO CLAIM A REAL PROPERTY TAX FREEZE CREDIT PURSUANT TO SUBSECTION (BBB) OF THIS SECTION IN ADDITION TO A RESIDENTIAL REAL PROPERTY TAX CREDIT.

(C) THE THRESHOLDS OF HOUSEHOLD GROSS INCOME FOR ELIGIBILITY FOR THE RESIDENTIAL REAL PROPERTY TAX CREDIT, ESTABLISHED BY SUBPARAGRAPH (A) OF THIS PARAGRAPH, SHALL BE INDEXED FOR INFLATION.

(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, UNLESS THE HOUSEHOLD HAS A GROSS INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS AND PAYS TEN PERCENT OR MORE OF THEIR HOUSEHOLD INCOME IN PROPERTY TAX.

S 2. The opening paragraph of paragraph 2 of subsection (bbb) of section 606 of the tax law, as added by section 1 of part FF of chapter 59 of the laws of 2014, is amended to read as follows:

An individual taxpayer who meets the eligibility standards set forth in paragraph three of this subsection and whose primary residence is located in a taxing jurisdiction that has a freeze-compliant budget for the fiscal year starting in two thousand fourteen, two thousand fifteen [or], two thousand sixteen OR TWO THOUSAND SEVENTEEN, whichever is applicable, shall be allowed a credit against the taxes imposed by this article. Subject to the provisions of paragraph six of this subsection, such credit shall be determined as follows:

S 3. Paragraph 2 of subsection (bbb) of section 606 of the tax law is amended by adding two new subparagraphs (H) and (I) to read as follows:

(H) IF A TAXING JURISDICTION, OTHER THAN A SCHOOL DISTRICT OR A CITY WITH A DEPENDENT SCHOOL DISTRICT, HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND SEVENTEEN:

(I) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SEVENTEEN TAXABLE YEAR IN THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR ON BEHALF OF SUCH TAXING JURISDICTION ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR; TOGETHER WITH THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SEVENTEEN EXCEEDS THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SEVENTEEN.

(II) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SEVENTEEN TAXABLE YEAR IN THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SEVENTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SEVENTEEN.

(I) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN:

(I) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED FOR THE

ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT THAT IS THE GREATER OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, OR THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN; TOGETHER WITH THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR ON BEHALF OF SUCH CITY ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR; AND TOGETHER WITH AN AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE AMOUNT THAT IS THE GREATER OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN; OR THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN; AND A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SEVENTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT THAT IS THE GREATER OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, OR THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN; TOGETHER WITH AN AMOUNT EQUIVALENT TO 49.25 PERCENT OF THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR ON BEHALF OF SUCH CITY ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR.

(II) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE AMOUNT THAT IS THE GREATER OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN OR THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN; AND A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SEVENTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT THAT IS THE GREATER OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN OR THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN.

S 4. Paragraph 3 of subsection (bbb) of section 606 of the tax law is amended by adding a new subparagraph (D) to read as follows:

(D) FOR THE TWO THOUSAND SEVENTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALIFIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY MANNER.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to taxable years commencing on or after such date.