

STATE OF NEW YORK

6607

2017-2018 Regular Sessions

IN ASSEMBLY

March 10, 2017

Introduced by M. of A. GJONAJ, M. G. MILLER, ARROYO, RAIA, WALTER, SIMON, BENEDETTO, PICHARDO, GRAF, CURRAN, DAVILA, ENGLEBRIGHT, GALEF, GARBARINO, PALUMBO -- Multi-Sponsored by -- M. of A. BARCLAY, BLANKENBUSH, COOK, HIKIND, KEARNS, LAWRENCE, MAGEE, RIVERA, TITONE -- read once and referred to the Committee on Insurance

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;

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;

14 (c) twenty-five percent if the insured is less than fifty-five years
15 of age, but fifty or more years of age, at the end of the tax year; or

16 (d) twenty percent if the insured is fifty-five or more years of age
17 at the end of the tax year.

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

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

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

(a) General. A taxpayer shall be allowed a credit against the tax imposed by this article equal to ~~[twenty percent]~~ the following percentages of the premium paid during the taxable year for long-term care insurance or for a policy rider to a life insurance policy issued pursuant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of the insurance law:

(i) forty percent if the insured is less than forty years of age at the end of the tax year;

(ii) thirty percent if the insured is less than fifty years of age, but forty or more years of age, at the end of the tax year;

(iii) twenty-five percent if the insured is less than fifty-five years of age, but fifty or more years of age, at the end of the tax year; or

(iv) twenty percent if the insured is fifty-five or more years of age at the end of the tax year.

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

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

(1) Residents. A taxpayer shall be allowed a credit against the tax imposed by this article equal to ~~[twenty percent]~~ the following percentages of the premium paid during the taxable year for long-term care insurance or for a policy rider to a life insurance policy issued pursuant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of the insurance law:

(A) forty percent if the insured is less than forty years of age at the end of the tax year;

(B) thirty percent if the insured is less than fifty years of age, but forty or more years of age, at the end of the tax year;

(C) twenty-five percent if the insured is less than fifty-five years of age, but fifty or more years of age, at the end of the tax year; or

(D) twenty percent if the insured is fifty-five or more years of age at the end of the tax year.

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

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

(1) A taxpayer shall be allowed a credit against the tax imposed by this article equal to ~~[twenty percent]~~ the following percentages of the premium paid during the taxable year for long-term care insurance or for a policy rider to a life insurance policy issued pursuant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of the insurance law:

1 (A) forty percent if the insured is less than fifty years of age at
2 the end of the tax year;

3 (B) thirty percent if the insured is less than fifty years of age, but
4 forty or more years of age, at the end of the tax year;

5 (C) twenty-five percent if the insured is less than fifty-five years
6 of age, but fifty or more years of age, at the end of the tax year; or

7 (D) twenty percent if the insured is fifty-five or more years of age
8 at the end of the tax year.

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

13 § 5. Paragraphs 1 and 2 of subsection (g) of section 1117 of the
14 insurance law, paragraph 1 as amended by chapter 417 of the laws of
15 2001, paragraph 2 as amended by section 12 of part E of chapter 63 of
16 the laws of 2000 and subparagraphs (A) and (B) of paragraph 2 as amended
17 by chapter 311 of the laws of 2002, are amended to read as follows:

18 (1) Except for certain group contracts described in paragraph four of
19 this subsection, in order for premium payments for long-term care insur-
20 ance, or for a policy rider to a life insurance policy issued pursuant
21 to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a)
22 of section one thousand one hundred thirteen of this article, to qualify
23 for purposes of section one hundred ninety, subdivision [~~twenty-five-a~~]
24 fourteen of section two hundred [~~ten~~] ten-B, subsection (aa) of section
25 six hundred six[~~, subsection (k) of section one thousand four hundred~~
26 ~~fifty-six~~] and subsection (m) of section one thousand five hundred elev-
27 en of the tax law, the long-term care insurance or such policy rider
28 must be approved by the superintendent pursuant to this subsection.
29 Prior to approving any such insurance or policy rider, the superinten-
30 dent shall conclude that it meets minimum standards, including minimum
31 loss ratio standards under this section or section three thousand two
32 hundred twenty-nine of this chapter and is a qualified long-term care
33 insurance contract as defined in section 7702B of the internal revenue
34 code.

35 (2) (A) No insurer, agent, broker, person, business or corporation
36 doing business in or into this state shall in any manner state, adver-
37 tise or claim that a long-term care insurance policy, or a policy rider
38 to a life insurance policy issued pursuant to subparagraph (C), (D), (E)
39 or (F) of paragraph one of subsection (a) of section one thousand one
40 hundred thirteen of this article, qualifies for purposes of the above-
41 referenced provisions of the tax law unless either: (i) the superinten-
42 dent has issued a letter or other written instrument to the insurer
43 stating that the policy or policy rider has been determined to qualify
44 under this subsection, or (ii) the policy or policy rider qualifies
45 under paragraph four of this subsection without the need for approval by
46 the superintendent.

47 (B) Any policy or policy rider which is held out or purported to be a
48 long-term care insurance policy by any insurer, agent, broker, person,
49 business or corporation doing business in or into this state which has
50 not been determined by the superintendent to qualify and which does not
51 qualify under paragraph four of this subsection for purposes of the
52 above referenced provisions of the tax law shall so state clearly, legi-
53 bly and in close physical proximity to any description of the policy or
54 policy rider as a long-term care insurance policy that it does not so
55 qualify. This subsection shall also be deemed to cover any statement,
56 advertisement or claim concerning such policy by any insurer, agent,

1 broker, person, business or corporation doing business in or into this
2 state.

3 (C) Violation of this paragraph shall be considered a misrepresen-
4 tation under section [~~twenty-one~~] two thousand one hundred twenty-three
5 of this chapter.

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