

# STATE OF NEW YORK

5436

2017-2018 Regular Sessions

## IN ASSEMBLY

February 9, 2017

Introduced by M. of A. ENGLEBRIGHT, MOYA -- read once and referred to the Committee on Ways and Means

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:

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

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

5 (ccc) Elder care credit. (1) A taxpayer shall be allowed a credit  
6 against the tax imposed by this article for qualified care expenses paid  
7 by the taxpayer for the care of a qualifying senior family member. The  
8 amount of the credit shall equal the lesser of twenty percent of the  
9 qualified care expenses paid by the taxpayer during the taxable year or  
10 five hundred fifty-five dollars, whichever is less. If the credit or  
11 credits provided pursuant to this section shall exceed the taxpayer's  
12 tax for such taxable year, the excess shall be treated as an overpayment  
13 of tax to be credited or refunded in accordance with the provisions of  
14 section six hundred eighty-six of this article, provided, however, that  
15 no interest shall be paid thereon. No credit shall be granted under  
16 this subsection if (i) the taxpayer's New York adjusted gross income is  
17 greater than forty-five thousand dollars for a single taxpayer or sixty  
18 thousand dollars for married taxpayers, or (ii) if the taxpayer has  
19 claimed the credit authorized in subsection (c) of this section for  
20 qualified care expenses paid for the care of a qualifying senior family  
21 member.

22 (2) As used in this subsection:

23 (A) "Taxpayer" shall mean a resident taxpayer, but shall not include a  
24 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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1 (B) "Qualifying senior family member" shall mean a person who resided  
2 with the taxpayer for at least six months during the taxable year for  
3 which credit is claimed, is within the third degree of consanguinity to  
4 the taxpayer, is at least sixty years of age on or before December  
5 thirty-first of the taxable year for which credit is claimed and has a  
6 New York adjusted gross income for the taxable year for which credit is  
7 claimed of thirteen thousand dollars or less for a single family member  
8 or twenty thousand dollars or less for a senior family member and his or  
9 her spouse. A qualifying senior family member includes a person who  
10 otherwise meets the qualifications specified in the preceding sentence  
11 but who occupies a separate room or rooms in or at the residence of the  
12 taxpayer, such as those commonly referred to as mother-in-law apart-  
13 ments, but shall not include a tenant, subtenant, roomer or boarder who  
14 pays a lease or rental fee to the taxpayer for the space.

15 (C) "Qualified care expenses" shall mean payments made by the taxpayer  
16 for goods and services necessary to allow the qualifying senior family  
17 member to be maintained in the taxpayer's residence that are: (i)  
18 provided to or for the benefit of the qualifying senior family member or  
19 to assist the taxpayer in caring for the qualifying senior family member  
20 and may be provided by an organization or an individual not related to  
21 the taxpayer or the qualifying senior family member; and (ii) not  
22 compensated for by insurance or federal or state programs. Such expenses  
23 include, but not be limited to, home health agency services, adult day  
24 care, companionship services, personal care attendant services, homemak-  
25 er services, respite care, health care equipment and supplies, home  
26 modification, or any other services necessary to provide assistance in  
27 two or more activities in daily living.

28 (3) When two or more taxpayers who do not file joint tax returns may  
29 claim credit for the same qualifying senior family member or members  
30 pursuant to this subsection, the credit or credits shall be equally  
31 divided between or among such individuals unless such individuals file  
32 with the commissioner a written agreement setting forth a different  
33 division.

34 (4) The commissioner may require a taxpayer to furnish as support of  
35 his or her claim for credit under this subsection receipts for qualified  
36 care expenses or other such proofs of payment as shall satisfy the  
37 commissioner.

38 § 3. This act shall take effect immediately and shall apply to all  
39 taxable years beginning on and after January first two thousand eigh-  
40 teen.