

# STATE OF NEW YORK

9158

## IN SENATE

August 31, 2018

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to exempting distributions from individual retirement accounts and individual retirement annuities from state personal income taxation when such distributions are used to purchase long-term health care insurance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (c) of section 612 of the tax law is amended by  
2 adding a new paragraph 3-d to read as follows:

3 (3-d) Distributions received by an individual, not otherwise excluded  
4 pursuant to paragraph three or three-a of this subsection, to the extent  
5 includable in gross income for federal income tax purposes, which are  
6 attributable to personal services performed by such individual from  
7 employment, which arise (i) from an employer-employee relationship or  
8 (ii) from contributions to a retirement plan which are deductible for  
9 federal income tax purposes, to the extent such distributions are used  
10 during the taxable year to purchase a policy of long-term care insur-  
11 ance, as defined in section one thousand one hundred seventeen of the  
12 insurance law, for such individual or a dependent of such individual.  
13 Such distributions shall include distributions from an individual  
14 retirement account or an individual retirement annuity, as defined in  
15 section four hundred eight of the internal revenue code, and distrib-  
16 utions from self-employed individual and owner-employee retirement plans  
17 which qualify under section four hundred one of the internal revenue  
18 code. Provided, however, that any distributions excluded pursuant to  
19 this paragraph shall be subtracted from the total amount of premiums  
20 paid when computing the amount of allowable credit pursuant to  
21 subsection (aa) of section six hundred six of this article.

22 § 2. Subsection (aa) of section 606 of the tax law, as amended by  
23 section 1 of part P of chapter 61 of the laws of 2005, is amended to  
24 read as follows:

25 (aa) Long-term care insurance credit. (1) Residents. A taxpayer shall  
26 be allowed a credit against the tax imposed by this article equal to

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

LBD03682-01-7

1 twenty percent of the premium paid during the taxable year for long-term  
2 care insurance, provided that any amount subtracted from federal  
3 adjusted gross income pursuant to paragraph three-d of section six  
4 hundred twelve of this article shall be subtracted from the amount of  
5 premium paid during the taxable year and the twenty percent credit shall  
6 be based upon such recomputed amount of premium paid. In order to qual-  
7 ify for such credit, the taxpayer's premium payment must be for the  
8 purchase of or for continuing coverage under a long-term care insurance  
9 policy that qualifies for such credit pursuant to section one thousand  
10 one hundred seventeen of the insurance law. If the amount of the credit  
11 allowable under this subsection for any taxable year shall exceed the  
12 taxpayer's tax for such year, the excess may be carried over to the  
13 following year or years and may be deducted from the taxpayer's tax for  
14 such year or years.

15 (2) Nonresidents and part-year residents. In the case of a nonresident  
16 taxpayer or a part-year resident taxpayer, the credit determined under  
17 this subsection shall be limited to the amount determined by multiplying  
18 the amount of such credit by the New York source fraction as set forth  
19 in paragraph three of subsection (e) of section six hundred one of this  
20 article. The credit as so limited shall be applied as provided in para-  
21 graph one of this subsection, provided that any amount subtracted from  
22 federal adjusted gross income pursuant to paragraph three-d of section  
23 six hundred twelve of this article and section six hundred thirty-one of  
24 this article shall be subtracted from the amount of premium paid during  
25 the taxable year and the twenty percent credit shall be based upon such  
26 recomputed amount of premium paid.

27 § 3. This act shall take effect immediately and shall apply to taxable  
28 years commencing on January first in the year in which this act shall  
29 take effect and all subsequent taxable years.