

STATE OF NEW YORK

5100

2019-2020 Regular Sessions

IN SENATE

April 9, 2019

Introduced by Sens. MAY, METZGER -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to providing a tax credit for qualified caregiving expenses; and to provide for the repeal of such provisions upon the expiration thereof

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

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (jjj) to read as follows:

3 (jjj) Caregiving tax credit. (1) For taxable years beginning on or
4 after January first, two thousand twenty, a qualified caregiver shall be
5 allowed a credit against the tax imposed by this article for a portion
6 of the total purchase price paid for a qualified caregiving expense by
7 such a qualified caregiver for performing caregiving duties provided to
8 a qualified family member that resided within this state.

9 (2) For purposes of this section (A) "qualified caregiving expense"
10 means payments made by the qualified caregiver for goods and services
11 which are provided to or for the benefit of the qualifying family member
12 or to assist the qualified caregiver in caring for the qualifying family
13 member. Such expenses include, but are not limited to, home health agen-
14 cy services, adult day care, companionship services, personal care
15 attendant services, homemaker services, respite care, health care equip-
16 ment, assistive devices and supplies, home modification, transportation,
17 legal or financial services, and assistive technology.

18 (B) "qualified family member" means an individual who is: (i) at least
19 eighteen years of age during a taxable year; (ii) a resident of New York
20 state; (iii) requires assistance with at least one activity of daily
21 living (ADL), as certified by a licensed health care practitioner; and
22 (iv) is an individual who qualifies as a dependent, spouse, domestic
23 partner as defined by section four of the workers' compensation law,
24 sibling, partner, parent or other relation by blood or marriage, includ-

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

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1 ing an in-law, grandparent, grandchild, step-parent, aunt, uncle, niece,
2 or nephew of the qualified caregiver.

3 (C) "qualified caregiver" means an individual who is a New York state
4 resident taxpayer for the taxable year. In the case of a joint return,
5 the term includes the individual and the individual's spouse. The quali-
6 fied caregiver claiming the credit must have a federal adjusted gross
7 income of seventy-five thousand dollars or less for an individual and
8 one hundred fifty thousand dollars or less for a couple, and incur
9 uncompensated expenses directly related to the care of a qualified fami-
10 ly member. In addition, qualified caregivers must provide care to one or
11 more eligible qualified family members during the taxable year, and be
12 eligible to receive a credit against the family caregiver's state tax
13 liability for the taxable year.

14 (3) The credit established pursuant to this subsection shall be
15 allowed for the taxable year in which the qualified caregiver incurred
16 the qualified caregiving expense. The credit established under this
17 subsection shall not exceed fifty percent of the total amount expended,
18 and shall not exceed three thousand five hundred dollars.

19 (4) If the allowable amount of the credit exceeds the taxes otherwise
20 due under this article for the taxable year, the unused amount of the
21 credit is waived, and may not be refunded, carried forward or otherwise
22 used to offset taxes.

23 (5) Eligible qualified caregivers shall apply for the credit through
24 the department. The commissioner, in consultation with the commissioner
25 of the department of health and the director of the office for the
26 aging, shall issue a certification for an approved application to the
27 taxpayer that states the amount of the credit allocated to the taxpayer
28 and the allocation year.

29 (6) The aggregate amount of tax credits allowed pursuant to the
30 authority of this subsection shall be thirty-five million dollars each
31 year during the period two thousand twenty through two thousand twenty-
32 two. Such aggregate amount of credits shall be allocated by the depart-
33 ment on a first come first serve basis in order of priority based upon
34 the date of filing an application for allocation of credit with the
35 department. Once the credits allocated exceed the limit established in
36 this subsection, the commissioner shall cease to allocate and certify
37 tax credits to taxpayers.

38 (7) The commissioner may require a qualified taxpayer to furnish the
39 following information in support of his or her claim for credit under
40 this subsection: household adjusted gross income, the name of the eligi-
41 ble family member and his or her identifying information including
42 social security numbers, and all other information which may be required
43 by the commissioner to determine the credit.

44 (8) The commissioner, after consulting with the commissioner of the
45 department of health and the director of the office for the aging, shall
46 by October thirty-first, two thousand nineteen promulgate regulations
47 necessary and appropriate to carry out the purposes of this subsection.
48 Notwithstanding any other provisions to the contrary in the state admin-
49 istrative procedure act, such rules and regulations may be adopted on an
50 emergency basis if necessary to meet such October thirty-first, two
51 thousand nineteen deadline.

52 (9) The department shall submit to the governor, the temporary presi-
53 dent of the senate, and the speaker of the assembly an annual report by
54 February first of each year evaluating the effectiveness of the caregiv-
55 ing tax credit provided by this subsection. Such report shall be based
56 on data available from the application filed with the department for any

1 caregiving credits. Notwithstanding any provision of law to the contra-
2 ry, the information contained in the report shall be public information.
3 The report shall include recommendations for changes in the calculation
4 or administration of the credit proposed by the department, in consulta-
5 tion with the department of health and the office for the aging, that
6 are deemed useful and appropriate.

7 § 2. This act shall take effect immediately and shall apply to taxable
8 years commencing on and after January 1, 2020; provided that the
9 provisions of this act shall expire and be deemed repealed on December
10 31, 2022.