

STATE OF NEW YORK

4739

2021-2022 Regular Sessions

IN SENATE

February 10, 2021

Introduced by Sen. WEIK -- 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 property tax relief credit and an enhanced real property tax circuit breaker credit

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 (n-3) to read as follows:

3 (n-3) Property tax relief credit. (1) An individual taxpayer who meets
4 the eligibility standards in paragraph two of this subsection shall be
5 allowed a credit against the taxes imposed by this article in the amount
6 specified in paragraph three of this subsection beginning in tax year
7 two thousand twenty-one.

8 (2) To be eligible for the credit, the taxpayer or taxpayers filing a
9 joint tax return for the taxable year two years prior, must have (i)
10 been a resident, (ii) owned and primarily resided in real property
11 receiving either the STAR exemption authorized by section four hundred
12 twenty-five of the real property tax law or the school tax relief credit
13 authorized by subsection (eee) of this section, and (iii) had qualified
14 gross income no greater than two hundred seventy-five thousand dollars.
15 Provided, however, that no credit shall be allowed if any of the follow-
16 ing apply:

17 (A) Such property is located in an independent school district that is
18 subject to the provisions of section two thousand twenty-three-a of the
19 education law and that has adopted a budget in excess of the tax levy
20 limit prescribed by that section. To render its taxpayers eligible for
21 the credit authorized by this subsection, the school district must
22 certify its compliance with such tax levy limit in the manner prescribed
23 by subdivision two of section two thousand twenty-three-b of the educa-
24 tion law.

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

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1 (B) Such property is located in a city with a dependent school
 2 district that is subject to the provisions of section three-c of the
 3 general municipal law and that has adopted a budget in excess of the tax
 4 levy limit prescribed by that section. To render its taxpayers eligible
 5 for the credit authorized by this subsection, the city must certify its
 6 compliance with such tax levy limit in the manner prescribed by subdivi-
 7 sion two of section three-c of the general municipal law.

8 (C) Such property is located in the city of New York.

9 (3) Amount of credit. (A) For the two thousand sixteen taxable year
 10 (i) for a taxpayer residing in real property located within the metro-
 11 politan commuter transportation district (MCTD) and outside the city of
 12 New York, the amount of the credit shall be \$130; (ii) for a taxpayer
 13 residing in real property located outside the MCTD, the amount of the
 14 credit shall be \$185.

15 (B) For the two thousand twenty-one taxable year and beyond, for a
 16 taxpayer who owned and primarily resided in real property receiving the
 17 basic STAR exemption, the amount of the credit shall equal the STAR tax
 18 savings associated with such basic STAR exemption, multiplied by the
 19 following percentage:

<u>Qualified Gross Income</u>	<u>Percentage</u>
<u>Not over \$75,000</u>	<u>85%</u>
<u>Over \$75,000 but not over \$150,000</u>	<u>60%</u>
<u>Over \$150,000 but not over \$200,000</u>	<u>35%</u>
<u>Over \$200,000 but not over \$275,000</u>	<u>10%</u>
<u>Over \$275,000</u>	<u>No credit</u>

26 (C) For a taxpayer who owned and primarily resided in real property
 27 receiving the enhanced STAR exemption, the amount of the credit shall
 28 equal the STAR tax savings associated with such enhanced STAR exemption,
 29 multiplied by twenty-six percent.

30 (D) In no case may the amount of the credit allowed under this
 31 subsection exceed the school district taxes due with respect to the
 32 residence for that school year.

33 (4) For purposes of this subsection:

34 (A) "Qualified gross income" means the adjusted gross income of the
 35 qualified taxpayer for the taxable year as reported for federal income
 36 tax purposes, or which would be reported as adjusted gross income if a
 37 federal income tax return were required to be filed. In computing quali-
 38 fied gross income, the net amount of loss reported on Federal Schedule
 39 C, D, E, or F shall not exceed three thousand dollars per schedule. In
 40 addition, the net amount of any other separate category of loss shall
 41 not exceed three thousand dollars. The aggregate amount of all losses
 42 included in computing qualified gross income shall not exceed fifteen
 43 thousand dollars.

44 (B) "STAR tax savings" means the tax savings attributable to the basic
 45 or enhanced STAR exemption, whichever is applicable, within a portion of
 46 a school district, as determined by the commissioner pursuant to subdivi-
 47 vision two of section thirteen hundred six-a of the real property tax
 48 law.

49 (C) "Metropolitan commuter transportation district" or "MCTD" means
 50 the metropolitan commuter transportation district as defined in section
 51 twelve hundred sixty-two of the public authorities law.

52 (5) If the amount of the credit allowed under this subsection shall
 53 exceed the taxpayer's tax for the taxable year, the excess shall be
 54 treated as an overpayment of tax to be credited or refunded in accord-
 55 ance with the provisions of section six hundred eighty-six of this arti-
 56 cle, provided, however, that no interest shall be paid thereon. For

1 each year this credit is allowed, on or before October fifteenth of such
2 year, or as soon thereafter as is practicable, the commissioner shall
3 determine the taxpayer's eligibility for this credit utilizing the
4 information available to the commissioner on the taxpayer's personal
5 income tax return filed for the taxable year two years prior to the
6 taxable year in which the credit is allowed. For those taxpayers whom
7 the commissioner has determined eligible for this credit, the commis-
8 sioner shall advance a payment in the amount specified in paragraph
9 three of this subsection, which payment shall be issued, to the greatest
10 extent practicable, by October thirty-first of each year the credit is
11 allowed. A taxpayer who has failed to receive an advance payment that he
12 or she believes was due to him or her, or who has received an advance
13 payment that he or she believes is less than the amount that was due to
14 him or her, may request payment of the claimed deficiency in a manner
15 prescribed by the commissioner.

16 (6) A taxpayer shall not be eligible for the credit allowed under this
17 subsection if the school district taxes levied upon the residence during
18 the taxable year remain unpaid sixty days after the last date on which
19 they could have been paid without interest, or in the case of a school
20 district where such taxes are payable in installments, if such taxes
21 remain unpaid sixty days after the last date on which the final install-
22 ment could have been paid without interest. If the taxes remain unpaid
23 on such sixtieth day, the amount of credit claimed by the taxpayer under
24 this subsection or the amount of advance payment of credit received by
25 the taxpayer pursuant to paragraph five of this subsection shall be
26 added back as tax on the income tax return for the taxable year in which
27 such sixtieth day occurs.

28 (7) Only one credit per residence shall be allowed per taxable year
29 under this subsection. When two or more members of a residence are able
30 to meet the qualifications for a qualified taxpayer, the credit shall be
31 equally divided between or among such individuals. In the case of spous-
32 es who file a joint federal return but who are required to determine
33 their New York taxes separately, the credit allowed pursuant to this
34 subsection may be applied against the tax of either or divided between
35 them as they may elect.

36 § 2. Section 606 of the tax law is amended by adding a new subsection
37 (e-2) to read as follows:

38 (e-2) Enhanced real property tax circuit breaker credit. (1) For
39 purposes of this subsection:

40 (A) "Qualified taxpayer" means a resident individual of the state, who
41 (i) is a resident of a city with a population over one million, (ii) has
42 occupied the same residence for six months or more of the taxable year,
43 and (iii) is required or chooses to file a return under this article.

44 (B) "Household" or "members of the household" means a qualified
45 taxpayer and all other persons, not necessarily related, who have the
46 same residence and share its furnishings, facilities and accommodations.
47 Such terms shall not include a tenant, subtenant, roomer or boarder who
48 is not related to the qualified taxpayer in any degree specified in
49 paragraphs one through eight of subsection (a) of section one hundred
50 fifty-two of the internal revenue code. Provided, however, no person may
51 be a member of more than one household at one time.

52 (C) "Household gross income" means the aggregate adjusted gross income
53 of all members of the household for the taxable year as reported for
54 federal income tax purposes, or which would be reported as adjusted
55 gross income if a federal income tax return were required to be filed,
56 with the modifications in subsection (b) of section six hundred twelve

1 of this article but without the modifications in subsection (c) of such
2 section, plus any portion of the gain from the sale or exchange of prop-
3 erty otherwise excluded from such amount; earned income from sources
4 without the United States excludable from federal gross income by
5 section nine hundred eleven of the internal revenue code; support money
6 not included in adjusted gross income; nontaxable strike benefits;
7 supplemental security income payments; the gross amount of any pension
8 or annuity benefits to the extent not included in such adjusted gross
9 income (including, but not limited to, railroad retirement benefits and
10 all payments received under the federal social security act and veter-
11 ans' disability pensions); nontaxable interest received from the state
12 of New York, its agencies, instrumentalities, public corporations, or
13 political subdivisions (including a public corporation created pursuant
14 to agreement or compact with another state or Canada); workers' compen-
15 sation; the gross amount of "loss-of-time" insurance; and the amount of
16 cash public assistance and relief, other than medical assistance for the
17 needy, paid to or for the benefit of the qualified taxpayer or members
18 of his or her household. Household gross income shall not include
19 surplus foods or other relief in kind or payments made to individuals
20 because of their status as victims of Nazi persecution as defined in
21 P.L. 103-286. Provided, further, household gross income shall only
22 include all such income received by all members of the household while
23 members of such household. In computing household gross income, the net
24 amount of loss reported on Federal Schedule C, D, E, or F shall not
25 exceed three thousand dollars per schedule. In addition, the net amount
26 of any other separate category of loss shall not exceed three thousand
27 dollars. The aggregate amount of all losses included in computing house-
28 hold gross income shall not exceed fifteen thousand dollars.

29 (D) "Residence" means a dwelling in this state owned or rented by the
30 taxpayer, and so much of the land abutting it, not exceeding one acre,
31 as is reasonably necessary for use of the dwelling as a home, and may
32 consist of a part of a multi-dwelling or multi-purpose building includ-
33 ing a cooperative or condominium, and rental units within a single
34 dwelling. Residence includes a trailer or mobile home, used exclusively
35 for residential purposes and defined as real property pursuant to para-
36 graph (g) of subdivision twelve of section one hundred two of the real
37 property tax law.

38 (E) "Qualifying real property taxes" means all real property taxes,
39 special ad valorem levies and special assessments, exclusive of penal-
40 ties and interest, levied on the residence of a qualified taxpayer and
41 paid during the taxable year. A qualified taxpayer may elect to include
42 any additional amount that would have been levied in the absence of an
43 exemption from real property taxation pursuant to section four hundred
44 sixty-seven of the real property tax law. If tenant-stockholders in a
45 cooperative housing corporation have met the requirements of section two
46 hundred sixteen of the internal revenue code by which they are allowed a
47 deduction for real estate taxes, the amount of taxes so allowable, or
48 which would be allowable if the taxpayer had filed returns on a cash
49 basis, shall be qualifying real property taxes. If a residence is owned
50 by two or more individuals as joint tenants or tenants in common, and
51 one or more than one individual is not a member of the household, quali-
52 fying real property taxes is that part of such taxes on the residence
53 which reflects the ownership percentage of the qualified taxpayer and
54 members of his or her household. If a residence is an integral part of a
55 larger unit, qualifying real property taxes shall be limited to that
56 amount of such taxes paid as may be reasonably apportioned to such resi-

1 dence. If a household owns and occupies two or more residences during
2 different periods in the same taxable year, qualifying real property
3 taxes shall be the sum of the prorated qualifying real property taxes
4 attributable to the household during the periods such household occupies
5 each of such residences. If the household owns and occupies a residence
6 for part of the taxable year and rents a residence for part of the same
7 taxable year, it may include the proration of qualifying real property
8 taxes on the residence owned. Provided, however, for purposes of the
9 credit allowed under this subsection, qualifying real property taxes may
10 be included by a qualified taxpayer only to the extent that such taxpay-
11 er or the spouse of such taxpayer, occupying such residence for one
12 hundred eighty-three days or more of the taxable year, owns or has owned
13 the residence and paid such taxes.

14 (F) "Real property tax equivalent" means fifteen and three-quarters
15 percent of the adjusted rent actually paid in the taxable year by a
16 household solely for the right of occupancy of its New York residence
17 for the taxable year. If (i) a residence is rented to two or more indi-
18 viduals as cotenants, or such individuals share in the payment of a
19 single rent for the right of occupancy of such residence, and (ii) each
20 of such individuals is a member of a different household, one or more of
21 which individuals shares such residence, real property tax equivalent is
22 that portion of fifteen and three-quarters percent of the adjusted rent
23 paid in the taxable year which reflects that portion of the rent attrib-
24 utable to the qualified taxpayer and the members of his or her house-
25 hold.

26 (G) "Adjusted rent" means rental paid for the right of occupancy of a
27 residence, excluding charges for heat, gas, electricity, furnishings and
28 board. Where charges for heat, gas, electricity, furnishings or board
29 are included in rental but where such charges and the amount thereof are
30 not separately set forth in a written rental agreement, for purposes of
31 determining adjusted rent the qualified taxpayer shall reduce rental
32 paid as follows:

33 (i) For heat, or heat and gas, deduct six percent of rental paid.

34 (ii) For heat, gas and electricity, deduct eight percent of rental
35 paid.

36 (iii) For heat, gas, electricity and furnishings, deduct ten percent
37 of rental paid.

38 (iv) For heat, gas, electricity, furnishings and board, deduct twenty
39 percent of rental paid.

40 If the commissioner determines that the adjusted rent shown on the
41 return is excessive, the commissioner may reduce such rent, for purposes
42 of the computation of the credit, to an amount substantially equivalent
43 to rent for a comparable accommodation.

44 (2) A qualified taxpayer shall be allowed a credit as provided in
45 paragraph three of this subsection against the taxes imposed by this
46 article reduced by the credits permitted by this article. If the credit
47 exceeds the tax as so reduced for such year under this article, the
48 excess shall be treated as an overpayment, to be credited or refunded,
49 without interest. If a qualified taxpayer is not required to file a
50 return pursuant to section six hundred fifty-one of this article, a
51 qualified taxpayer may nevertheless receive the full amount of the cred-
52 it to be credited or repaid as an overpayment, without interest.

53 (3) Determination of credit. For taxable years after two thousand
54 twenty, the amount of the credit allowable under this subsection shall
55 be determined as follows:

<u>If household gross income for the taxable year is:</u>	<u>Excess real property taxes are the excess of real property tax equivalent or the excess of qualifying real property taxes over the following percentage of household gross income:</u>	<u>The credit amount is the following percentage of excess property taxes:</u>
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<u>Less than \$100,000</u>	<u>4</u>	<u>4.5</u>
<u>\$100,000 to less than \$150,000</u>	<u>5</u>	<u>3.0</u>
<u>\$150,000 to less than \$200,000</u>	<u>6</u>	<u>1.5</u>

Notwithstanding the foregoing provisions, the maximum credit determined under this paragraph may not exceed five hundred dollars.

(4) If a qualified taxpayer occupies a residence for a period of less than twelve months during the taxable year or occupies two or more residences during different periods in such taxable year, the credit allowed pursuant to this subsection shall be computed in such manner as the commissioner may, by regulation, prescribe in order to properly reflect the credit or portion thereof attributable to such residence or residences and such period or periods.

(5) The commissioner may prescribe that the credit under this subsection shall be determined in whole or in part by the use of tables prescribed by such commissioner. Such tables shall set forth the credit to the nearest dollar.

(6) Only one credit per household and per qualified taxpayer shall be allowed per taxable year under this subsection. When two or more members of a household are able to meet the qualifications for a qualified taxpayer, the credit shall be equally divided between or among such individuals unless such individuals file with the commissioner a written agreement among such individuals setting forth a different division.

(A) Provided, however, where a joint income tax return has been filed pursuant to the provisions of section six hundred fifty-one of this article by a qualified taxpayer and his or her spouse (or where both spouses are qualified taxpayers and have filed such joint return), the credit, or the portion of the credit if divided, to which the spouses are entitled shall be applied against the tax of both spouses and any overpayment shall be made to both spouses.

(B) Where any return required to be filed pursuant to the provisions of section six hundred fifty-one of this article is combined with any return of tax imposed pursuant to the authority of this chapter or any other law if such tax is administered by the commissioner, the credit or the portion of the credit if divided, allowed to the qualified taxpayer may be applied by the commissioner toward any liability for the aforementioned taxes.

(7) No credit shall be granted under this subsection:

(A) If household gross income for the taxable year equals or exceeds two hundred thousand dollars.

(B) To a property owner unless: (i) the property is used for residential purposes, (ii) not more than twenty percent of the rental income, if any, from the property is from rental for nonresidential purposes, and (iii) the property is occupied as a residence in whole or in part by one or more of the owners of the property.

1 (C) To an individual with respect to whom a deduction under subsection
2 (c) of section one hundred fifty-one of the internal revenue code is
3 allowable to another taxpayer for the taxable year.

4 (D) With respect to a residence that is wholly exempted from real
5 property taxation.

6 (E) To an individual who is not a resident individual of a city, with-
7 in the state, with a population over one million, for the entire taxable
8 year.

9 (8) The right to claim a credit or the portion of a credit, where such
10 credit has been divided under this subsection, shall be personal to the
11 qualified taxpayer and shall not survive his or her death, but such
12 right may be exercised on behalf of a claimant by his or her legal guar-
13 dian or attorney in fact during his or her lifetime.

14 (9) Returns. If a qualified taxpayer is not required to file a return
15 pursuant to section six hundred fifty-one of this article, a claim for a
16 credit may be taken on a return filed with the commissioner within three
17 years from the time it would have been required that a return be filed
18 pursuant to such section had the qualified taxpayer had a taxable year
19 ending on December thirty-first. Returns under this paragraph shall be
20 in such form as shall be prescribed by the commissioner, which shall
21 make available such forms and instructions for filing such returns.

22 (10) Proof of claim. The commissioner may require a qualified taxpayer
23 to furnish the following information in support of his claim for credit
24 under this subsection: household gross income, real property taxes
25 levied or that would have been levied in the absence of an exemption
26 from real property tax pursuant to section four hundred sixty-seven of
27 the real property tax law, the names of members of the household and
28 other qualifying taxpayers occupying the same residence and their iden-
29 tifying numbers including social security numbers, household gross
30 income, size and nature of property claimed as residence and all other
31 information which may be required by the commissioner to determine the
32 credit.

33 (11) Administration. The provisions of this article, including the
34 provisions of sections six hundred fifty-three, six hundred fifty-eight,
35 and six hundred fifty-nine of this article and the provisions of part
36 six of this article relating to procedure and administration, including
37 the judicial review of the decisions of the commissioner, except so much
38 of section six hundred eighty-seven of this article which permits a
39 claim for credit or refund to be filed after the period provided for in
40 paragraph nine of this subsection and except sections six hundred
41 fifty-seven, six hundred eighty-eight and six hundred ninety-six of this
42 article, shall apply to the provisions of this subsection in the same
43 manner and with the same force and effect as if the language of those
44 provisions had been incorporated in full into this subsection and had
45 expressly referred to the credit allowed or returns filed under this
46 subsection, except to the extent that any such provision is either
47 inconsistent with a provision of this subsection or is not relevant to
48 this subsection. As used in such sections and such part, the term
49 "taxpayer" shall include a qualified taxpayer under this subsection and,
50 notwithstanding the provisions of subsection (e) of section six hundred
51 ninety-seven of this article, where a qualified taxpayer has protested
52 the denial of a claim for credit under this subsection and the time to
53 file a petition for redetermination of a deficiency or for refund has
54 not expired, he shall, subject to such conditions as may be set by the
55 commissioner, receive such information (A) which is contained in any
56 return filed under this article by a member of his or her household for

1 the taxable year for which the credit is claimed, and (B) which the
2 commissioner finds is relevant and material to the issue of whether such
3 claim was properly denied.

4 (12) Notwithstanding any other provision of this article, the credit
5 allowed under this subsection shall be determined after the determi-
6 nation and application of any other credits permitted under the
7 provisions of this article.

8 (13) The commissioner shall prepare a written report after December
9 thirty-first of each calendar year, which shall contain statistical
10 information regarding the credits granted on or before such dates under
11 this subsection during such calendar year. Copies of the report shall be
12 submitted by the commissioner to the governor, the temporary president
13 of the senate, the speaker of the assembly, the chairman of the senate
14 finance committee and the chairman of the assembly ways and means
15 committee within forty-five days of December thirty-first. Such report
16 shall contain, but need not be limited to, the number of credits and the
17 average amount of such credits allowed; and of those, the number of
18 credits and the average amount of such credits allowed to qualified
19 taxpayers in each county; and of those, the number of credits and the
20 average amount of such credits allowed to qualified taxpayers whose
21 household gross income falls within each of the household gross income
22 ranges set forth in paragraph three of this subsection.

23 § 3. This act shall take effect immediately and shall apply to taxable
24 years beginning on or after January 1, 2021.