# STATE OF NEW YORK

6516

2021-2022 Regular Sessions

# IN ASSEMBLY

March 19, 2021

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

AN ACT to amend the tax law, in relation to the real property tax circuit breaker credit

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

Section 1. Subparagraph (E) of paragraph 1 and paragraphs 3 and 7 of subsection (e) of section 606 of the tax law, as amended by chapter 28 of the laws of 1987 and subparagraph (E) of paragraph 1 as amended by chapter 105 of the laws of 2006, are amended to read as follows:

(E) "Qualifying real property taxes" means all real property taxes, special ad valorem levies and special assessments, exclusive of penalties and interest, levied on the residence of a qualified taxpayer and paid during the taxable year less the credit claimed under **the former** subsection (n-1) of this section. [~~In addition, for taxable years beginning after December thirty-first, nineteen hundred eighty-four, a qualified taxpayer may elect to include any additional amount that would have been levied in the absence of an exemption from real property taxation pursuant to section four hundred sixty-seven of the real property tax law.~~] If tenant-stockholders in a cooperative housing corporation have met the requirements of section two hundred sixteen of the internal revenue code by which they are allowed a deduction for real estate taxes, the amount of taxes so allowable, or which would be allowable if the taxpayer had filed returns on a cash basis, shall be qualifying real property taxes. If a residence is owned by two or more individuals as joint tenants or tenants in common, and one or more than one individual is not a member of the household, qualifying real property taxes is that part of such taxes on the residence which reflects the ownership percentage of the qualified taxpayer and members of his household. If a residence is an integral part of a larger unit, qualifying real property taxes shall be limited to that amount of such taxes paid as may be

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

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reasonably apportioned to such residence. If a household owns and occupies two or more residences during different periods in the same taxable year, qualifying real property taxes shall be the sum of the prorated qualifying real property taxes attributable to the household during the periods such household occupies each of such residences. If the household owns and occupies a residence for part of the taxable year and rents a residence for part of the same taxable year, it may include both the proration of qualifying real property taxes on the residence owned and the real property tax equivalent with respect to the months the residence is rented. Provided, however, for purposes of the credit allowed under this subsection, qualifying real property taxes may be included by a qualified taxpayer only to the extent that such taxpayer or the spouse of such taxpayer occupying such residence for six months or more of the taxable year owns or has owned the residence and paid such taxes. **Provided further, however, qualifying real property taxes shall not include any portion of a real property tax paid that was subsequently returned to the taxpayer by a tax credit or any other real property tax rebate including, but not limited to, the school tax relief credit under subsection (eee) of this section.**

(3) Determination of credit. (A) For qualified taxpayers who have attained the age of sixty-five years before the beginning of or during the taxable year the amount of the credit allowable under this subsection shall be fifty percent, or in the case of a qualified taxpayer who has elected to include an additional amount pursuant to subparagraph (E) of paragraph one of this subsection, twenty-five percent, of the excess of real property taxes or the excess of real property tax equivalent determined as follows:

| If household gross income for the taxable year is: | 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: |
|---|---|
| [~~$3,000~~] $20,000 or less | 3 1/2 |
| Over [~~$3,000~~] $20,000 but not over [~~$5,000~~] $30,000 | 4 |
| Over [~~$5,000~~] $30,000 but not over [~~$7,000~~] $45,000 | 4 1/2 |
| Over [~~$7,000~~] $45,000 but not over [~~$9,000~~] $65,000 | 5 |
| Over [~~$9,000~~] $65,000 but not over [~~$11,000~~] $75,000 | 5 1/2 |
| Over [~~$11,000~~] $75,000 but not over [~~$14,000~~] $85,000 | 6 |
| Over [~~$14,000~~] $85,000 but not over [~~$18,000~~] $100,000 | 6 1/2 |

Notwithstanding the foregoing provisions, the maximum credit determined under this subparagraph may not exceed the amount determined in accordance with the following table:

| If household gross income for the taxable year is: | The maximum credit is: |
|---|---|

| | |
|---|---|
| [~~$1,000~~] $5,000 or less | $375 |
| Over [~~$1,000~~] $5,000 but not over [~~$2,000~~] $10,000 | $358 |
| Over [~~$2,000~~] $10,000 but not over [~~$3,000~~] $15,000 | $341 |
| Over [~~$3,000~~] $15,000 but not over [~~$4,000~~] $20,000 | $324 |
| Over [~~$4,000~~] $20,000 but not over [~~$5,000~~] $25,000 | $307 |
| Over [~~$5,000~~] $25,000 but not over [~~$6,000~~] $30,000 | $290 |
| Over [~~$6,000~~] $30,000 but not over [~~$7,000~~] $35,000 | $273 |
| Over [~~$7,000~~] $35,000 but not over [~~$8,000~~] $40,000 | $256 |
| Over [~~$8,000~~] $40,000 but not over [~~$9,000~~] $45,000 | $239 |
| Over [~~$9,000~~] $45,000 but not over [~~$10,000~~] $50,000 | $222 |
| Over [~~$10,000~~] $50,000 but not over [~~$11,000~~] $55,000 | $205 |
| Over [~~$11,000~~] $55,000 but not over [~~$12,000~~] $60,000 | $188 |
| Over [~~$12,000~~] $60,000 but not over [~~$13,000~~] $65,000 | $171 |
| Over [~~$13,000~~] $65,000 but not over [~~$14,000~~] $70,000 | $154 |
| Over [~~$14,000~~] $70,000 but not over [~~$15,000~~] $75,000 | $137 |
| Over [~~$15,000~~] $75,000 but not over [~~$16,000~~] $80,000 | $120 |
| Over [~~$16,000~~] $80,000 but not over [~~$17,000~~] $86,000 | $103 |
| Over [~~$17,000~~] $86,000 but not over [~~$18,000~~] $100,000 | $ 86 |

(B) For all other qualified taxpayers the amount of the credit allowable under this subsection shall be fifty percent of excess real property taxes or the excess of the real property tax equivalent determined as follows:

| If household gross income for the taxable year is: | 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: |
|---|---|
| [~~$3,000~~] $20,000 or less | 3 1/2 |
| Over [~~$3,000~~] $20,000 but not over [~~$5,000~~] $30,000 | 4 |
| Over [~~$5,000~~] $30,000 but not over [~~$7,000~~] $45,000 | 4 1/2 |
| Over [~~$7,000~~] $45,000 but not over [~~$9,000~~] $65,000 | 5 |

| | |
|---|---|
| Over [~~$9,000~~] $65,000 but not over [~~$11,000~~] $75,000 | 5 1/2 |
| Over [~~$11,000~~] $75,000 but not over [~~$14,000~~] $85,000 | 6 |
| Over [~~$14,000~~] $85,000 but not over [~~$18,000~~] $100,000 | 6 1/2 |

Notwithstanding the foregoing provisions, the maximum credit determined under this subparagraph may not exceed the amount determined in accordance with the following table:

| If household gross income for the taxable year is: | The maximum credit is: |
|---|---|
| [~~$1,000~~] $5,000 or less | $75 |
| Over [~~$1,000~~] $5,000 but not over [~~$2,000~~] $10,000 | $73 |
| Over [~~$2,000~~] $10,000 but not over [~~$3,000~~] $15,000 | $71 |
| Over [~~$3,000~~] $15,000 but not over [~~$4,000~~] $20,000 | $69 |
| Over [~~$4,000~~] $20,000 but not over [~~$5,000~~] $25,000 | $67 |
| Over [~~$5,000~~] $25,000 but not over [~~$6,000~~] $30,000 | $65 |
| Over [~~$6,000~~] $30,000 but not over [~~$7,000~~] $35,000 | $63 |
| Over [~~$7,000~~] $35,000 but not over [~~$8,000~~] $40,000 | $61 |
| Over [~~$8,000~~] $40,000 but not over [~~$9,000~~] $45,000 | $59 |
| Over [~~$9,000~~] $45,000 but not over [~~$10,000~~] $50,000 | $57 |
| Over [~~$10,000~~] $50,000 but not over [~~$11,000~~] $55,000 | $55 |
| Over [~~$11,000~~] $55,000 but not over [~~$12,000~~] $60,000 | $53 |
| Over [~~$12,000~~] $60,000 but not over [~~$13,000~~] $65,000 | $51 |
| Over [~~$13,000~~] $65,000 but not over [~~$14,000~~] $70,000 | $49 |
| Over [~~$14,000~~] $70,000 but not over [~~$15,000~~] $75,000 | $47 |
| Over [~~$15,000~~] $75,000 but not over [~~$16,000~~] $80,000 | $45 |
| Over [~~$16,000~~] $80,000 but not over [~~$17,000~~] $86,000 | $43 |
| Over [~~$17,000~~] $86,000 but not over [~~$18,000~~] $100,000 | $41 |

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

(A) If household gross income for the taxable year exceeds [~~eighteen~~] one 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.

(C) To a property owner who owns real property, the full value of which exceeds [~~eighty-five~~] **one hundred fifty** thousand dollars.

(D) To a tenant if the adjusted rent for the residence exceeds [~~four hundred fifty~~] **one thousand** dollars per month on average.

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

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

(G) To an individual who is not a resident individual of the state for the entire taxable year.

§ 2. This act shall take effect immediately.