STATE OF NEW YORK

6932

2021-2022 Regular Sessions

IN ASSEMBLY

April 13, 2021

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

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:

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

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

(2) For purposes of this section (A) "qualified caregiving expense" means payments made by the qualified caregiver for goods and services which are provided to or for the benefit of the qualifying family member or to assist the qualified caregiver in caring for the qualifying family member. Such expenses include, but are not limited to, home health agency services, adult day care, companionship services, personal care attendant services, homemaker services, respite care, health care equipment, assistive devices and supplies, home modification, transportation, legal or financial services, and assistive technology.

(B) "qualified family member" means an individual who is: (i) at least eighteen years of age during a taxable year; (ii) a resident of New York state; (iii) requires assistance with at least one activity of daily living (ADL), as certified by a licensed health care practitioner; and (iv) is an individual who qualifies as a dependent, spouse, domestic partner as defined by section four of the workers' compensation law, 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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ing an in-law, grandparent, grandchild, step-parent, aunt, uncle, niece, or nephew of the qualified caregiver.

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

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

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

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

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

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

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

(9) The department shall submit to the governor, the temporary president of the senate, and the speaker of the assembly an annual report by February first of each year evaluating the effectiveness of the caregiving tax credit provided by this subsection. Such report shall be based on data available from the application filed with the department for any

caregiving credits. Notwithstanding any provision of law to the contrary, the information contained in the report shall be public information. The report shall include recommendations for changes in the calculation or administration of the credit proposed by the department, in consultation with the department of health and the office for the aging, that are deemed useful and appropriate.

§ 2. This act shall take effect immediately and shall apply to taxable years commencing on and after January 1, 2022; provided that the provisions of this act shall expire and be deemed repealed on December 31, 2024.