STATE OF NEW YORK

8308

2023-2024 Regular Sessions

IN ASSEMBLY

November 27, 2023

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

AN ACT to amend the tax law, in relation to establishing the retire strong tax credit

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 (ppp) to read as follows:

(ppp) Retire strong tax credit. (1) For purposes of this subsection:

(A) "Qualified taxpayer" means a resident individual of the state who is sixty-five years of age or older during the tax year they file; who owned and primarily resided for six months or more of the taxable year in real property that either received the enhanced STAR exemption authorized by section four hundred twenty-five of the real property tax law, or that qualified such taxpayer to receive the enhanced school tax relief credit authorized by subsection (eee) of this section.

(B) "Qualified gross income" means the adjusted gross income of a qualified taxpayer for the taxable year for federal income tax purposes and, for taxable year two thousand twenty-three computed without regard to the last sentence of subsection (a) of section six hundred seven of this part. In computing qualified gross income, the net amount of loss reported on Federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule. In addition, the net amount of any other separate category of loss shall not exceed three thousand dollars. The aggregate amount of all losses included in computing qualified gross income shall not exceed fifteen thousand dollars.

(C) "Residence" means a dwelling in this state owned by the taxpayer and used by the taxpayer as his or her primary residence, and so much of the land abutting it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multi-dwelling or multi-purpose building including a cooperative or

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

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condominium. Residence includes a trailer or mobile home, used exclusively for residential purposes and defined as real property pursuant to paragraph (g) of subdivision twelve of section one hundred two of the real property tax law.

(D) "Qualifying real property taxes" means all real property taxes, special ad valorem levies and special assessments, exclusive of penalties and interest, levied by a taxing jurisdiction on the residence owned and occupied by a qualified taxpayer and paid by the qualified taxpayer during the taxable year, provided that to the extent the total amount of real property taxes so paid includes school district taxes, the amount of the school tax relief (STAR) credit claimed pursuant to subsection (eee) of this section, if any, shall be deducted from such amount.

A qualified taxpayer may elect to include any additional amount that would have been levied by a taxing jurisdiction and paid by the qualified taxpayer 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 an integral part of a larger unit, qualifying real property taxes shall be limited to that amount of such taxes paid as may be reasonably apportioned to such residence. If a taxpayer owned and occupied two residences in the state 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 taxpayer during the periods such taxpayer occupied each of such residences. A taxpayer who owned and occupied a residence in the state for part of the taxable year and rented a residence in the state for part of the same taxable year, may include the proration of qualifying real property taxes on the residence owned. 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 occupied such residence for one hundred eighty-three days or more of the taxable year, owned the residence and paid such taxes.

(2) The credit amount allowed under this subsection shall equal fifty percent of qualifying real property taxes paid; however this amount shall not exceed sixty-five hundred dollars.

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

(A) To a property owner if qualified gross income for the taxable year exceeds three 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 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.

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

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

(4) In the case of a taxpayer who has itemized deductions from federal adjusted gross income, and whose federal itemized deductions include an amount for real estate taxes paid, the New York itemized deduction otherwise allowable under section six hundred fifteen of this article shall be reduced by the amount of the credit claimed under this subsection.

§ 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2024.