STATE OF NEW YORK

6868

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

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

AN ACT to amend the tax law, in relation to establishing a tax credit for rent paid on the personal residence of certain taxpayers

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 (bbb) to read as follows:

(bbb) Rent relief credit. (1) Allowance of credit. A qualified taxpayer shall be allowed a credit to be computed as provided in paragraph two of this subsection against the tax imposed by this article.

(2) Computation of credit. The credit allowed under this subsection shall be one hundred percent of the excess of thirty percent of the taxpayer's gross income such taxpayer pays in rent for such taxable year for taxpayers whose income is less than fifty percent of the area median income.

(3) Advance payments. (A) The commissioner shall establish a mechanism by which a qualified taxpayer may apply for an advance payment of the credit authorized by this subsection, provided that:

(i) A qualified taxpayer who fails to apply for an advance payment of such credit by the date on which the commissioner requires, may apply for and receive such credit in the manner prescribed by the commissioner, provided that such application shall be made within three years from the time that a return for the taxable year would have had to be filed pursuant to section six hundred fifty-one of this article. If approved, such payment shall be issued as soon as is practicable after the submission of the application but shall not be subject to the processing schedule prescribed by subparagraph (B) of this paragraph, and

(ii) A qualified taxpayer who has applied for an advance payment of such credit in a taxable year may continue to receive such advance

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

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payments in future taxable years without reapplying as long as he or she remains eligible therefor.

(B) The commissioner shall determine the eligibility of taxpayers for this credit utilizing the information available to him or her as obtained from the applications submitted and from such other sources as the commissioner deems reliable and appropriate. For those taxpayers whom the commissioner has determined eligible for this credit, the commissioner shall advance a payment of up to one half of the total amount of the total credit owed.

(C) A taxpayer who has failed to receive an advance payment that he or she believes was due to him or her, or who has received an advance payment that he or she believes is less than the amount that was due to him or her, may request payment of the claimed deficiency in a manner prescribed by the commissioner.

(D) An advance payment of credit provided pursuant to this subsection that exceeds the taxpayer's qualifying taxes for that taxable year shall be added back as tax on the income tax return for that taxable year.

(E) If the commissioner determines after issuing an advance payment that it was issued in an excessive amount or to an ineligible or incorrect party, the commissioner shall be empowered to utilize any of the procedures for collection, levy and lien of personal income tax set forth in this article, any other relevant procedures referenced within the provisions of this article, and any other law as may be applicable, to recoup the improperly issued amount.

(4) Limitation on amount of credit. For the purposes of determining the amount of the credit allowed under this subsection, with respect to a primary residence for the taxable year, there shall not be taken into account rent in excess of an amount equal to one hundred fifty percent of the fair market rent, including the utility allowance, applicable to such residence, as most recently published, as of the beginning of the taxable year, by the United States department of housing and urban development.

(5) Application of credit. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(6) Administration. The commissioner shall have the authority to promulgate such rules and regulations as may be necessary for the processing, determination and granting of credits under this subsection.

(7) Definitions. As used in this subsection, the following terms shall have the following meanings:

(A) "Qualified taxpayer" shall mean an individual who leases the individual's primary residence during the taxable year, who pays rent with respect to such residence and whose income is less than fifty percent of the area median income.

(B) "Rent" shall include any amount paid for utilities.

(C) "Gross income" shall mean the federal adjusted gross income of a taxpayer.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall apply to taxable years commencing on and after such date. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.