

4758--B

Cal. No. 764

2011-2012 Regular Sessions

I N S E N A T E

April 20, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the tax law, in relation to providing that the low income housing credit and any carryover thereof shall be treated as an overpayment of taxes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (b) of subdivision 30 of section 210 of the tax
2 law, as added by section 3 of part CC of chapter 63 of the laws of 2000,
3 is amended to read as follows:
4 (b) Application of credit. The credit and carryovers of such credit
5 allowed under this subdivision for any taxable year shall not, in the
6 aggregate, reduce the tax due for such year to less than the higher of
7 the amounts prescribed in paragraphs (c) and (d) of subdivision one of
8 this section. However, if the amount of credit or carryovers or such
9 credit, or both, allowed under this subdivision for any taxable year
10 reduces the tax to such amount, any amount of credit or carryovers of
11 such credit thus not deductible in such taxable year may be carried over
12 to the following year or years and may be deducted from the tax for such
13 year or years. FOR TAXABLE YEARS BEGINNING ON AND AFTER JULY FIRST, TWO
14 THOUSAND ELEVEN, THE CREDIT AND ANY CARRYOVERS OF SUCH CREDIT SHALL BE
15 TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORD-
16 ANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS
17 CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION
18 ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST
19 SHALL BE PAID THEREON.

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

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1 S 2. Paragraph 2 of subsection (x) of section 606 of the tax law, as
2 added by section 5 of part CC of chapter 63 of the laws of 2000, is
3 amended to read as follows:

4 (2) Application of credit. If the amount of credit allowable under
5 this subsection for any taxable year shall exceed the taxpayer's tax for
6 such year, the excess may be carried over to the following year or
7 years, and may be deducted from the taxpayer's tax for such year or
8 years AND, FOR TAXABLE YEARS BEGINNING ON AND AFTER JULY FIRST, TWO
9 THOUSAND ELEVEN, IF THE AMOUNT OF THE CREDIT AND ANY CARRYOVERS OF SUCH
10 CREDIT FROM PRIOR TAXABLE YEARS ALLOWABLE UNDER THIS SUBSECTION FOR ANY
11 TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS
12 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED AS
13 PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED,
14 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

15 S 3. Paragraph 2 of subsection (l) of section 1456 of the tax law, as
16 added by section 6 of part CC of chapter 63 of the laws of 2000, is
17 amended to read as follows:

18 (2) Application of credit. The credit and carryovers of such credit
19 allowed under this subsection for any taxable year shall not, in the
20 aggregate, reduce the tax due for such year to less than the minimum tax
21 fixed by subsection (b) of section fourteen hundred fifty-five of this
22 article. However, if the amount of credit or carryovers of such credit,
23 or both, allowed under this subsection for any taxable year reduces the
24 tax to such amount, then any amount of credit or carryovers of such
25 credit thus not deductible in such taxable year may be carried over to
26 the following year or years and may be deducted from the taxpayer's tax
27 for such year or years. FOR TAXABLE YEARS BEGINNING ON AND AFTER JULY
28 FIRST, TWO THOUSAND ELEVEN, THE CREDIT AND ANY CARRYOVERS OF SUCH CREDIT
29 FROM PRIOR TAXABLE YEARS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
30 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
31 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS
32 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
33 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

34 S 4. Paragraph 2 of subdivision (n) of section 1511 of the tax law, as
35 amended by section 17 of part H-3 of chapter 62 of the laws of 2003, is
36 amended to read as follows:

37 (2) Application of credit. The credit and carryovers of such credit
38 allowed under this subdivision for any taxable year shall not, in the
39 aggregate, reduce the tax due for such year to less than the minimum tax
40 fixed by paragraph four of subdivision (a) of section fifteen hundred
41 two of this article or by section fifteen hundred two-a of this article,
42 whichever is applicable. However, if the amount of credit or carryovers
43 of such credit, or both, allowed under this subdivision for any taxable
44 year reduces the tax to such amount, then any amount of credit or carry-
45 overs of such credit thus not deductible in such taxable year may be
46 carried over to the following year or years and may be deducted from the
47 taxpayer's tax for such year or years. FOR TAXABLE YEARS BEGINNING ON
48 AND AFTER JULY FIRST, TWO THOUSAND ELEVEN, THE CREDIT AND ANY CARRYOVERS
49 OF SUCH CREDIT FROM PRIOR TAXABLE YEARS SHALL BE TREATED AS AN OVERPAY-
50 MENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS
51 OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER,
52 THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF
53 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

54 S 5. This act shall take effect immediately and shall apply to taxable
55 years beginning on and after July 1, 2011.