S T A T E O F N E W Y O R K

4033

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

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

AN ACT to amend the tax law, in relation to exempting certain conveyances of real property for preservation purposes from the real estate transfer tax and capital gains tax

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

Section 1. Paragraph 10 of subdivision (b) of section 1405 of the tax law, as amended by chapter 61 of the laws of 1989, is amended and a new paragraph 11 is added to read as follows:

10. Conveyances of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than two hundred thousand dollars and such property was used solely by the grantor as his personal residence and consists of a one, two or three-family house, an individual residential condominium unit or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative unit[.];

11. CONVEYANCES OF REAL PROPERTY TO A NOT-FOR-PROFIT CORPORATION HAVING TAX EXEMPT STATUS UNDER SECTION 501(C) (3) OF THE UNITED STATES INTERNAL REVENUE CODE WHICH IS MADE FOR PRESERVATION PURPOSES. FOR PURPOSES OF THIS PARAGRAPH, PRESERVATION SHALL INCLUDE PRESERVATION OF OPEN SPACE; ESTABLISHMENT OF PARKS, NATURE PRESERVES, OR RECREATION AREAS; PRESERVATION OF LAND WHICH IS PREDOMINANTLY VIABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, OR UNIQUE AND IRREPLACEABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SIX OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW; PRESERVATION OF LANDS OF EXCEPTIONAL SCENIC VALUE; PRESERVATION OF FRESH AND SALTWATER MARSHES OR OTHER WETLANDS; PRESERVATION OF AQUIFER RECHARGE AREAS; PRESERVATION OF UNDEVELOPED BEACH-LANDS OR SHORELINE; ESTABLISHMENT OF WILDLIFE REFUGES FOR

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

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THE PURPOSE OF MAINTAINING NATIVE ANIMAL SPECIES DIVERSITY, INCLUDING THE PROTECTION OF HABITAT ESSENTIAL TO THE RECOVERY OF RARE, THREATENED OR ENDANGERED SPECIES; PRESERVATION OF UNIQUE OR THREATENED ECOLOGICAL AREAS; PRESERVATION OF RIVERS AND RIVER AREAS IN A NATURAL, FREE-FLOWING CONDITION; PRESERVATION OF FORESTED LAND; PRESERVATION OF PUBLIC ACCESS TO LANDS FOR PUBLIC USE INCLUDING STREAM RIGHTS AND WATERWAYS; PRESERVATION OF HISTORIC PLACES AND PROPERTIES LISTED ON THE NEW YORK STATE REGISTER OF HISTORIC PLACES AND/OR PROTECTED UNDER A MUNICIPAL HISTORIC PRESERVATION ORDINANCE OR LAW; AND UNDERTAKING ANY OF THE PURPOSES OF THIS PARAGRAPH IN FURTHERANCE OF THE ESTABLISHMENT OF A GREENBELT.

S 2. Section 1402-a of the tax law is amended by adding a new subdivision (d) to read as follows:

(D) THE ADDITIONAL TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO ANY CONVEYANCES TO A MUNICIPALITY OR TO A NOT-FOR-PROFIT CORPORATION HAVING TAX EXEMPT STATUS UNDER SECTION 501(C)(3) OF THE UNITED STATES INTERNAL REVENUE CODE WHICH IS MADE FOR PRESERVATION PURPOSES. FOR PURPOSES OF THIS SUBDIVISION, PRESERVATION SHALL INCLUDE PRESERVATION OF OPEN SPACE; ESTABLISHMENT OF PARKS, NATURE PRESERVES, OR RECREATION AREAS; PRESERVATION OF LAND WHICH IS PREDOMINANTLY VIABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, OR UNIQUE AND IRREPLACEABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SIX OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW; PRESERVATION OF LANDS OF EXCEPTIONAL SCENIC VALUE; PRESERVATION OF FRESH AND SALTWATER MARSHES OR OTHER WETLANDS; PRESERVATION OF AQUIFER RECHARGE AREAS; PRESERVATION OF UNDEVELOPED BEACH-LANDS OR SHORELINE; ESTABLISHMENT OF WILDLIFE REFUGES FOR THE PURPOSE OF MAINTAINING NATIVE ANIMAL SPECIES DIVERSITY, INCLUDING THE PROTECTION OF HABITAT ESSENTIAL TO THE RECOVERY OF RARE, THREATENED OR ENDANGERED SPECIES; PRESERVATION OF UNIQUE OR THREATENED ECOLOGICAL AREAS; PRESERVATION OF RIVERS AND RIVER AREAS IN A NATURAL, FREE-FLOWING CONDITION; PRESERVATION OF FORESTED LAND; PRESERVATION OF PUBLIC ACCESS TO LANDS FOR PUBLIC USE INCLUDING STREAM RIGHTS AND WATERWAYS; PRESERVATION OF HISTORIC PLACES AND PROPERTIES LISTED ON THE NEW YORK STATE REGISTER OF HISTORIC PLACES AND/OR PROTECTED UNDER A MUNICIPAL HISTORIC PRESERVATION ORDINANCE OR LAW; AND UNDERTAKING ANY OF THE PURPOSES OF THIS SUBDIVISION IN FURTHERANCE OF THE ESTABLISHMENT OF A GREENBELT.

S 3. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 4-a to read as follows:

(4-A) THE AMOUNT OF ANY GAIN TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME, FROM THE SALE OR OTHER DISPOSITION OF REAL PROPERTY TO A MUNICIPALITY OR A NOT-FOR-PROFIT CORPORATION HAVING TAX EXEMPT STATUS UNDER SECTION 501(C)(3) OF THE UNITED STATES INTERNAL REVENUE CODE WHICH IS MADE FOR PRESERVATION PURPOSES. FOR PURPOSES OF THIS PARAGRAPH, PRESERVATION SHALL INCLUDE PRESERVATION OF OPEN SPACE; ESTABLISHMENT OF PARKS, NATURE PRESERVES, OR RECREATION AREAS; PRESERVATION OF LAND WHICH IS PREDOMINANTLY VIABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, OR UNIQUE AND IRREPLACEABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SIX OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW; PRESERVATION OF LANDS OF EXCEPTIONAL SCENIC VALUE; PRESERVATION OF FRESH AND SALTWATER MARSHES OR OTHER WETLANDS; PRESERVATION OF AQUIFER RECHARGE AREAS; PRESERVATION OF UNDEVELOPED BEACH-LANDS OR SHORELINE; ESTABLISHMENT OF WILDLIFE REFUGES FOR THE PURPOSE OF MAINTAINING NATIVE ANIMAL SPECIES DIVERSITY, INCLUDING THE PROTECTION OF HABITAT ESSENTIAL TO THE RECOVERY OF RARE, THREATENED OR ENDANGERED SPECIES; PRESERVATION OF UNIQUE OR THREATENED ECOLOGICAL AREAS; PRESER-

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S 4. This act shall take effect immediately.