

5876

2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. SWEENEY, BRADLEY, JAFFEE, GALEF, MAGNARELLI, FIELDS, CAHILL, ESPAILLAT, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. BOYLAND, CANESTRARI, CLARK, DelMONTE, EDDINGTON, GUNTHER, KOON, LUPARDO, MAGEE, MCENENY, MOLINARO, REILLY, ROSENTHAL, STIRPE, WEISENBERG -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to making technical corrections to the conservation easement tax credit

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

1 Section 1. Paragraph 1 of subsection (kk) of section 606 of the tax
2 law, as added by section 1 of part F of chapter 62 of the laws of 2006,
3 is amended to read as follows:
4 (1) Credit allowed. In the case of a taxpayer who owns land that is
5 subject to a conservation easement held by a public or private conserva-
6 tion agency, there shall be allowed a credit for twenty-five percent of
7 the [allowable school district, county and town] real property taxes
8 PAID on [such] THE land, OR PORTION OF THE LAND, SUBJECT TO THE
9 EASEMENT. In no event shall the credit allowed under this subsection in
10 combination with any other credit for [such school district, county and
11 town] real property taxes under this section exceed such taxes.
12 S 2. Subdivision 38 of section 210 of the tax law, as added by section
13 3 of part F of chapter 62 of the laws of 2006, is renumbered subdivision
14 41 and is amended to read as follows:
15 41. Conservation easement tax credit. (1) Credit allowed. In the case
16 of a taxpayer who owns land that is subject to a conservation easement
17 held by a public or private conservation agency, there shall be allowed
18 a credit for twenty-five percent of the [allowable school district,
19 county and town] real property taxes PAID on [such] THE land, OR PORTION
20 OF THE LAND, SUBJECT TO THE EASEMENT. In no such case shall the credit
21 allowed under this subdivision in combination with any other credit for

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

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1 [such school district, county and town] real property taxes under this
2 section exceed such taxes.

3 (2) Conservation easement. For purposes of this subdivision, the term
4 "conservation easement" means a perpetual and permanent conservation
5 easement as defined in article forty-nine of the environmental conserva-
6 tion law that serves to protect open space, scenic, natural resources,
7 biodiversity, agricultural, watershed and/or historic preservation
8 resources. Any conservation easement for which a tax credit is claimed
9 under this subdivision shall be filed with the department of environ-
10 mental conservation, as provided for in article forty-nine of the envi-
11 ronmental conservation law and such conservation easement shall comply
12 with the provisions of title three of such article, and the provisions
13 of subdivision (h) of section 170 of the internal revenue code. Dedi-
14 cations of land for open space through the execution of conservation
15 easements for the purpose of fulfilling density requirements to obtain
16 subdivision or building permits shall not be considered a conservation
17 easement under this subdivision.

18 (3) Land. For purposes of this subdivision, the term "land" means a
19 fee simple title to real property located in this state, with or without
20 improvements thereon; rights of way; water and riparian rights; ease-
21 ments; privileges and all other rights or interests of any land or
22 description in, relating to or connected with real property, excluding
23 buildings, structures, or improvements.

24 (4) Public or private conservation agency. For purposes of this subdi-
25 vision, the term "public or private conservation agency" means any
26 state, local, or federal governmental body; or any private not-for-pro-
27 fit charitable corporation or trust which is authorized to do business
28 in the state of New York, is organized and operated to protect land for
29 natural resources, conservation or historic preservation purposes, is
30 exempt from federal income taxation under section 501(c)(3) of the
31 internal revenue code, and has the power to acquire, hold and maintain
32 land and/or interests in land for such purposes.

33 (5) Credit limitation. The amount of the credit that may be claimed by
34 a taxpayer pursuant to this subsection shall not exceed five thousand
35 dollars in any given year.

36 (6) Application of the credit. The credit allowed under this subdivi-
37 sion for any taxable year shall not reduce the tax due for such year to
38 less than the higher of the amounts prescribed in paragraphs (c) and (d)
39 of subdivision one of this section. However, if the amount of the credit
40 allowed under this subdivision for any taxable year reduces the tax to
41 such amount, any amount of the credit thus not deductible in such taxa-
42 ble year shall be treated as an overpayment of tax to be credited or
43 refunded in accordance with the provisions of subsection (c) of section
44 [ten hundred] ONE THOUSAND eighty-eight of this chapter, except that, no
45 interest shall be paid thereon.

46 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
47 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of
48 the laws of 2008, is amended to read as follows:

49 (B) shall be treated as the owner of a new business with respect to
50 such share if the corporation qualifies as a new business pursuant to
51 paragraph (j) of subdivision twelve of section two hundred ten of this
52 chapter.

1		section two hundred ten or section
2	With respect to the following	fourteen hundred fifty-six of this
3	credit under this section:	chapter is:
4	Investment tax credit	Investment credit base
5	under subsection (a)	or qualified
6		rehabilitation
7		expenditures under
8		subdivision twelve of
9		section two hundred ten
10	Empire zone	Cost or other basis
11	investment tax credit	under subdivision
12	under subsection (j)	twelve-B
13		of section two hundred
14		ten
15	Empire zone	Eligible wages under
16	wage tax credit	subdivision nineteen of
17	under subsection (k)	section two hundred ten
18		or subsection (e) of
19		section fourteen hundred
20		fifty-six
21	Empire zone	Qualified investments
22	capital tax credit	and contributions under
23	under subsection (l)	subdivision twenty of
24		section two hundred ten
25		or subsection (d) of
26		section fourteen hundred
27		fifty-six
28	Agricultural property tax	Allowable school
29	credit under subsection (n)	district property taxes under
30		subdivision twenty-two of
31		section two hundred ten
32	Credit for employment	Qualified first-year wages or
33	of persons with dis-	qualified second-year wages
34	abilities under	under subdivision
35	subsection (o)	twenty-three of section
36		two hundred ten
37		or subsection (f)
38		of section fourteen
39		hundred fifty-six
40	Employment incentive	Applicable investment credit
41	credit under subsec-	base under subdivision
42	tion (a-1)	twelve-D of section two
43		hundred ten
44	Empire zone	Applicable investment
45	employment	credit under sub-
46	incentive credit under	division twelve-C
47	subsection (j-1)	of section two hundred ten

1	Alternative fuels credit	Cost under subdivision
2	under subsection (p)	twenty-four of section two
3		hundred ten
4	Qualified emerging	Applicable credit base
5	technology company	under subdivision twelve-E
6	employment credit	of section two hundred ten
7	under subsection (q)	
8	Qualified emerging	Qualified investments under
9	technology company	subdivision twelve-F of
10	capital tax credit	section two hundred ten
11	under subsection (r)	
12	Credit for purchase of an	Cost of an automated
13	automated external defibrillator	external defibrillator under
14	under subsection (s)	subdivision twenty-five of
15		section two hundred ten
16		or subsection (j) of section
17		fourteen hundred fifty-six
18	Low-income housing	Credit amount under
19	credit under subsection (x)	subdivision thirty
20		of section two hundred ten or
21		subsection (l) of section
22		fourteen hundred fifty-six
23	Credit for transportation	Amount of credit under sub-
24	improvement contributions	division thirty-two of section
25	under subsection (z)	two hundred ten or subsection
26		(n) of section fourteen
27		hundred fifty-six
28	QEZE credit for real property	Amount of credit under
29	taxes under subsection (bb)	subdivision twenty-seven of
30		section two hundred ten or
31		subsection (o) of section
32		fourteen hundred fifty-six
33	QEZE tax reduction credit	Amount of benefit period
34	under subsection (cc)	factor, employment increase factor
35		and zone allocation
36		factor (without regard
37		to pro ration) under
38		subdivision twenty-eight of
39		section two hundred ten or
40		subsection (p) of section
41		fourteen hundred fifty-six
42		and amount of tax factor
43		as determined under
44		subdivision (f) of section sixteen
45	Green building credit	Amount of green building credit
46	under subsection (y)	under subdivision thirty-one
47		of section two hundred ten
48		or subsection (m) of section

1		fourteen hundred fifty-six
2	Credit for long-term	Qualified costs under
3	care insurance premiums	subdivision twenty-five-a of
4	under subsection (aa)	section two hundred ten
5		or subsection (k) of section
6		fourteen hundred fifty-six
7	Brownfield redevelopment	Amount of credit
8	credit under subsection	under subdivision
9	(dd)	thirty-three of section
10		two hundred ten
11		or subsection (q) of
12		section fourteen hundred
13		fifty-six
14	Remediated brownfield	Amount of credit under
15	credit for real property	subdivision thirty-four
16	taxes for qualified	of section two hundred
17	sites under subsection	ten or subsection (r) of
18	(ee)	section fourteen hundred
19		fifty-six
20	Environmental	Amount of credit under
21	remediation	subdivision thirty-five of
22	insurance credit under	section two hundred
23	subsection (ff)	ten or subsection
24		(s) of section
25		fourteen hundred
26		fifty-six
27	Empire state film production	Amount of credit for qualified
28	credit under subsection (gg)	production costs in production
29		of a qualified film under
30		subdivision thirty-six of
31		section two hundred ten
32	Qualified emerging	Qualifying expenditures and
33	technology company facilities,	development activities under
34	operations and training credit	subdivision twelve-G of section
35	under subsection (nn)	two hundred ten
36	Security training tax	Amount of credit
37	credit under	under subdivision thirty-seven
38	subsection (ii)	of section two hundred ten or
39		under subsection (t) of
40		section fourteen hundred fifty-six
41	Credit for qualified fuel	Amount of credit under
42	cell electric generating equipment	subdivision thirty-seven
43	expenditures under subsection (g-2)	of section two hundred ten
44		or subsection (t) of
45		section fourteen hundred
46		fifty-six

1	Empire state commercial production	Amount of credit for qualified
2	credit under subsection (jj)	production costs in production
3		of a qualified commercial under
4		subdivision thirty-eight of sec-
5		tion two hundred ten
6	Biofuel production	Amount of credit
7	tax credit under	under subdivision
8	subsection (jj)	thirty-eight of
9		section two hundred ten
10	CONSERVATION EASEMENT TAX	AMOUNT OF CREDIT UNDER
11	CREDIT UNDER SUBSECTION (KK)	SUBDIVISION FORTY-ONE OF
12		SECTION TWO HUNDRED TEN
13	Clean heating fuel credit	Amount of credit under
14	under subsection (mm)	subdivision thirty-nine of
15		section two hundred ten
16	Credit for rehabilitation	Amount of credit under
17	of historic properties	subdivision forty of
18	under subsection (oo)	subsection two hundred ten
19	Credit for companies who	Amount of credit under
20	provide transportation	subdivision forty of
21	to individuals	section two hundred ten
22	with disabilities	
23	under subsection (oo)	
24	S 4. This act shall take effect immediately and shall be made applica-	
25	ble to taxable years commencing on and after January 1, 2009 and there-	
26	after; provided, however that the empire state film production credit	
27	under subsection (gg), the empire state commercial production credit	
28	under subsection (jj) and the credit for companies who provide transpor-	
29	tation to handicapped individuals under subsection (oo) of section 606	
30	of the tax law contained in section three of this act shall expire on	
31	the same date as provided in section 9 of part P of chapter 60 of the	
32	laws of 2004, as amended, section 10 of part V of chapter 62 of the laws	
33	of 2006, and section 5 of chapter 522 of the laws of 2006, as amended,	
34	respectively.	