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

S. 4485 A. 7758

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 23, 2009

IN SENATE -- Introduced by Sens. LAVALLE, ALESI, DeFRANCISCO, FUSCHILLO, LARKIN, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

AN ACT to amend the tax law, in relation to providing a tax credit under article 9-A and article 22 thereof for donations of land, easements on land and other interests in real property for conservation purposes

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

Section 1. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. QUALIFIED NEW YORK CONSERVATION CONTRIBUTION CREDIT. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR QUALIFIED NEW YORK CONSERVATION CONTRIBUTIONS MADE DURING THE TAXABLE YEAR.

(B) QUALIFIED NEW YORK CONSERVATION CONTRIBUTION. THE TERM "QUALIFIED NEW YORK CONSERVATION CONTRIBUTION" MEANS A QUALIFIED CONSERVATION CONTRIBUTION WITHIN THE MEANING OF PARAGRAPH ONE OF SUBSECTION (H) OF SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE, BUT ONLY WITH RESPECT TO A QUALIFIED REAL PROPERTY INTEREST, AS DEFINED UNDER PARAGRAPH TWO OF SUCH SUBSECTION (H), WHICH IS LOCATED WITHIN NEW YORK STATE. PROVIDED, FURTHER, THAT A QUALIFIED REAL PROPERTY INTEREST, AS DEFINED UNDER SUBPARAGRAPH (C) OF PARAGRAPH TWO OF SUCH SUBSECTION (H), MUST ALSO MEET THE REQUIREMENTS OF TITLE THREE OF ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVATION LAW.

(C) AMOUNT OF THE CREDIT. THE AMOUNT OF THE CREDIT SHALL BE FIFTY PERCENT OF THE AMOUNT OF THE TAXPAYER'S QUALIFIED NEW YORK CONSERVATION CONTRIBUTION WHICH QUALIFIES FOR THE DEDUCTION FOR THE TAXABLE YEAR

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

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UNDER SUBSECTION (A) OF SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO WHETHER THE TAXPAYER IN FACT CLAIMED THE DEDUCTION UNDER SUCH SUBSECTION (A) OF SECTION ONE HUNDRED SEVENTY FOR THE TAXABLE YEAR), SUCH DEDUCTION TO BE DETERMINED WITHOUT REGARD TO THE LIMITATIONS SET FORTH IN SUBSECTION (B) OF SUCH SECTION ONE HUNDRED SEVENTY. THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS SUBDIVISION SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS WITH RESPECT TO ANY TAXABLE YEAR.

(D) CARRYOVERS. IN NO EVENT SHALL THE CREDIT UNDER THIS SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR MAY BE CARRIED OVER TO THE TEN TAXABLE YEARS NEXT FOLLOWING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxi) to read as follows:

(XXXI) QUALIFIED NEW YORK CONSERVATION CONTRIBUTION CREDIT UNDER SUBSECTION (QQ)	AMOUNT OF QUALIFIED CONSERVATION CONTRIBUTION UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

S 3. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) QUALIFIED NEW YORK CONSERVATION CONTRIBUTION CREDIT. (1) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR QUALIFIED NEW YORK CONSERVATION CONTRIBUTIONS MADE DURING THE TAXABLE YEAR.

(2) QUALIFIED NEW YORK CONSERVATION CONTRIBUTION. THE TERM "QUALIFIED NEW YORK CONSERVATION CONTRIBUTION" MEANS A QUALIFIED CONSERVATION CONTRIBUTION WITHIN THE MEANING OF PARAGRAPH ONE OF SUBSECTION (H) OF SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE, BUT ONLY WITH RESPECT TO A QUALIFIED REAL PROPERTY INTEREST, AS DEFINED UNDER PARAGRAPH TWO OF SUCH SUBSECTION (H), WHICH IS LOCATED WITHIN NEW YORK STATE. PROVIDED, FURTHER, THAT A QUALIFIED REAL PROPERTY INTEREST, AS DEFINED UNDER SUBPARAGRAPH (C) OF PARAGRAPH TWO OF SUCH SUBSECTION (H), MUST ALSO MEET THE REQUIREMENTS OF TITLE THREE OF ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVATION LAW.

(3) AMOUNT OF THE CREDIT. THE AMOUNT OF THE CREDIT SHALL BE FIFTY PERCENT OF THE AMOUNT OF THE TAXPAYER'S QUALIFIED NEW YORK CONSERVATION CONTRIBUTION WHICH QUALIFIES FOR THE DEDUCTION FOR THE TAXABLE YEAR UNDER SUBSECTION (A) OF SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO WHETHER THE TAXPAYER IN FACT CLAIMED THE DEDUCTION UNDER SUCH SUBSECTION (A) OF SECTION ONE HUNDRED SEVENTY FOR THE TAXABLE YEAR), SUCH DEDUCTION TO BE DETERMINED WITHOUT REGARD TO THE LIMITATIONS SET FORTH IN SUBSECTION (B) OF SUCH SECTION ONE HUNDRED SEVENTY. THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS SUBSECTION SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS WITH RESPECT TO ANY TAXABLE YEAR.

(4) CARRYOVERS. IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE TEN TAXABLE YEARS NEXT FOLLOWING SUCH

TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(5) HUSBAND AND WIFE. IN THE CASE OF A HUSBAND AND WIFE, THE AMOUNT OF THE CREDIT SHALL BE DIVIDED BETWEEN THEM EQUALLY OR IN SUCH OTHER MANNER AS THEY MAY BOTH ELECT.

S 4. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2009.