

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:

1 Section 1. Section 210 of the tax law is amended by adding a new
2 subdivision 41 to read as follows:
3 41. QUALIFIED NEW YORK CONSERVATION CONTRIBUTION CREDIT. (A) GENERAL.
4 A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
5 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR QUALIFIED NEW
6 YORK CONSERVATION CONTRIBUTIONS MADE DURING THE TAXABLE YEAR.
7 (B) QUALIFIED NEW YORK CONSERVATION CONTRIBUTION. THE TERM "QUALIFIED
8 NEW YORK CONSERVATION CONTRIBUTION" MEANS A QUALIFIED CONSERVATION
9 CONTRIBUTION WITHIN THE MEANING OF PARAGRAPH ONE OF SUBSECTION (H) OF
10 SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE, BUT ONLY WITH
11 RESPECT TO A QUALIFIED REAL PROPERTY INTEREST, AS DEFINED UNDER PARA-
12 GRAPH TWO OF SUCH SUBSECTION (H), WHICH IS LOCATED WITHIN NEW YORK
13 STATE. PROVIDED, FURTHER, THAT A QUALIFIED REAL PROPERTY INTEREST, AS
14 DEFINED UNDER SUBPARAGRAPH (C) OF PARAGRAPH TWO OF SUCH SUBSECTION (H),
15 MUST ALSO MEET THE REQUIREMENTS OF TITLE THREE OF ARTICLE FORTY-NINE OF
16 THE ENVIRONMENTAL CONSERVATION LAW.
17 (C) AMOUNT OF THE CREDIT. THE AMOUNT OF THE CREDIT SHALL BE FIFTY
18 PERCENT OF THE AMOUNT OF THE TAXPAYER'S QUALIFIED NEW YORK CONSERVATION
19 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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1 UNDER SUBSECTION (A) OF SECTION ONE HUNDRED SEVENTY OF THE INTERNAL
 2 REVENUE CODE (WITHOUT REGARD TO WHETHER THE TAXPAYER IN FACT CLAIMED THE
 3 DEDUCTION UNDER SUCH SUBSECTION (A) OF SECTION ONE HUNDRED SEVENTY FOR
 4 THE TAXABLE YEAR), SUCH DEDUCTION TO BE DETERMINED WITHOUT REGARD TO THE
 5 LIMITATIONS SET FORTH IN SUBSECTION (B) OF SUCH SECTION ONE HUNDRED
 6 SEVENTY. THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS SUBDIVISION SHALL
 7 NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS WITH RESPECT TO ANY TAXA-
 8 BLE YEAR.

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

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

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

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

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

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

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

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

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

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

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