

866

2009-2010 Regular Sessions

I N S E N A T E

January 21, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Investigations and
Government Operations

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 ASSEM-
BLY, 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
22 [such school district, county and town] real property taxes under this
23 section exceed such taxes.

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

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(2) Conservation easement. For purposes of this subdivision, the term "conservation easement" means a perpetual and permanent conservation easement as defined in article forty-nine of the environmental conservation law that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed and/or historic preservation resources. Any conservation easement for which a tax credit is claimed under this subdivision shall be filed with the department of environmental conservation, as provided for in article forty-nine of the environmental conservation law and such conservation easement shall comply with the provisions of title three of such article, and the provisions of subdivision (h) of section 170 of the internal revenue code. Deductions of land for open space through the execution of conservation easements for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered a conservation easement under this subdivision.

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

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

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

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

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

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

With respect to the following credit under this section:

The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:

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

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

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

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