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

781

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. RABBITT, THIELE, KOLB, FINCH, McDONOUGH, RAIA, McKEVITT -- Multi-Sponsored by -- M. of A. BARCLAY, MOLINARO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a credit against income tax in the form of a mortgage credit certificate for first-time home buyers

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

Section 1. Section 606 of the tax law is amended by adding a new subsection (ss) to read as follows:

(SS) MORTGAGE CREDIT CERTIFICATE. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO TWENTY-FIVE PERCENT OF A QUALIFIED MORTGAGE CREDIT CERTIFICATE NOT TO EXCEED TWO THOUSAND DOLLARS PER YEAR.

(2) IF THE CREDIT ALLOWABLE UNDER PARAGRAPH ONE OF THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS CREDIT MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(3) (A) A TAXPAYER WHO IS A FIRST-TIME HOME BUYER SHALL BE ENTITLED TO A QUALIFIED MORTGAGE CREDIT CERTIFICATE FROM A PRIVATE LENDER FOR THE ANNUAL AMOUNT OF INTEREST TO BE PAID TO FINANCE THE COST OF THE ACQUISITION OF A PRINCIPAL RESIDENCE.

(B) A MORTGAGE CREDIT CERTIFICATE MAY ONLY BE TRANSFERRED BY THE TAXPAYER TO A LENDING INSTITUTION INCLUDING A NON-DEPOSITORY INSTITUTION IN CONNECTION WITH A LOAN:

(I) THAT IS SECURED BY THE PRINCIPAL RESIDENCE WITH RESPECT TO WHICH THE CREDIT RELATES, AND

(II) THE PROCEEDS OF WHICH MAY NOT BE USED FOR ANY PURPOSE OTHER THAN THE ACQUISITION OF SUCH PRINCIPAL RESIDENCE.

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

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(C) IN EXCHANGE FOR WHICH SUCH LENDING INSTITUTION PROVIDES THE TAXPAYER, (I) A REDUCTION DETERMINED AS PROVIDED IN SUCH REGULATIONS IN THE RATE OF INTEREST ON THE LOAN; OR (II) IF THE TAXPAYER SO ELECTS WITH RESPECT TO A SPECIFIED AMOUNT OF THE FACE AMOUNT OF SUCH A CERTIFICATE RELATING TO A BUILDING:

A. WHICH IS A TARGETED AREA RESIDENCE (WITHIN THE MEANING OF SECTION 143(J)(1) OF THE INTERNAL REVENUE CODE), OR

B. WHICH IS LOCATED IN A FEDERAL ENTERPRISE OR EMPOWERMENT ZONE OR AN EMPIRE ZONE, A PAYMENT WHICH IS SUBSTANTIALLY EQUIVALENT TO SUCH SPECIFIED AMOUNT TO BE USED TO REDUCE THE TAXPAYER'S COST OF PURCHASING THE BUILDING (AND ONLY THE REMAINDER OF SUCH FACE AMOUNT SHALL BE TAKEN INTO ACCOUNT UNDER CLAUSE (I) OF THIS SUBPARAGRAPH).

THE AMOUNT OF THE CREDIT SPECIFIED IN THE CERTIFICATE SHALL BE ALLOWED TO THE LENDER ONLY TO OFFSET THE TAX OF SUCH LENDER DUE UNDER THE PROVISIONS OF ARTICLE NINE-A OR THIRTY-TWO OF THIS CHAPTER. THE LENDER MAY CARRY FORWARD ALL UNUSED AMOUNTS UNDER THIS PARAGRAPH UNTIL EXHAUSTED.

(D) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED MORTGAGE CREDIT CERTIFICATE" MEANS A CERTIFICATE:

(I) ISSUED TO THE TAXPAYER, IN ACCORDANCE WITH PROCEDURES PRESCRIBED BY THE COMMISSIONER,

(II) THE FACE AMOUNT OF WHICH SHALL BE EQUAL TO THE AMOUNT OF THE ANNUAL INTEREST TO BE PAID ON A LOAN OR LOANS TO FINANCE THE COST OF THE ACQUISITION OF A PRINCIPAL RESIDENCE BY A FIRST-TIME HOME BUYER,

(III) WHICH MAY ONLY BE USED BY THE TAXPAYER IN CONNECTION WITH A LOAN:

A. THAT IS SECURED BY THE RESIDENCE WITH RESPECT TO WHICH THE CREDIT RELATES, AND

B. THE PROCEEDS OF WHICH MAY NOT BE USED FOR ANY PURPOSE OTHER THAN THE ACQUISITION OF SUCH RESIDENCE.

(E) THE TERM "FIRST-TIME HOME BUYER" INCLUDES ANY TAXPAYER WHO HAS NOT OWNED HIS OR HER PRINCIPAL RESIDENCE WITHIN THE PRECEDING FIVE YEARS AND WHO MEETS THE ELIGIBILITY REQUIREMENTS IMPOSED BY THE STATE OF NEW YORK MORTGAGE AGENCY FOR ITS FORWARD COMMITMENT LOAN PROGRAM PURSUANT TO ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW.

(F) THE TERM "PRINCIPAL RESIDENCE" MEANS A DWELLING IN THE STATE OWNED AS A HOME AND SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE, AS IS REASONABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY CONSIST OF PART OF A MULTIPLE DWELLING OR MULTI-PURPOSE BUILDING INCLUDING A COOPERATIVE OR A CONDOMINIUM.

(G) IF THE TAXPAYER HOLDS STOCK AS A TENANT-SHAREHOLDER IN A COOPERATIVE HOUSING CORPORATION SUCH SHAREHOLDER SHALL BE TREATED AS OWNING THE HOUSE OR APARTMENT WHICH THE TAXPAYER IS ENTITLED TO OCCUPY AS SUCH SHAREHOLDER.

(4) (A) IF, BEFORE THE END OF THE FIVE-YEAR PERIOD BEGINNING ON THE DATE OF PURCHASE OF SUCH RESIDENCE BY THE TAXPAYER:

(I) THE TAXPAYER DISPOSES OF SUCH TAXPAYER'S INTEREST IN SUCH RESIDENCE, OR

(II) SUCH RESIDENCE CEASES TO BE USED AS THE PRINCIPAL RESIDENCE OF THE TAXPAYER,

THE TAXPAYER'S TAX IMPOSED BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSATION OCCURS SHALL BE INCREASED BY THE RECAPTURE PERCENTAGE OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT TO SUCH CREDIT.

(B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE PERCENTAGE SHALL BE DETERMINED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER.

(5) THE COMMISSIONER IN CONJUNCTION WITH THE SUPERINTENDENT OF BANKS SHALL PRESCRIBE SUCH REGULATIONS AS MAY BE APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS SUBSECTION, INCLUDING REGULATIONS WHERE LESS THAN ALL OF A BUILDING IS USED AS A PRINCIPAL RESIDENCE AND WHERE MORE THAN ONE TAXPAYER USE THE SAME DWELLING UNIT AS THEIR PRINCIPAL RESIDENCE.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to taxable years commencing on and after such date; provided that the commissioners of taxation and finance and housing and community renewal and the superintendent of banks are authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.