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I N S E N A T E

March 8, 2012

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- 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 the estate tax treatment of dispositions to surviving spouses who are not United States citizens

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

1 Section 1. Section 951 of the tax law is amended by adding a new
2 subsection (c) to read as follows:
3 (C) DISPOSITION TO SURVIVING SPOUSE WHO IS NOT A UNITED STATES CITI-
4 ZEN. IN THE CASE OF AN ESTATE WHERE A FEDERAL ESTATE TAX RETURN IS NOT
5 REQUIRED FOR FEDERAL ESTATE TAX PURPOSES, A DISPOSITION TO A SURVIVING
6 SPOUSE THAT WOULD QUALIFY FOR THE FEDERAL ESTATE TAX MARITAL DEDUCTION
7 UNDER SECTION 2056 OF THE INTERNAL REVENUE CODE IF NOT FOR THE LIMITA-
8 TION IMPOSED BY SUBSECTION (D)(1) OF SUCH SECTION SHALL NONETHELESS BE
9 TREATED AS QUALIFYING FOR THE FEDERAL ESTATE TAX MARITAL DEDUCTION FOR
10 PURPOSES OF COMPUTING THE TAX IMPOSED BY SECTION NINE HUNDRED FIFTY-TWO
11 OF THIS ARTICLE, WITHOUT REQUIRING THAT SUCH DISPOSITION PASS TO THE
12 SURVIVING SPOUSE IN A QUALIFIED DOMESTIC TRUST AS REQUIRED FOR FEDERAL
13 PURPOSES BY INTERNAL REVENUE CODE SECTION 2056(D)(2).
14 S 2. This act shall take effect immediately and shall apply to the
15 estates of decedents that have died on or after January 1, 2010.

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

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