

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

S. 6598--A

A. 9425--A

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

March 1, 2012

IN SENATE -- Introduced by Sens. YOUNG, O'MARA, RITCHIE, VALESKY -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. GUNTHER -- Multi-Sponsored by -- M. of A. BURLING, LIFTON, PALMESANO -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a business franchise and personal income tax credit for soil improvement projects upon farmlands

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

1 Section 1. Subparagraphs 3 and 4 of paragraph (a) of subdivision 8-B
2 of section 208 of the tax law, as amended by chapter 170 of the laws of
3 1994, are amended, and a new subparagraph 5 is added to read as follows:
4 (3) increased by the net operating loss deduction otherwise allowed
5 under paragraph (f) of subdivision nine of this section, [and]
6 (4) reduced, for taxable years beginning after nineteen hundred nine-
7 ty-three, by the alternative net operating loss deduction, as defined in
8 paragraph (d) of this subdivision[.], AND
9 (5) IN THE EVENT THE TAXPAYER CLAIMS THE SOIL IMPROVEMENT CREDIT FOR
10 FARMLANDS ESTABLISHED PURSUANT TO SUBDIVISION FORTY-FIVE OF SECTION TWO
11 HUNDRED TEN OF THIS ARTICLE, INCREASED BY THE AMOUNT OF ANY EXPENDITURES
12 DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1) THAT THE TAXPAYER
13 DEDUCTED FROM ITS TOTAL NET INCOME ON ITS FEDERAL TAX RETURN FOR THE TAX
14 YEAR.
15 S 2. Section 210 of the tax law is amended by adding a new subdivision
16 45 to read as follows:
17 45. SOIL IMPROVEMENT CREDIT FOR FARMLANDS. (A) ALLOWANCE OF CREDIT.
18 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND

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

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1 TWELVE, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
2 THIS ARTICLE IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE TAXPAYER'S
3 ELIGIBLE EXPENDITURES DURING THE TAX YEAR FOR A SOIL IMPROVEMENT
4 PROJECT. PROVIDED, HOWEVER, THAT THE CREDIT GRANTED FOR ANY SOIL
5 IMPROVEMENT PROJECT PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED FIFTY
6 THOUSAND DOLLARS.

7 (B) DEFINITIONS. FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING
8 DEFINITIONS SHALL APPLY:

9 (1) "ELIGIBLE EXPENDITURES" SHALL MEAN FEES FOR ARCHITECTURAL, ARCHEO-
10 LOGICAL, GEOLOGICAL AND ENGINEERING SERVICES; THE COSTS OF DEVELOPING
11 PLANS AND SPECIFICATION; FEES FOR CONSULTANT AND LEGAL SERVICES; AND ANY
12 EXPENDITURE DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1), INCLUD-
13 ING EXPENDITURES RELATED TO THE APPLICATION OF LIME AND FERTILIZER,
14 IMPROVEMENT OF DRAINAGE IN THE CASE OF OPEN AREAS THAT HAVE BEEN USED
15 FOR AGRICULTURAL PURPOSES AT ANY TIME IN THE PAST, AND EXPENDITURES
16 RELATED TO THE DECONSTRUCTION AND REMOVAL OF FENCES, STREAM CROSSINGS
17 AND NECESSARY RIPARIAN BUFFERS AS REQUIRED BY THE SOIL IMPROVEMENT
18 PROJECT.

19 (2) "FARMLAND" SHALL MEAN LAND WHICH, DURING THE TAXABLE YEAR IN WHICH
20 THE CREDIT IS CLAIMED PURSUANT TO THIS SUBDIVISION, IS ELIGIBLE FOR AN
21 AGRICULTURAL ASSESSMENT PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRI-
22 CULTURE AND MARKETS LAW.

23 (3) "SOIL IMPROVEMENT PROJECT" SHALL MEAN THE RESTORATION OF FARMLAND
24 FOR THE PRODUCTION OF AGRICULTURAL PERENNIAL CROPS, INCLUDING THOSE
25 CROPS INTENDED FOR ENERGY PRODUCTION PURPOSES, BY IMPROVING SUCH LAND
26 WHICH HAS NOT BEEN USED IN AGRICULTURAL PRODUCTION FOR TWO OR MORE YEARS
27 PRIOR TO THE COMPLETION OF SUCH RESTORATION.

28 (C) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
29 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
30 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS
31 SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION
32 FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CRED-
33 IT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVER-
34 PAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
35 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,
36 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT-
37 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THERE-
38 ON.

39 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
40 of the tax law is amended by adding a new clause (xxxiv) to read as
41 follows:

42 (XXXIV) SOIL IMPROVEMENT	AMOUNT OF CREDIT FOR ELIGIBLE
43 CREDIT FOR FARMLANDS UNDER	EXPENDITURES FOR A SOIL IMPROVEMENT
44 SUBSECTION (UU)	PROJECT UNDER SUBDIVISION
45	FORTY-FIVE OF SECTION
46	TWO HUNDRED TEN

47 S 4. Section 606 of the tax law is amended by adding a new subsection
48 (uu) to read as follows:

49 (UU) SOIL IMPROVEMENT CREDIT FOR FARMLANDS. (1) ALLOWANCE OF CREDIT.
50 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
51 TWELVE, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
52 THIS ARTICLE IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE TAXPAYER'S
53 ELIGIBLE EXPENDITURES DURING THE TAX YEAR FOR A SOIL IMPROVEMENT
54 PROJECT. PROVIDED, HOWEVER, THAT THE CREDIT GRANTED FOR ANY SOIL
55 IMPROVEMENT PROJECT PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED FIFTY
56 THOUSAND DOLLARS.

1 (2) DEFINITIONS. FOR THE PURPOSES OF THIS SUBSECTION, THE FOLLOWING
2 DEFINITIONS SHALL APPLY:

3 (A) "ELIGIBLE EXPENDITURES" SHALL MEAN FEES FOR ARCHITECTURAL, ARCHEO-
4 LOGICAL, GEOLOGICAL AND ENGINEERING SERVICES; THE COSTS OF DEVELOPING
5 PLANS AND SPECIFICATIONS; FEES FOR CONSULTANT AND LEGAL SERVICES; AND
6 ANY EXPENDITURE DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1),
7 INCLUDING EXPENDITURES RELATED TO THE APPLICATION OF LIME AND FERTILIZ-
8 ER, IMPROVEMENT OF DRAINAGE IN THE CASE OF OPEN AREAS THAT HAVE BEEN
9 USED FOR AGRICULTURAL PURPOSES AT ANY TIME IN THE PAST, AND EXPENDITURES
10 RELATED TO THE DECONSTRUCTION AND REMOVAL OF FENCES, STREAM CROSSINGS
11 AND NECESSARY RIPARIAN BUFFERS AS REQUIRED BY THE SOIL IMPROVEMENT
12 PROJECT.

13 (B) "FARMLAND" SHALL MEAN LAND WHICH, DURING THE TAXABLE YEAR IN WHICH
14 THE CREDIT IS CLAIMED PURSUANT TO THIS SUBSECTION, IS ELIGIBLE FOR AN
15 AGRICULTURAL ASSESSMENT PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRI-
16 CULTURE AND MARKETS LAW.

17 (C) "SOIL IMPROVEMENT PROJECT" SHALL MEAN THE RESTORATION OF FARMLAND
18 FOR THE PRODUCTION OF AGRICULTURAL PERENNIAL CROPS, INCLUDING THOSE
19 CROPS INTENDED FOR ENERGY PRODUCTION PURPOSES, BY IMPROVING SUCH LAND
20 WHICH HAS NOT BEEN USED IN AGRICULTURAL PRODUCTION FOR TWO OR MORE YEARS
21 PRIOR TO THE COMPLETION OF SUCH RESTORATION.

22 (3) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
23 THIS SUBSECTION SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
24 TAXPAYER MAY RECEIVE AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF
25 THE COMMISSIONER, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE
26 AMOUNT OF SUCH EXCESS.

27 S 5. Subsection (c) of section 615 of the tax law is amended by adding
28 a new paragraph 9 to read as follows:

29 (9) IN THE EVENT THE TAXPAYER CLAIMS THE SOIL IMPROVEMENT CREDIT FOR
30 FARMLANDS ESTABLISHED PURSUANT TO SUBSECTION (UU) OF SECTION SIX HUNDRED
31 SIX OF THIS ARTICLE, THE AMOUNT OF ANY EXPENDITURES DEFINED IN INTERNAL
32 REVENUE CODE SECTION 175(C)(1) THAT THE TAXPAYER DEDUCTED FROM HIS OR
33 HER FEDERAL GROSS INCOME ON HIS OR HER FEDERAL TAX RETURN FOR THE TAX
34 YEAR.

35 S 6. This act shall take effect immediately.