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

4387

2013-2014 Regular Sessions

I N S E N A T E

March 26, 2013

Introduced by Sen. YOUNG -- (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

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

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

Section 1. Subdivision 9 of section 208 of the tax law is amended by adding a new paragraph (r) to read as follows:

(R) IN THE EVENT THE TAXPAYER CLAIMS THE NATURAL RESOURCE IMPROVEMENT CREDIT FOR FARMLANDS AND FORESTLANDS ESTABLISHED PURSUANT TO SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, ENTIRE NET INCOME SHALL BE INCREASED BY THE AMOUNT OF ANY EXPENDITURES DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1) THAT THE TAXPAYER DEDUCTED FROM ITS TOTAL NET INCOME ON ITS FEDERAL TAX RETURN FOR THE TAX YEAR.

S 2. Section 210 of the tax law is amended by adding a new subdivision 46 to read as follows:

46. NATURAL RESOURCE IMPROVEMENT CREDIT FOR FARMLANDS AND FORESTLANDS. (A) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE TAXPAYER'S ELIGIBLE EXPENDITURES DURING THE TAX YEAR FOR A NATURAL RESOURCES IMPROVEMENT PROJECT. PROVIDED, HOWEVER, THAT THE CREDIT GRANTED FOR ANY NATURAL RESOURCE IMPROVEMENT PROJECT PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED FIFTY THOUSAND DOLLARS.

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

(1) "ELIGIBLE EXPENDITURES" SHALL MEAN FEES FOR ARCHITECTURAL, ARCHEOLOGICAL, GEOLOGICAL AND ENGINEERING SERVICES; THE COSTS OF DEVELOPING

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

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PLANS AND SPECIFICATIONS; FEES FOR CONSULTANT AND LEGAL SERVICES; AND ANY EXPENDITURE DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1), INCLUDING EXPENDITURES RELATED TO THE APPLICATION OF LIME AND FERTILIZER, IMPROVEMENT OF DRAINAGE IN THE CASE OF OPEN AREAS THAT HAVE BEEN USED FOR AGRICULTURAL PURPOSES AT ANY TIME IN THE PAST, AND EXPENDITURES RELATED TO THE DECONSTRUCTION AND REMOVAL OF FENCES, STREAM CROSSINGS AND NECESSARY RIPARIAN BUFFERS AND FORESTLAND IMPROVEMENTS AS REQUIRED BY THE NATURAL RESOURCES IMPROVEMENT PROJECT.

(2) "FARMLAND AND FORESTLAND" SHALL MEAN LAND WHICH, DURING THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED PURSUANT TO THIS SUBDIVISION, IS ELIGIBLE FOR AN AGRICULTURAL ASSESSMENT PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW OR ELIGIBLE FOR A FOREST ASSESSMENT UNDER SECTION FOUR HUNDRED EIGHTY-A OF THE REAL PROPERTY TAX LAW.

(3) "NATURAL RESOURCES IMPROVEMENT PROJECT" SHALL MEAN THE RESTORATION OF FARMLAND AND FORESTLAND FOR THE PRODUCTION OF AGRICULTURAL PERENNIAL CROPS, INCLUDING THOSE CROPS INTENDED FOR ENERGY PRODUCTION PURPOSES, BY IMPROVING SUCH LAND WHICH HAS NOT BEEN USED IN AGRICULTURAL PRODUCTION FOR TWO OR MORE YEARS PRIOR TO THE INITIATION OF SUCH RESTORATION OR FORESTLAND IMPROVEMENTS REQUIRED IN THE MANAGEMENT PLAN.

(C) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

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

(XXXV) NATURAL RESOURCE IMPROVEMENT CREDIT FOR FARMLANDS AND FORESTLANDS UNDER SUBSECTION (VV)	AMOUNT OF CREDIT FOR ELIGIBLE EXPENDITURES FOR A NATURAL RESOURCES IMPROVEMENT PROJECT UNDER SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN

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

(VV) NATURAL RESOURCE IMPROVEMENT CREDIT FOR FARMLANDS AND FORESTLANDS. (1) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE TAXPAYER'S ELIGIBLE EXPENDITURES DURING THE TAX YEAR FOR A NATURAL RESOURCE IMPROVEMENT PROJECT. PROVIDED, HOWEVER, THAT THE CREDIT GRANTED FOR ANY NATURAL RESOURCE IMPROVEMENT PROJECT PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED FIFTY THOUSAND DOLLARS.

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

(A) "ELIGIBLE EXPENDITURES" SHALL MEAN FEES FOR ARCHITECTURAL, ARCHEOLOGICAL, GEOLOGICAL AND ENGINEERING SERVICES; THE COSTS OF DEVELOPING PLANS AND SPECIFICATIONS; FEES FOR CONSULTANT AND LEGAL SERVICES; AND ANY EXPENDITURE DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1), INCLUDING EXPENDITURES RELATED TO THE APPLICATION OF LIME AND FERTILIZ-

ER, IMPROVEMENT OF DRAINAGE IN THE CASE OF OPEN AREAS THAT HAVE BEEN USED FOR AGRICULTURAL PURPOSES AT ANY TIME IN THE PAST, AND EXPENDITURES RELATED TO THE DECONSTRUCTION AND REMOVAL OF FENCES, STREAM CROSSINGS AND NECESSARY RIPARIAN BUFFERS AND FORESTLAND IMPROVEMENTS AS REQUIRED BY THE NATURAL RESOURCE IMPROVEMENT PROJECT.

(B) "FARMLAND AND FORESTLAND" SHALL MEAN LAND WHICH, DURING THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED PURSUANT TO THIS SUBSECTION, IS ELIGIBLE FOR AN AGRICULTURAL ASSESSMENT PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW OR ELIGIBLE FOR A FOREST ASSESSMENT UNDER SECTION FOUR HUNDRED EIGHTY-A OF THE REAL PROPERTY TAX LAW.

(C) "NATURAL RESOURCE IMPROVEMENT PROJECT" SHALL MEAN THE RESTORATION OF FARMLAND AND FORESTLAND FOR THE PRODUCTION OF AGRICULTURAL PERENNIAL CROPS, INCLUDING THOSE CROPS INTENDED FOR ENERGY PRODUCTION PURPOSES, BY IMPROVING SUCH LAND WHICH HAS NOT BEEN USED IN AGRICULTURAL PRODUCTION FOR TWO OR MORE YEARS PRIOR TO THE COMPLETION OF SUCH RESTORATION OR HAD A COMMERCIAL TIMBER HARVEST WITHIN THE PAST FIVE YEARS.

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

S 5. Paragraph 4 of subsection (b) of section 612 of the tax law, as amended by chapter 406 of the laws of 1990, is amended to read as follows:

(4) Interest on indebtedness incurred or continued to purchase or carry obligations or securities the interest on which is exempt from tax under this article, to the extent deductible in determining federal adjusted gross income; PROVIDED THAT IN THE EVENT THE TAXPAYER CLAIMS THE NATURAL RESOURCE IMPROVEMENT CREDIT FOR FARMLANDS AND FORESTLANDS ESTABLISHED PURSUANT TO SUBSECTION (VV) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE, THE AMOUNT OF ANY EXPENDITURES DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1) THAT THE TAXPAYER DEDUCTED FROM HIS OR HER FEDERAL GROSS INCOME ON HIS OR HER FEDERAL TAX RETURN FOR THE TAX YEAR.

S 6. This act shall take effect immediately and shall apply to restoration projects initiated on or after such date.