

7107--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

April 23, 2015

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Introduced by M. of A. SKARTADOS, PALMESANO, GIGLIO, WOERNER, FITZPATRICK -- Multi-Sponsored by -- M. of A. LOPEZ -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- 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 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:

1     Section 1. Subdivision 9 of section 208 of the tax law is amended by  
2     adding a new paragraph (u) to read as follows:  
3     (U) IN THE EVENT THE TAXPAYER CLAIMS THE NATURAL RESOURCE IMPROVEMENT  
4     CREDIT FOR FARMLANDS AND FORESTLANDS ESTABLISHED PURSUANT TO SUBDIVISION  
5     FIFTY-ONE OF SECTION TWO HUNDRED TEN-B OF THIS ARTICLE, ENTIRE NET  
6     INCOME SHALL BE INCREASED BY THE AMOUNT OF ANY EXPENDITURES DEFINED IN  
7     INTERNAL REVENUE CODE SECTION 175(C)(1) THAT THE TAXPAYER DEDUCTED FROM  
8     ITS TOTAL NET INCOME ON ITS FEDERAL TAX RETURN FOR THE TAX YEAR.  
9     S 2. Section 210-B of the tax law is amended by adding a new subdivision  
10    sion 51 to read as follows:  
11    51. NATURAL RESOURCE IMPROVEMENT CREDIT FOR FARMLANDS AND FORESTLANDS.  
12    (A) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY  
13    FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT  
14    AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO  
15    TWENTY-FIVE PERCENT OF THE TAXPAYER'S ELIGIBLE EXPENDITURES DURING THE  
16    TAX YEAR FOR A NATURAL RESOURCES IMPROVEMENT PROJECT. PROVIDED, HOWEVER,  
17    THAT THE CREDIT GRANTED FOR ANY NATURAL RESOURCE IMPROVEMENT PROJECT  
18    PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED FIFTY THOUSAND DOLLARS.  
19    (B) DEFINITIONS. FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING  
20    DEFINITIONS SHALL APPLY:

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

LBD06118-03-6

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

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

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

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

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

37 (XLIRII) NATURAL RESOURCE	AMOUNT OF CREDIT FOR ELIGIBLE
38 IMPROVEMENT CREDIT FOR	EXPENDITURES FOR A NATURAL
39 FARMLANDS AND	RESOURCES IMPROVEMENT PROJECT
40 FORESTLANDS UNDER	UNDER SUBDIVISION FIFTY-ONE
41 SUBSECTION (EEE)	OF SECTION TWO HUNDRED TEN-B

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

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

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

54 (A) "ELIGIBLE EXPENDITURES" SHALL MEAN FEES FOR ARCHITECTURAL, ARCHEO-  
 55 LOGICAL, GEOLOGICAL AND ENGINEERING SERVICES; THE COSTS OF DEVELOPING  
 56 PLANS AND SPECIFICATIONS; FEES FOR CONSULTANT AND LEGAL SERVICES; AND

1 ANY EXPENDITURE DEFINED IN INTERNAL REVENUE CODE SECTION 175(C)(1),  
2 INCLUDING EXPENDITURES RELATED TO THE APPLICATION OF LIME AND FERTILIZ-  
3 ER, IMPROVEMENT OF DRAINAGE IN THE CASE OF OPEN AREAS THAT HAVE BEEN  
4 USED FOR AGRICULTURAL PURPOSES AT ANY TIME IN THE PAST, AND EXPENDITURES  
5 RELATED TO THE DECONSTRUCTION AND REMOVAL OF FENCES, STREAM CROSSINGS  
6 AND NECESSARY RIPARIAN BUFFERS AND FORESTLAND IMPROVEMENTS AS REQUIRED  
7 BY THE NATURAL RESOURCE IMPROVEMENT PROJECT.

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

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

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

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

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

37 S 6. This act shall take effect immediately and shall apply to resto-  
38 ration projects initiated on or after such date.