

STATE OF NEW YORK

10318

IN SENATE

May 13, 2026

Introduced by Sen. BOTTCHEER -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to establishing a tax credit for same-sex couples re-recording their property deeds to reflect a change in status from tenants in common or joint tenants with right of survivorship to tenancy by the entirety; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Marriage
2 Equality Deed Correction Tax Credit Act".

3 § 2. Section 606 of the tax law is amended by adding a new subsection
4 (uuu) to read as follows:

5 (uuu) Real property re-recording credit. (1) For purposes of this
6 subsection:

7 (A) "Qualified taxpayer" means a resident individual of the state who:

8 (i) is currently a spouse in a same-sex marriage;

9 (ii) prior to June twenty-fourth, two thousand eleven, purchased and
10 has continually occupied a residence with the person who is the taxpay-
11 er's current spouse;

12 (iii) recorded the deed to such residence in the names of the taxpayer
13 and the taxpayer's now-spouse as tenants in common or joint tenants with
14 right of survivorship;

15 (iv) during the current tax year, still owns and occupies the resi-
16 dence with the person who is the taxpayer's current spouse; and

17 (v) during the current tax year, records a new deed to the residence
18 in the names of the taxpayer and the taxpayer's now-spouse as tenants by
19 the entirety.

20 (B) "Allowable recording fee" means the fees and costs charged by a
21 city, town or county clerk for the recording of a qualifying deed.

22 (C) "Qualifying deed" means a deed to real property owned by the
23 taxpayer and the taxpayer's current spouse that is recorded for the sole
24 purpose of changing the status of the taxpayer and the taxpayer's spouse

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

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1 from tenants in common or joint tenants with right of survivorship to
2 tenants by the entirety.

3 (D) "Residence" means a dwelling in this state owned by a taxpayer and
4 the taxpayer's spouse and used by such taxpayer and the taxpayer's
5 spouse as their primary residence, and so much of the land abutting it
6 as is reasonably necessary for use of the dwelling as a home, and may
7 consist of a part of a multi-dwelling or multi-purpose building includ-
8 ing a cooperative or condominium. "Residence" includes a trailer or
9 mobile home, used exclusively for residential purposes and defined as
10 real property pursuant to paragraph (g) of subdivision twelve of section
11 one hundred two of the real property tax law.

12 (2) A qualified taxpayer shall be allowed a credit as provided in this
13 subsection against the tax imposed by this article. The amount of credit
14 shall be the lesser of five hundred dollars or the allowable recording
15 fee imposed by a town clerk or county clerk and paid by the taxpayer to
16 record a qualifying deed to real property.

17 (3) (A) A taxpayer may claim the credit provided by this subsection
18 only one time and as to only one residence. If a taxpayer has claimed
19 the credit allowed under this subsection, the taxpayer's spouse may not
20 claim the credit an additional time or as to an additional residence.

21 (B) Any credit claimed under this subsection shall be deducted from
22 the cost basis of the property for purposes of calculating gain upon
23 sale of the property.

24 (4) No credit shall be granted under this subsection:

25 (A) To a taxpayer if the combined gross income of the taxpayer and the
26 taxpayer's spouse for the taxable year exceeds three hundred thousand
27 dollars.

28 (B) To any commercial property.

29 (C) To a taxpayer unless the residence is used as the taxpayer's
30 primary residence.

31 (D) To an individual with respect to whom a deduction under subsection
32 (c) of section one hundred fifty-one of the internal revenue code is
33 allowable to another taxpayer for the taxable year.

34 (E) With respect to a residence that is wholly exempted from real
35 property taxation.

36 (F) To an individual who is not a resident individual of the state for
37 the entire taxable year.

38 (5) In no event shall the amount of the credit herein provided for be
39 allowed in excess of the taxpayer's tax for such year, provided, howev-
40 er, that if the amount of credit allowable under this subsection for any
41 taxable year exceeds the taxpayer's tax for such year, any amount of
42 credit not deductible in such taxable year may be carried over to the
43 following three years and may be deducted from the taxpayer's tax for
44 such year or years.

45 § 3. This act shall take effect immediately, shall apply to taxable
46 years beginning on or after January 1, 2027 and shall expire and be
47 deemed repealed January 1, 2029; provided that the expiration and repeal
48 of this act shall not affect the claiming of a tax credit as provided in
49 section two of this act when filing income taxes for any year during
50 which this act was in effect.