

LEGISLATION ENACTING NEW YORK'S NEW CONSERVATION TAX CREDIT

(excerpt from S.6460/A.9560)

PART F

47 Section 1. Section 606 of the tax law is amended by adding a new
48 subsection (kk) to read as follows:

49 (KK) CONSERVATION EASEMENT TAX CREDIT. (1) CREDIT ALLOWED. IN THE CASE
50 OF A TAXPAYER WHO OWNS LAND THAT IS SUBJECT TO A CONSERVATION EASEMENT

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1 HELD BY A PUBLIC OR PRIVATE CONSERVATION AGENCY, THERE SHALL BE ALLOWED
2 A CREDIT FOR TWENTY-FIVE PERCENT OF THE ALLOWABLE SCHOOL DISTRICT, COUN-
3 TY AND TOWN REAL PROPERTY TAXES ON SUCH LAND. IN NO EVENT SHALL THE
4 CREDIT ALLOWED UNDER THIS SUBSECTION IN COMBINATION WITH ANY OTHER CRED-
5 IT FOR SUCH SCHOOL DISTRICT, COUNTY AND TOWN REAL PROPERTY TAXES UNDER
6 THIS SECTION EXCEED SUCH TAXES.

7 (2) CONSERVATION EASEMENT. FOR PURPOSES OF THIS SUBSECTION, THE TERM
8 "CONSERVATION EASEMENT" MEANS A PERPETUAL AND PERMANENT CONSERVATION
9 EASEMENT AS DEFINED IN ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVA-
10 TION LAW THAT SERVES TO PROTECT OPEN SPACE, SCENIC, NATURAL RESOURCES,
11 BIODIVERSITY, AGRICULTURAL, WATERSHED AND/OR HISTORIC PRESERVATION
12 RESOURCES. ANY CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED
13 UNDER THIS SUBSECTION SHALL BE FILED WITH THE DEPARTMENT OF ENVIRON-
14 MENTAL CONSERVATION, AS PROVIDED FOR IN ARTICLE FORTY-NINE OF THE ENVI-
15 RONMENTAL CONSERVATION LAW AND SUCH CONSERVATION EASEMENT SHALL COMPLY
16 WITH THE PROVISIONS OF TITLE THREE OF SUCH ARTICLE, AND THE PROVISIONS
17 OF SUBDIVISION (H) OF SECTION 170 OF THE INTERNAL REVENUE CODE. DEDI-
18 CATIONS OF LAND FOR OPEN SPACE THROUGH THE EXECUTION OF CONSERVATION
19 EASEMENTS FOR THE PURPOSE OF FULFILLING DENSITY REQUIREMENTS TO OBTAIN
20 SUBDIVISION OR BUILDING PERMITS SHALL NOT BE CONSIDERED A CONSERVATION
21 EASEMENT UNDER THIS SUBSECTION.

22 (3) LAND. FOR PURPOSES OF THIS SUBSECTION, THE TERM "LAND" MEANS A FEE
23 SIMPLE TITLE TO REAL PROPERTY LOCATED IN THIS STATE, WITH OR WITHOUT
24 IMPROVEMENTS THEREON; RIGHTS OF WAY; WATER AND RIPARIAN RIGHTS; EASE-
25 MENTS; PRIVILEGES AND ALL OTHER RIGHTS OR INTERESTS OF ANY LAND OR
26 DESCRIPTION IN, RELATING TO OR CONNECTED WITH REAL PROPERTY, EXCLUDING
27 BUILDINGS, STRUCTURES, OR IMPROVEMENTS.

28 (4) PUBLIC OR PRIVATE CONSERVATION AGENCY. FOR PURPOSES OF THIS
29 SUBSECTION, THE TERM "PUBLIC OR PRIVATE CONSERVATION AGENCY" MEANS ANY
30 STATE, LOCAL, OR FEDERAL GOVERNMENTAL BODY; OR ANY PRIVATE NOT-FOR-PRO-
31 FIT CHARITABLE CORPORATION OR TRUST WHICH IS AUTHORIZED TO DO BUSINESS
32 IN THE STATE OF NEW YORK, IS ORGANIZED AND OPERATED TO PROTECT LAND FOR
33 NATURAL RESOURCES, CONSERVATION OR HISTORIC PRESERVATION PURPOSES, IS
34 EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(C)(3) OF THE
35 INTERNAL REVENUE CODE, AND HAS THE POWER TO ACQUIRE, HOLD AND MAINTAIN
36 LAND AND/OR INTERESTS IN LAND FOR SUCH PURPOSES.

37 (5) CREDIT LIMITATION. THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED BY
38 A TAXPAYER PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED FIVE THOUSAND
39 DOLLARS IN ANY GIVEN YEAR.

40 (6) APPLICATION OF THE CREDIT. IF THE AMOUNT OF THE CREDIT UNDER THIS
41 SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH
42 YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDIT-

43 ED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED
44 EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE
45 PAID THEREIN.

46 S 2. Paragraph 4 of subsection (n) of section 606 of the tax law, as
47 amended by section 2 of part N of chapter 407 of the laws of 1999, is
48 amended to read as follows:

49 (4) Qualified agricultural property. For purposes of this subsection,
50 the term "qualified agricultural property" means land located in this
51 state which is used in agricultural production, and land improvements,
52 structures and buildings (excluding buildings used for the taxpayer's
53 residential purpose) located on such land which are used or occupied to
54 carry out such production. Qualified agricultural property also includes
55 land set aside or retired under a federal supply management or soil
56 conservation program OR LAND THAT AT THE TIME IT BECOMES SUBJECT TO A

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1 CONSERVATION EASEMENT, AS DEFINED UNDER SUBSECTION (KK) OF THIS SECTION,
2 MET THE REQUIREMENTS UNDER THIS PARAGRAPH.

3 S 3. Section 210 of the tax law is amended by adding a new subdivision
4 38 to read as follows:

5 38. CONSERVATION EASEMENT TAX CREDIT. (1) CREDIT ALLOWED. IN THE CASE
6 OF A TAXPAYER WHO OWNS LAND THAT IS SUBJECT TO A CONSERVATION EASEMENT
7 HELD BY A PUBLIC OR PRIVATE CONSERVATION AGENCY, THERE SHALL BE ALLOWED
8 A CREDIT FOR TWENTY-FIVE PERCENT OF THE ALLOWABLE SCHOOL DISTRICT, COUN-
9 TY AND TOWN REAL PROPERTY TAXES ON SUCH LAND. IN NO SUCH CASE SHALL THE
10 CREDIT ALLOWED UNDER THIS SUBDIVISION IN COMBINATION WITH ANY OTHER
11 CREDIT FOR SUCH SCHOOL DISTRICT, COUNTY AND TOWN REAL PROPERTY TAXES
12 UNDER THIS SECTION EXCEED SUCH TAXES.

13 (2) CONSERVATION EASEMENT. FOR PURPOSES OF THIS SUBDIVISION, THE TERM
14 "CONSERVATION EASEMENT" MEANS A PERPETUAL AND PERMANENT CONSERVATION
15 EASEMENT AS DEFINED IN ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVA-
16 TION LAW THAT SERVES TO PROTECT OPEN SPACE, SCENIC, NATURAL RESOURCES,
17 BIODIVERSITY, AGRICULTURAL, WATERSHED AND/OR HISTORIC PRESERVATION
18 RESOURCES. ANY CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED
19 UNDER THIS SUBDIVISION SHALL BE FILED WITH THE DEPARTMENT OF ENVIRON-
20 MENTAL CONSERVATION, AS PROVIDED FOR IN ARTICLE FORTY-NINE OF THE ENVI-
21 RONMENTAL CONSERVATION LAW AND SUCH CONSERVATION EASEMENT SHALL COMPLY
22 WITH THE PROVISIONS OF TITLE THREE OF SUCH ARTICLE, AND THE PROVISIONS
23 OF SUBDIVISION (H) OF SECTION 170 OF THE INTERNAL REVENUE CODE. DEDI-
24 CATIONS OF LAND FOR OPEN SPACE THROUGH THE EXECUTION OF CONSERVATION
25 EASEMENTS FOR THE PURPOSE OF FULFILLING DENSITY REQUIREMENTS TO OBTAIN
26 SUBDIVISION OR BUILDING PERMITS SHALL NOT BE CONSIDERED A CONSERVATION
27 EASEMENT UNDER THIS SUBDIVISION.

28 (3) LAND. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "LAND" MEANS A
29 FEE SIMPLE TITLE TO REAL PROPERTY LOCATED IN THIS STATE, WITH OR WITHOUT
30 IMPROVEMENTS THEREON; RIGHTS OF WAY; WATER AND RIPARIAN RIGHTS; EASE-
31 MENTS; PRIVILEGES AND ALL OTHER RIGHTS OR INTERESTS OF ANY LAND OR
32 DESCRIPTION IN, RELATING TO OR CONNECTED WITH REAL PROPERTY, EXCLUDING
33 BUILDINGS, STRUCTURES, OR IMPROVEMENTS.

34 (4) PUBLIC OR PRIVATE CONSERVATION AGENCY. FOR PURPOSES OF THIS SUBDI-
35 VISION, THE TERM "PUBLIC OR PRIVATE CONSERVATION AGENCY" MEANS ANY
36 STATE, LOCAL, OR FEDERAL GOVERNMENTAL BODY; OR ANY PRIVATE NOT-FOR-PRO-
37 FIT CHARITABLE CORPORATION OR TRUST WHICH IS AUTHORIZED TO DO BUSINESS
38 IN THE STATE OF NEW YORK, IS ORGANIZED AND OPERATED TO PROTECT LAND FOR
39 NATURAL RESOURCES, CONSERVATION OR HISTORIC PRESERVATION PURPOSES, IS
40 EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(C)(3) OF THE
41 INTERNAL REVENUE CODE, AND HAS THE POWER TO ACQUIRE, HOLD AND MAINTAIN
42 LAND AND/OR INTERESTS IN LAND FOR SUCH PURPOSES.

43 (5) CREDIT LIMITATION. THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED BY
44 A TAXPAYER PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED FIVE THOUSAND

45 DOLLARS IN ANY GIVEN YEAR.

46 (6) APPLICATION OF THE CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVI-
47 SION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO
48 LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D)
49 OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF THE CREDIT
50 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
51 SUCH AMOUNT, ANY AMOUNT OF THE CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXA-
52 BLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
53 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (C) OF SECTION
54 TEN HUNDRED EIGHTY-EIGHT OF THIS CHAPTER, EXCEPT THAT, NO INTEREST SHALL
55 BE PAID THEREON.

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1 S 4. Paragraph (d) of subdivision 22 of section 210 of the tax law, as
2 amended by section 1 of part N of chapter 407 of the laws of 1999, is
3 amended to read as follows:

4 (d) Qualified agricultural property. For purposes of this subdivision,
5 the term "qualified agricultural property" means land located in this
6 state which is used in agricultural production, and land improvements,
7 structures and buildings (excluding buildings used for the taxpayer's
8 residential purpose) located on such land which are used or occupied to
9 carry out such production. Qualified agricultural property also includes
10 land set aside or retired under a federal supply management or soil
11 conservation program OR LAND THAT AT THE TIME IT BECOMES SUBJECT TO A
12 CONSERVATION EASEMENT, AS DEFINED UNDER SUBDIVISION THIRTY-EIGHT OF THIS
13 SECTION, MET THE REQUIREMENTS UNDER THIS PARAGRAPH.

14 S 5. This act shall take effect immediately and shall apply to taxable
15 years beginning on or after January 1, 2006.