

7833

I N S E N A T E

May 13, 2016

Introduced by Sen. FUNKE -- 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 a credit for donations to a food bank or other emergency food program by New York state farmers

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

1 Section 1. Section 606 of the tax law is amended by adding a new
 2 subsection (n-2) to read as follows:
 3 (N-2) CREDIT FOR FARM DONATIONS TO FOOD BANK OR EMERGENCY FOOD
 4 PROGRAM. (1) GENERAL. IN THE CASE OF A TAXPAYER WHO IS AN ELIGIBLE FARM-
 5 ER, THERE SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
 6 PROVIDED AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR TAXABLE YEARS ON
 7 AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN. THE AMOUNT OF THE CRED-
 8 IT SHALL BE TWENTY-FIVE PERCENT OF THE WHOLESALE COST OF THE TAXPAYER'S
 9 QUALIFIED DONATIONS, AS DEFINED IN PARAGRAPH THREE OF THIS SUBSECTION,
 10 MADE TO ANY FOOD BANK OR OTHER PUBLIC, CHARITABLE OR NOT-FOR-PROFIT
 11 EMERGENCY FOOD PROGRAM OPERATING WITHIN THIS STATE, UP TO FIVE THOUSAND
 12 DOLLARS PER YEAR.
 13 (2) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBSECTION, THE TERM "ELIGI-
 14 BLE FARMER" MEANS A NEW YORK STATE RESIDENT TAXPAYER WHOSE FEDERAL GROSS
 15 INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF
 16 EXCESS FEDERAL GROSS INCOME. EXCESS FEDERAL GROSS INCOME MEANS THE
 17 AMOUNT OF FEDERAL GROSS INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR
 18 REDUCED BY THE SUM (NOT TO EXCEED THIRTY THOUSAND DOLLARS) OF THOSE
 19 ITEMS INCLUDED IN FEDERAL GROSS INCOME WHICH CONSIST OF (I) EARNED
 20 INCOME, (II) PENSION PAYMENTS, INCLUDING SOCIAL SECURITY PAYMENTS, (III)
 21 INTEREST, AND (IV) DIVIDENDS. FOR PURPOSES OF THIS PARAGRAPH, THE TERM
 22 "EARNED INCOME" SHALL MEAN WAGES, SALARIES, TIPS AND OTHER EMPLOYEE
 23 COMPENSATION, AND THOSE ITEMS OF GROSS INCOME WHICH ARE INCLUDIBLE IN
 24 THE COMPUTATION OF NET EARNINGS FROM SELF-EMPLOYMENT. FOR THE PURPOSES
 25 OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION
 26 PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS,

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

1 SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE
2 ELIGIBLE FARMERS.

3 (3) QUALIFIED DONATION. FOR PURPOSES OF THIS SUBSECTION, THE TERM
4 "QUALIFIED DONATION" MEANS A DONATION OF ANY FRESH FOOD ITEM GROWN OR
5 PRODUCED BY AN ELIGIBLE FARMER TO A FOOD BANK OR OTHER EMERGENCY FOOD
6 PROGRAM OPERATING WITHIN THIS STATE.

7 (4) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION
8 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
9 THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF
10 CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE
11 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
12 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
13 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
14 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
15 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
16 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

17 S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
18 of the tax law is amended by adding a new clause (xliii) to read as
19 follows:

20 (XLIII) FARM DONATIONS TO FOOD	AMOUNT OF CREDIT UNDER
21 BANK OR EMERGENCY FOOD PROGRAM	SUBDIVISION FIFTY-TWO
22 CREDIT UNDER SUBSECTION (N-2)	OF SECTION TWO HUNDRED
23	TEN-B

24 S 3. Section 210-B of the tax law is amended by adding a new subdivi-
25 sion 52 to read as follows:

26 52. CREDIT FOR FARM DONATIONS TO FOOD BANK OR EMERGENCY FOOD PROGRAM.

27 (A) GENERAL. IN THE CASE OF A TAXPAYER WHO IS AN ELIGIBLE FARMER, THERE
28 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED
29 AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR TAXABLE YEARS BEGINNING ON
30 AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN. THE AMOUNT OF THE CRED-
31 IT SHALL BE TWENTY-FIVE PERCENT OF THE WHOLESALE COST OF THE TAXPAYER'S
32 QUALIFIED DONATIONS, AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION,
33 MADE TO ANY FOOD BANK OR OTHER PUBLIC, CHARITABLE OR NOT-FOR-PROFIT
34 EMERGENCY FOOD PROGRAM OPERATING WITHIN THIS STATE, UP TO FIVE THOUSAND
35 DOLLARS DURING THE TAXABLE YEAR.

36 (B) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBDIVISION, THE TERM
37 "ELIGIBLE FARMER" MEANS A NEW YORK STATE RESIDENT TAXPAYER WHOSE FEDERAL
38 GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF
39 EXCESS FEDERAL GROSS INCOME. EXCESS FEDERAL GROSS INCOME MEANS THE
40 AMOUNT OF FEDERAL GROSS INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR
41 REDUCED BY THE SUM (NOT TO EXCEED THIRTY THOUSAND DOLLARS) OF THOSE
42 ITEMS INCLUDED IN FEDERAL GROSS INCOME WHICH CONSIST OF (I) EARNED
43 INCOME, (II) PENSION PAYMENTS, INCLUDING SOCIAL SECURITY PAYMENTS, (III)
44 INTEREST, AND (IV) DIVIDENDS. FOR PURPOSES OF THIS PARAGRAPH, THE TERM
45 "EARNED INCOME" SHALL MEAN WAGES, SALARIES, TIPS AND OTHER EMPLOYEE
46 COMPENSATION, AND THOSE ITEMS OF GROSS INCOME WHICH ARE INCLUDIBLE IN
47 THE COMPUTATION OF NET EARNINGS FROM SELF-EMPLOYMENT. FOR THE PURPOSES
48 OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION
49 PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS,
50 SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE
51 ELIGIBLE FARMERS.

52 (C) QUALIFIED DONATION. FOR PURPOSES OF THIS SUBDIVISION, THE TERM
53 "QUALIFIED DONATION" MEANS A DONATION OF ANY FRESH FOOD ITEM GROWN OR
54 PRODUCED BY AN ELIGIBLE FARMER TO A FOOD BANK OR OTHER EMERGENCY FOOD
55 PROGRAM OPERATING WITHIN THIS STATE.

1 (D) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
2 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
3 THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF
4 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE
5 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
6 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
7 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
8 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
9 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
10 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

11 S 4. The department of agriculture and markets, in conjunction with
12 the department of taxation and finance, shall establish an accepted
13 wholesale price of the taxpayer's qualified donations and promulgate any
14 necessary rules and regulations.

15 S 5. This act shall take effect on January 1, 2017 and shall apply to
16 taxable years beginning on or after such date.