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

10504

I N A S S E M B L Y

April 2, 2010

Introduced by M. of A. MAGEE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to including payments from the state's farmland protection program as federal gross income from farming for otherwise eligible farmers

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

Section 1. Paragraph (b) of subdivision 22 of section 210 of the tax law, as amended by chapter 527 of the laws of 2003, is amended to read as follows:

(b) Eligible farmer. For purposes of this subdivision, the term "eligible farmer" means a taxpayer whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income. The term "eligible farmer" also includes a corporation other than the taxpayer of record for qualified agricultural land which has paid the school district property taxes on such land pursuant to a contract for the future purchase of such land; provided that such corporation has a federal gross income from farming for the taxable year which is at least two-thirds of excess federal gross income; and provided further that, in determining such income eligibility, a taxpayer may, for any taxable year, use the average of such federal gross income from farming for that taxable year and such income for the two consecutive taxable years immediately preceding such taxable year. Excess federal gross income means the amount of federal gross income from all sources for the taxable year in excess of thirty thousand dollars. *FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE ELIGIBLE FARMERS.*

S 2. Paragraph 2 of subsection (n) of section 606 of the tax law, as amended by chapter 527 of the laws of 2003, is amended to read as follows:

(2) Eligible farmer. For purposes of this subsection, the term "eligible farmer" means a taxpayer whose federal gross income from farming for

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

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the taxable year is at least two-thirds of excess federal gross income. The term "eligible farmer" also includes an individual other than the taxpayer of record for qualified agricultural land who has paid the school district property taxes on such land pursuant to a contract for the future purchase of such land; provided that such individual has a federal gross income from farming for the taxable year which is at least two-thirds of excess federal gross income; and provided further that, in determining such income eligibility, a taxpayer may, for any taxable year, use the average of such federal gross income from farming for that taxable year and such income for the two consecutive taxable years immediately preceding such taxable year. Excess federal gross income means the amount of federal gross income from all sources for the taxable year reduced by the sum (not to exceed thirty thousand dollars) of those items included in federal gross income which consist of (i) earned income, (ii) pension payments, including social security payments, (iii) interest, and (iv) dividends. For purposes of this paragraph, the term "earned income" shall mean wages, salaries, tips and other employee compensation, and those items of gross income which are includible in the computation of net earnings from self-employment. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE ELIGIBLE FARMERS.

S 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2011.