

3347

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

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 partial eligibility of farmers for the agricultural property tax credit

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

1 Section 1. Paragraphs (a) and (b) of subdivision 22 of section 210 of
2 the tax law, paragraph (a) as amended by chapter 315 of the laws of 1998
3 and paragraph (b) as amended by chapter 527 of the laws of 2003, are
4 amended to read as follows:

5 (a) General. In the case of a taxpayer which is an eligible farmer OR
6 PARTIALLY ELIGIBLE FARMER, or an eligible farmer [who] OR PARTIALLY
7 ELIGIBLE FARMER WHICH has paid taxes pursuant to a land contract, there
8 shall be allowed a credit OR PARTIAL CREDIT for the allowable school
9 district property taxes. The term "allowable school district property
10 taxes" means the school district property taxes paid during the taxable
11 year on qualified agricultural property, subject to the acreage limita-
12 tion provided in paragraph (e) of this subdivision and the income limi-
13 tation provided in paragraph (f) of this subdivision, WHICH QUALIFICA-
14 TIONS SHALL ALL APPLY IDENTICALLY TO ELIGIBLE FARMERS AND PARTIALLY
15 ELIGIBLE FARMERS. THE PARTIAL CREDIT ALLOWED TO A PARTIALLY ELIGIBLE
16 FARMER SHALL BE EQUAL TO ONE-HALF OF THE CREDIT THAT WOULD BE ALLOWED TO
17 AN ELIGIBLE FARMER, CALCULATING THE ALLOWABLE SCHOOL DISTRICT PROPERTY
18 TAXES AS PROVIDED IN THIS PARAGRAPH, WITH ALL STATED QUALIFICATIONS.

19 (b) (1) Eligible farmer. For purposes of this subdivision, the term
20 "eligible farmer" means a taxpayer whose federal gross income from farm-
21 ing for the taxable year is at least two-thirds of excess federal gross
22 income. The term "eligible farmer" also includes a corporation other
23 than the taxpayer of record for qualified agricultural land which has
24 paid the school district property taxes on such land pursuant to a
25 contract for the future purchase of such land; provided that such corpo-

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

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1 ration has a federal gross income from farming for the taxable year
2 which is at least two-thirds of excess federal gross income; and
3 provided further that, in determining such income eligibility, a taxpay-
4 er may, for any taxable year, use the average of such federal gross
5 income from farming for that taxable year and such income for the two
6 consecutive taxable years immediately preceding such taxable year.
7 Excess federal gross income means the amount of federal gross income
8 from all sources for the taxable year in excess of thirty thousand
9 dollars.

10 (2) PARTIALLY ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBDIVISION, THE
11 TERM "PARTIALLY ELIGIBLE FARMER" MEANS A TAXPAYER WHOSE FEDERAL GROSS
12 INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST FORTY PERCENT OF,
13 BUT LESS THAN TWO-THIRDS OF, EXCESS FEDERAL GROSS INCOME. THE TERM
14 "PARTIALLY ELIGIBLE FARMER" ALSO INCLUDES A CORPORATION OTHER THAN THE
15 TAXPAYER OF RECORD FOR QUALIFIED AGRICULTURAL LAND WHICH HAS PAID THE
16 SCHOOL DISTRICT PROPERTY TAXES ON SUCH LAND PURSUANT TO A CONTRACT FOR
17 THE FUTURE PURCHASE OF SUCH LAND; PROVIDED THAT SUCH CORPORATION HAS A
18 FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR WHICH IS AT LEAST
19 FORTY PERCENT OF, BUT LESS THAN TWO-THIRDS OF, EXCESS FEDERAL GROSS
20 INCOME; AND PROVIDED FURTHER THAT, IN DETERMINING SUCH INCOME ELIGIBIL-
21 ITY, A TAXPAYER MAY, FOR ANY TAXABLE YEAR, USE THE AVERAGE OF SUCH
22 FEDERAL GROSS INCOME FROM FARMING FOR THAT TAXABLE YEAR AND SUCH INCOME
23 FOR THE TWO CONSECUTIVE TAXABLE YEARS IMMEDIATELY PRECEDING SUCH TAXABLE
24 YEAR. EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS
25 INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR IN EXCESS OF THIRTY THOU-
26 SAND DOLLARS.

27 S 2. Subparagraph 1 of paragraph (e), paragraph (g), and subparagraphs
28 1 and 2 of paragraph (h) of subdivision 22 of section 210 of the tax
29 law, as added by chapter 309 of the laws of 1996, are amended to read as
30 follows:

31 (1) Eligible taxes. In the event that the qualified agricultural prop-
32 erty owned by the taxpayer includes land in excess of the base acreage
33 as provided in this paragraph, the amount of school district property
34 taxes eligible for credit OR PARTIAL CREDIT under this subdivision shall
35 be that portion of the school district property taxes which bears the
36 same ratio to the total school district property taxes paid during the
37 taxable year, as the acreage allowable under this paragraph bears to the
38 entire acreage of such land.

39 (g) In no event shall the credit OR PARTIAL CREDIT provided herein be
40 allowed in an amount which will reduce the tax payable to less than the
41 higher of the amounts prescribed in paragraphs (c) and (d) of subdivi-
42 sion one of this section. If, however, the amount of credit OR PARTIAL
43 CREDIT allowable under this subdivision for any taxable year reduces the
44 tax to such amount, any amount of credit OR PARTIAL CREDIT not deduct-
45 ible in such taxable year may be carried over to the following year or
46 years and may be deducted from the taxpayer's tax for such year or
47 years. Provided, however, in lieu of carrying over the unused portion
48 of such credit OR PARTIAL CREDIT, the taxpayer may elect to treat such
49 unused portion as an overpayment of tax to be credited or refunded in
50 accordance with the provisions of section ten hundred eighty-six of this
51 chapter except that no interest shall be paid on such overpayment.

52 (1) No credit OR PARTIAL CREDIT in conversion year. In the event that
53 qualified agricultural property is converted by the taxpayer to nonqual-
54 ified use, credit OR PARTIAL CREDIT under this subdivision shall not be
55 allowed with respect to such property for the taxable year of conversion
56 (the conversion year).

1 (2) Credit OR PARTIAL CREDIT recapture. If the conversion by the
2 taxpayer of qualified agricultural property to nonqualified use occurs
3 during the period of the two taxable years following the taxable year
4 for which the credit OR PARTIAL CREDIT under this subdivision was first
5 claimed with respect to such property, the credit OR PARTIAL CREDIT
6 allowed with respect to such property for the taxable years prior to the
7 conversion year must be added back in the conversion year. Where the
8 property converted includes land, and where the conversion is of only a
9 portion of such land, the credit OR PARTIAL CREDIT allowed with respect
10 to the property converted shall be determined by multiplying the entire
11 credit OR PARTIAL CREDIT under this subdivision for the taxable years
12 prior to the conversion year by a fraction, the numerator of which is
13 the acreage converted and the denominator of which is the entire acreage
14 of such land owned by the taxpayer immediately prior to the conversion.

15 S 3. Paragraphs 1 and 2 of subsection (n) of section 606 of the tax
16 law, paragraph 1 as amended by chapter 315 of the laws of 1998 and para-
17 graph 2 as amended by chapter 527 of the laws of 2003, are amended to
18 read as follows:

19 (1) General. In the case of a taxpayer who is an eligible farmer OR
20 PARTIALLY ELIGIBLE FARMER or an eligible farmer OR PARTIALLY ELIGIBLE
21 FARMER who has paid taxes pursuant to a land contract, there shall be
22 allowed a credit OR PARTIAL CREDIT for the allowable school district
23 property taxes. The term "allowable school district property taxes"
24 means the school district property taxes paid during the taxable year on
25 qualified agricultural property, subject to the acreage limitation
26 provided in paragraph five of this subsection and the income limitation
27 provided in paragraph six of this subsection, WHICH QUALIFICATIONS SHALL
28 ALL APPLY IDENTICALLY TO ELIGIBLE FARMERS AND PARTIALLY ELIGIBLE
29 FARMERS. THE PARTIAL CREDIT ALLOWED TO A PARTIALLY ELIGIBLE FARMER
30 SHALL BE EQUAL TO ONE-HALF OF THE CREDIT THAT WOULD BE ALLOWED TO AN
31 ELIGIBLE FARMER, CALCULATING THE ALLOWABLE SCHOOL DISTRICT PROPERTY
32 TAXES AS PROVIDED IN THIS PARAGRAPH, WITH ALL STATED QUALIFICATIONS.
33 Such credit OR PARTIAL CREDIT shall be allowed against the taxes imposed
34 by this article for the taxable year reduced by the credits permitted by
35 this article. If the credit OR PARTIAL CREDIT exceeds the tax as so
36 reduced, the taxpayer may receive, and the comptroller, subject to a
37 certificate of the commissioner, shall pay as an overpayment, without
38 interest, the amount of such excess.

39 (2) (A) Eligible farmer. For purposes of this subsection, the term
40 "eligible farmer" means a taxpayer whose federal gross income from farm-
41 ing for the taxable year is at least two-thirds of excess federal gross
42 income. The term "eligible farmer" also includes an individual other
43 than the taxpayer of record for qualified agricultural land who has paid
44 the school district property taxes on such land pursuant to a contract
45 for the future purchase of such land; provided that such individual has
46 a federal gross income from farming for the taxable year which is at
47 least two-thirds of excess federal gross income; and provided further
48 that, in determining such income eligibility, a taxpayer may, for any
49 taxable year, use the average of such federal gross income from farming
50 for that taxable year and such income for the two consecutive taxable
51 years immediately preceding such taxable year. Excess federal gross
52 income means the amount of federal gross income from all sources for the
53 taxable year reduced by the sum (not to exceed thirty thousand dollars)
54 of those items included in federal gross income which consist of (i)
55 earned income, (ii) pension payments, including social security
56 payments, (iii) interest, and (iv) dividends. For purposes of this para-

1 graph, the term "earned income" shall mean wages, salaries, tips and
2 other employee compensation, and those items of gross income which are
3 includible in the computation of net earnings from self-employment.

4 (B) PARTIALLY ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBSECTION, THE
5 TERM "PARTIALLY ELIGIBLE FARMER" MEANS A TAXPAYER WHOSE FEDERAL GROSS
6 INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST FORTY PERCENT OF,
7 BUT LESS THAN TWO-THIRDS OF, EXCESS FEDERAL GROSS INCOME. THE TERM
8 "PARTIALLY ELIGIBLE FARMER" ALSO INCLUDES AN INDIVIDUAL OTHER THAN THE
9 TAXPAYER OF RECORD FOR QUALIFIED AGRICULTURAL LAND WHO HAS PAID THE
10 SCHOOL DISTRICT PROPERTY TAXES ON SUCH LAND PURSUANT TO A CONTRACT FOR
11 THE FUTURE PURCHASE OF SUCH LAND; PROVIDED THAT SUCH INDIVIDUAL HAS A
12 FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR WHICH IS AT LEAST
13 FORTY PERCENT OF, BUT LESS THAN TWO-THIRDS OF, EXCESS FEDERAL GROSS
14 INCOME; AND PROVIDED FURTHER THAT, IN DETERMINING SUCH INCOME ELIGIBIL-
15 ITY, A TAXPAYER MAY, FOR ANY TAXABLE YEAR, USE THE AVERAGE OF SUCH
16 FEDERAL GROSS INCOME FROM FARMING FOR THAT TAXABLE YEAR AND SUCH INCOME
17 FOR THE TWO CONSECUTIVE TAXABLE YEARS IMMEDIATELY PRECEDING SUCH TAXABLE
18 YEAR. EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS
19 INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR REDUCED BY THE SUM (NOT TO
20 EXCEED THIRTY THOUSAND DOLLARS) OF THOSE ITEMS INCLUDED IN FEDERAL GROSS
21 INCOME WHICH CONSIST OF (I) EARNED INCOME, (II) PENSION PAYMENTS,
22 INCLUDING SOCIAL SECURITY PAYMENTS, (III) INTEREST, AND (IV) DIVIDENDS.
23 FOR PURPOSES OF THIS PARAGRAPH, THE TERM "EARNED INCOME" SHALL MEAN
24 WAGES, SALARIES, TIPS AND OTHER EMPLOYEE COMPENSATION, AND THOSE ITEMS
25 OF GROSS INCOME WHICH ARE INCLUDIBLE IN THE COMPUTATION OF NET EARNINGS
26 FROM SELF-EMPLOYMENT.

27 S 4. Subparagraph (A) of paragraph 5 and subparagraphs (A) and (B) of
28 paragraph 7 of subsection (n) of section 606 of the tax law, as added by
29 chapter 309 of the laws of 1996, are amended to read as follows:

30 (A) Eligible taxes. In the event that the qualified agricultural prop-
31 erty owned by the taxpayer includes land in excess of the base acreage
32 as provided in this paragraph, the amount of school district property
33 taxes eligible for credit OR PARTIAL CREDIT under this subsection shall
34 be that portion of the school district property taxes which bears the
35 same ratio to the total school district property taxes paid during the
36 taxable year, as the acreage allowable under this paragraph bears to the
37 entire acreage of such land.

38 (A) No credit OR PARTIAL CREDIT in conversion year. In the event that
39 qualified agricultural property is converted by the taxpayer to nonqual-
40 ified use, credit OR PARTIAL CREDIT under this subsection shall not be
41 allowed with respect to such property for the taxable year of conversion
42 (the conversion year).

43 (B) Credit OR PARTIAL CREDIT recapture. If the conversion by the
44 taxpayer of qualified agricultural property to nonqualified use occurs
45 during the period of the two taxable years following the taxable year
46 for which the credit OR PARTIAL CREDIT under this subsection was first
47 claimed with respect to such property, the credit OR PARTIAL CREDIT
48 allowed with respect to such property for the taxable years prior to the
49 conversion year must be added back in the conversion year. Where the
50 property converted includes land, and where the conversion is of only a
51 portion of such land, the credit OR PARTIAL CREDIT allowed with respect
52 to the property converted shall be determined by multiplying the entire
53 credit OR PARTIAL CREDIT under this subsection for the taxable years
54 prior to the conversion year by a fraction, the numerator of which is
55 the acreage converted and the denominator of which is the entire acreage
56 of such land owned by the taxpayer immediately prior to the conversion.

1 S 5. The commissioner of taxation and finance is authorized and
2 directed to promulgate any rules and regulations necessary to implement
3 the provisions of this act.

4 S 6. This act shall take effect immediately and shall apply to taxable
5 years commencing on or after the first of January next succeeding the
6 date on which it shall have become a law.