

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. HAWLEY, CROUCH, BURLING, BUTLER, SAYWARD, SCOZZA-FAVA -- Multi-Sponsored by -- M. of A. BACALLES, BALL, BARCLAY, DUPREY, ERRIGO, FINCH, KOLB, P. LOPEZ, MILLER, MOLINARO, OAKS, O'MARA, RAIA, REILICH, TEDISCO, THIELE, TOWNSEND -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the eligibility of farmers leasing land 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  
6     [or], an eligible farmer [who] WHICH has paid taxes pursuant to a land  
7     contract, OR AN ELIGIBLE FARMER WHICH HAS A LEASEHOLD INTEREST OF NOT  
8     FEWER THAN FIVE CONTINUOUS YEARS AS A LESSEE OF QUALIFIED AGRICULTURAL  
9     PROPERTY, there shall be allowed a credit for the allowable school  
10    district property taxes. The term "allowable school district property  
11    taxes" means the school district property taxes paid during the taxable  
12    year on qualified agricultural property, subject to the acreage limita-  
13    tion provided in paragraph (e) of this subdivision and the income limi-  
14    tation provided in paragraph (f) of this subdivision.  
15    (b) Eligible farmer. For purposes of this subdivision, the term  
16    "eligible farmer" means a taxpayer whose federal gross income from farm-  
17    ing for the taxable year is at least two-thirds of excess federal gross  
18    income. The term "eligible farmer" also includes a corporation other  
19    than the taxpayer of record for qualified agricultural land which has  
20    paid the school district property taxes on such land pursuant to a  
21    contract for the future purchase of such land OR WHICH HAS A LEASEHOLD  
22    INTEREST OF NOT FEWER THAN FIVE CONTINUOUS YEARS AS A LESSEE OF SUCH  
23    LAND; provided that such corporation has a federal gross income from  
24    farming for the taxable year which is at least two-thirds of excess

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

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1 federal gross income; and provided further that, in determining such  
2 income eligibility, a taxpayer may, for any taxable year, use the aver-  
3 age of such federal gross income from farming for that taxable year and  
4 such income for the two consecutive taxable years immediately preceding  
5 such taxable year. Excess federal gross income means the amount of  
6 federal gross income from all sources for the taxable year in excess of  
7 thirty thousand dollars.

8 S 2. Paragraphs 1 and 2 of subsection (n) of section 606 of the tax  
9 law, paragraph 1 as amended by chapter 315 of the laws of 1998 and para-  
10 graph 2 as amended by chapter 527 of the laws of 2003, are amended to  
11 read as follows:

12 (1) General. In the case of a taxpayer who is an eligible farmer [or],  
13 an eligible farmer who has paid taxes pursuant to a land contract, OR AN  
14 ELIGIBLE FARMER WHO HAS A LEASEHOLD INTEREST OF NOT FEWER THAN FIVE  
15 CONTINUOUS YEARS AS A LESSEE OF QUALIFIED AGRICULTURAL PROPERTY, there  
16 shall be allowed a credit for the allowable school district property  
17 taxes. The term "allowable school district property taxes" means the  
18 school district property taxes paid during the taxable year on qualified  
19 agricultural property, subject to the acreage limitation provided in  
20 paragraph five of this subsection and the income limitation provided in  
21 paragraph six of this subsection. Such credit shall be allowed against  
22 the taxes imposed by this article for the taxable year reduced by the  
23 credits permitted by this article. If the credit exceeds the tax as so  
24 reduced, the taxpayer may receive, and the comptroller, subject to a  
25 certificate of the commissioner, shall pay as an overpayment, without  
26 interest, the amount of such excess.

27 (2) Eligible farmer. For purposes of this subsection, the term "eligi-  
28 ble farmer" means a taxpayer whose federal gross income from farming for  
29 the taxable year is at least two-thirds of excess federal gross income.  
30 The term "eligible farmer" also includes an individual other than the  
31 taxpayer of record for qualified agricultural land who has paid the  
32 school district property taxes on such land pursuant to a contract for  
33 the future purchase of such land OR WHO HAS A LEASEHOLD INTEREST OF NOT  
34 FEWER THAN FIVE CONTINUOUS YEARS AS A LESSEE OF SUCH LAND; provided that  
35 such individual has a federal gross income from farming for the taxable  
36 year which is at least two-thirds of excess federal gross income; and  
37 provided further that, in determining such income eligibility, a taxpay-  
38 er may, for any taxable year, use the average of such federal gross  
39 income from farming for that taxable year and such income for the two  
40 consecutive taxable years immediately preceding such taxable year.  
41 Excess federal gross income means the amount of federal gross income  
42 from all sources for the taxable year reduced by the sum (not to exceed  
43 thirty thousand dollars) of those items included in federal gross income  
44 which consist of (i) earned income, (ii) pension payments, including  
45 social security payments, (iii) interest, and (iv) dividends. For  
46 purposes of this paragraph, the term "earned income" [shall mean] MEANS  
47 wages, salaries, tips and other employee compensation, and those items  
48 of gross income which are includible in the computation of net earnings  
49 from self-employment.

50 S 3. The commissioner of taxation and finance is authorized and  
51 directed to promulgate any rules and regulations necessary to implement  
52 the provisions of this act.

53 S 4. This act shall take effect immediately and shall apply to taxable  
54 years commencing on or after January 1, 2011.