

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. LARKIN, BONACIC, LAVALLE, LEIBELL, MAZIARZ, SEWARD, YOUNG -- 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 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

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

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

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

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

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

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

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

1 allowed with respect to such property for the taxable year of conversion
2 (the conversion year).

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

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

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

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

1 earned income, (ii) pension payments, including social security
2 payments, (iii) interest, and (iv) dividends. For purposes of this para-
3 graph, the term "earned income" shall mean wages, salaries, tips and
4 other employee compensation, and those items of gross income which are
5 includible in the computation of net earnings from self-employment.

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

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

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

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

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

1 the acreage converted and the denominator of which is the entire acreage
2 of such land owned by the taxpayer immediately prior to the conversion.

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

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