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

386

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GUNTHER, MAGEE, SCHROEDER, LUPARDO -- Multi-Sponsored by -- M. of A. BARCLAY, BOYLAND, CALHOUN, COOK, CROUCH, FINCH, GIGLIO, HAWLEY, LAVINE, LENTOL, LIFTON, J. MILLER, MOLINARO, PHEFFER, RABBITT, REILLY -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing that excess investment tax credit amounts may be refundable to operators of a farm operation

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

Section 1. Subdivision 12 of section 210 of the tax law is amended by adding a new paragraph (e-1) to read as follows:

(E-1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, IF THE CREDIT ALLOWED UNDER THIS SUBDIVISION IS GREATER THAN THE TAX DUE IN ANY TAXABLE YEAR FOR A TAXPAYER WHOSE PRIMARY SOURCE OF INCOME IS DERIVED FROM OPERATING A FARM OPERATION, SUCH TAXPAYER MAY ELECT TO TREAT THE AMOUNT BY WHICH SUCH CREDIT EXCEEDS SUCH TAX DUE AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "FARM OPERATION" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW.

S 2. Subsection (a) of section 606 of the tax law is amended by adding a new paragraph 5-a to read as follows:

(5-A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IS GREATER THAN THE TAX DUE IN ANY TAXABLE YEAR FOR A TAXPAYER WHOSE PRIMARY SOURCE OF INCOME IS DERIVED FROM OPERATING A FARM OPERATION, SUCH TAXPAYER MAY ELECT TO

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

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TREAT THE AMOUNT BY WHICH SUCH CREDIT EXCEEDS SUCH TAX DUE AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "FARM OPERATION" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW.

S 3. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after January 1, 2011.