

54--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. HEVESI, BARRETT, SANTABARBARA -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing a tax credit to farmers who purchase biodiesel fuel for the operation of their farm equipment

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

1 Section 1. Section 210 of the tax law is amended by adding a new
2 subdivision 48 to read as follows:
3 48. CREDIT FOR BIODIESEL FUEL USED IN FARMING EQUIPMENT. (A) ALLOW-
4 ANCE OF CREDIT. A TAXPAYER THAT IS A BUSINESS PRINCIPALLY ENGAGED IN
5 FARMING, AS SUCH TERM IS DEFINED IN PARAGRAPH NINETEEN OF SUBDIVISION
6 (B) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER SHALL BE ALLOWED A
7 CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF
8 QUALIFIED BIODIESEL FUEL TO BE USED IN FARMING EQUIPMENT IN THIS STATE.
9 SUCH CREDIT SHALL BE \$0.01 PER PERCENT OF BIODIESEL PER GALLON OF QUALI-
10 FIED BIODIESEL FUEL, NOT TO EXCEED TWENTY CENTS PER GALLON, PURCHASED BY
11 SUCH TAXPAYER DURING THE TAXABLE YEAR AND USED IN FARMING EQUIPMENT.
12 (B) FOR PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DEFINITIONS SHALL
13 APPLY:
14 (1) "BIODIESEL" SHALL MEAN A FUEL COMPRISED EXCLUSIVELY OF MONOALKYL
15 ESTERS OF LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL
16 FATS, DESIGNATED B100, WHICH MEETS THE SPECIFICATIONS OF AMERICAN SOCIE-
17 TY OF TESTING AND MATERIALS DESIGNATION D 6751.
18 (2) "QUALIFIED BIODIESEL" SHALL MEAN A FUEL THAT IS A MIXTURE OF BIOD-
19 IESEL AND DIESEL MOTOR FUEL.

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

LBD02276-03-4

1 (C) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT HEREIN
2 PROVIDED FOR BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE
3 TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND
4 (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF THE
5 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED
6 THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN
7 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
8 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED,
9 HOWEVER, THAT NO INTEREST SHALL BE PAID ON SUCH REFUND, NOTWITHSTANDING
10 THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF
11 THIS CHAPTER.

12 S 2. Subsections (yy) and (zz) of section 606 of the tax law, as
13 relettered by section 5 of part H of chapter 1 of the laws of 2003, are
14 relettered subsections (yyy) and (zzz) and a new subsection (xx) is
15 added to read as follows:

16 (XX) CREDIT FOR BIODIESEL FUEL USED IN FARMING EQUIPMENT. (1) ALLOW-
17 ANCE OF CREDIT. A TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARMING FOR
18 THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME
19 SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR
20 THE PURCHASE OF QUALIFIED BIODIESEL FUEL TO BE USED IN FARMING EQUIPMENT
21 IN THIS STATE. SUCH CREDIT SHALL BE \$0.01 PER PERCENT OF BIODIESEL PER
22 GALLON OF QUALIFIED BIODIESEL FUEL, NOT TO EXCEED TWENTY CENTS PER
23 GALLON, PURCHASED BY SUCH TAXPAYER DURING THE TAXABLE YEAR AND USED IN
24 FARMING EQUIPMENT.

25 (2) DEFINITIONS. FOR PURPOSES OF THIS SUBSECTION, THE FOLLOWING DEFINI-
26 TIONS SHALL APPLY:

27 (A) "EXCESS FEDERAL GROSS INCOME" MEANS THE AMOUNT OF FEDERAL GROSS
28 INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR REDUCED BY THE SUM (NOT TO
29 EXCEED THIRTY THOUSAND DOLLARS) OF THOSE ITEMS INCLUDED IN FEDERAL GROSS
30 INCOME WHICH CONSIST OF (I) EARNED INCOME, (II) PENSION PAYMENTS,
31 INCLUDING SOCIAL SECURITY PAYMENTS, (III) INTEREST, AND (IV) DIVIDENDS.
32 FOR PURPOSES OF THIS PARAGRAPH, THE TERM "EARNED INCOME" SHALL MEAN
33 WAGES, SALARIES, TIPS AND OTHER EMPLOYEE COMPENSATION, AND THOSE ITEMS
34 OF GROSS INCOME WHICH ARE INCLUDIBLE IN THE COMPUTATION OF NET EARNINGS
35 FROM SELF-EMPLOYMENT. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM
36 THE STATE'S FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT
37 OF AGRICULTURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME
38 FROM FARMING.

39 (B) "BIODIESEL" MEANS A FUEL COMPRISED EXCLUSIVELY OF MONOALKYL ESTERS
40 OF LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL FATS,
41 DESIGNATED B100, WHICH MEETS THE SPECIFICATIONS OF AMERICAN SOCIETY OF
42 TESTING AND MATERIALS DESIGNATION D 6751.

43 (C) "QUALIFIED BIODIESEL" MEANS A FUEL THAT IS A MIXTURE OF BIODIESEL
44 AND DIESEL MOTOR FUEL.

45 (3) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
46 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR
47 SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
48 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX
49 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST
50 SHALL BE PAID THEREON.

51 S 3. This act shall take effect immediately and shall apply to taxable
52 years beginning on and after January 1, 2015.