

S T A T E   O F   N E W   Y O R K

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I N   A S S E M B L Y

June 7, 2016

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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Moya, Palmesano) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to a credit for donations to a food bank or other emergency food program by New York state farmers

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

1     Section 1. Section 606 of the tax law is amended by adding a new  
2     subsection (n-2) to read as follows:  
3     (N-2) CREDIT FOR FARM DONATIONS TO FOOD BANK OR EMERGENCY FOOD  
4     PROGRAM. (1) GENERAL. IN THE CASE OF A TAXPAYER WHO IS AN ELIGIBLE FARM-  
5     ER, THERE SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER  
6     PROVIDED AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR TAXABLE YEARS ON  
7     AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN. THE AMOUNT OF THE CRED-  
8     IT SHALL BE TWENTY-FIVE PERCENT OF THE WHOLESALE COST OF THE TAXPAYER'S  
9     QUALIFIED DONATIONS, AS DEFINED IN PARAGRAPH THREE OF THIS SUBSECTION,  
10    MADE TO ANY FOOD BANK OR OTHER PUBLIC, CHARITABLE OR NOT-FOR-PROFIT  
11    EMERGENCY FOOD PROGRAM OPERATING WITHIN THIS STATE, UP TO FIVE THOUSAND  
12    DOLLARS PER YEAR.  
13    (2) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBSECTION, THE TERM "ELIGI-  
14    BLE FARMER" MEANS A NEW YORK STATE RESIDENT TAXPAYER WHOSE FEDERAL GROSS  
15    INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF  
16    EXCESS FEDERAL GROSS INCOME. EXCESS FEDERAL GROSS INCOME MEANS THE  
17    AMOUNT OF FEDERAL GROSS INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR  
18    REDUCED BY THE SUM (NOT TO EXCEED THIRTY THOUSAND DOLLARS) OF THOSE  
19    ITEMS INCLUDED IN FEDERAL GROSS INCOME WHICH CONSIST OF (I) EARNED  
20    INCOME, (II) PENSION PAYMENTS, INCLUDING SOCIAL SECURITY PAYMENTS, (III)  
21    INTEREST, AND (IV) DIVIDENDS. FOR PURPOSES OF THIS PARAGRAPH, THE TERM  
22    "EARNED INCOME" SHALL MEAN WAGES, SALARIES, TIPS AND OTHER EMPLOYEE  
23    COMPENSATION, AND THOSE ITEMS OF GROSS INCOME WHICH ARE INCLUDIBLE IN  
24    THE COMPUTATION OF NET EARNINGS FROM SELF-EMPLOYMENT. FOR THE PURPOSES  
25    OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION  
26    PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS,

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

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1 SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE  
2 ELIGIBLE FARMERS.

3 (3) QUALIFIED DONATION. FOR PURPOSES OF THIS SUBSECTION, THE TERM  
4 "QUALIFIED DONATION" MEANS A DONATION OF ANY FRESH FOOD ITEM GROWN OR  
5 PRODUCED BY AN ELIGIBLE FARMER TO A FOOD BANK OR OTHER EMERGENCY FOOD  
6 PROGRAM OPERATING WITHIN THIS STATE.

7 (4) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBSECTION  
8 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
9 THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF  
10 CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE  
11 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH  
12 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
13 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
14 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
15 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
16 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

17 S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
18 of the tax law is amended by adding a new clause (xliii) to read as  
19 follows:

|                                   |                        |
|-----------------------------------|------------------------|
| 20 (XLIII) FARM DONATIONS TO FOOD | AMOUNT OF CREDIT UNDER |
| 21 BANK OR EMERGENCY FOOD PROGRAM | SUBDIVISION FIFTY-TWO  |
| 22 CREDIT UNDER SUBSECTION (N-2)  | OF SECTION TWO HUNDRED |
| 23                                | TEN-B                  |

24 S 3. Section 210-B of the tax law is amended by adding a new subdivi-  
25 sion 52 to read as follows:

26 52. CREDIT FOR FARM DONATIONS TO FOOD BANK OR EMERGENCY FOOD PROGRAM.

27 (A) GENERAL. IN THE CASE OF A TAXPAYER WHO IS AN ELIGIBLE FARMER, THERE  
28 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED  
29 AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR TAXABLE YEARS BEGINNING ON  
30 AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN. THE AMOUNT OF THE CRED-  
31 IT SHALL BE TWENTY-FIVE PERCENT OF THE WHOLESALE COST OF THE TAXPAYER'S  
32 QUALIFIED DONATIONS, AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION,  
33 MADE TO ANY FOOD BANK OR OTHER PUBLIC, CHARITABLE OR NOT-FOR-PROFIT  
34 EMERGENCY FOOD PROGRAM OPERATING WITHIN THIS STATE, UP TO FIVE THOUSAND  
35 DOLLARS DURING THE TAXABLE YEAR.

36 (B) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBDIVISION, THE TERM  
37 "ELIGIBLE FARMER" MEANS A NEW YORK STATE RESIDENT TAXPAYER WHOSE FEDERAL  
38 GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF  
39 EXCESS FEDERAL GROSS INCOME. EXCESS FEDERAL GROSS INCOME MEANS THE  
40 AMOUNT OF FEDERAL GROSS INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR  
41 REDUCED BY THE SUM (NOT TO EXCEED THIRTY THOUSAND DOLLARS) OF THOSE  
42 ITEMS INCLUDED IN FEDERAL GROSS INCOME WHICH CONSIST OF (I) EARNED  
43 INCOME, (II) PENSION PAYMENTS, INCLUDING SOCIAL SECURITY PAYMENTS, (III)  
44 INTEREST, AND (IV) DIVIDENDS. FOR PURPOSES OF THIS PARAGRAPH, THE TERM  
45 "EARNED INCOME" SHALL MEAN WAGES, SALARIES, TIPS AND OTHER EMPLOYEE  
46 COMPENSATION, AND THOSE ITEMS OF GROSS INCOME WHICH ARE INCLUDIBLE IN  
47 THE COMPUTATION OF NET EARNINGS FROM SELF-EMPLOYMENT. FOR THE PURPOSES  
48 OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION  
49 PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS,  
50 SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE  
51 ELIGIBLE FARMERS.

52 (C) QUALIFIED DONATION. FOR PURPOSES OF THIS SUBDIVISION, THE TERM  
53 "QUALIFIED DONATION" MEANS A DONATION OF ANY FRESH FOOD ITEM GROWN OR  
54 PRODUCED BY AN ELIGIBLE FARMER TO A FOOD BANK OR OTHER EMERGENCY FOOD  
55 PROGRAM OPERATING WITHIN THIS STATE.

1 (D) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
2 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
3 THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF  
4 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE  
5 TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH  
6 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
7 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
8 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
9 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
10 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

11 S 4. The department of agriculture and markets, in conjunction with  
12 the department of taxation and finance, shall establish an accepted  
13 wholesale price of the taxpayer's qualified donations and promulgate any  
14 necessary rules and regulations.

15 S 5. This act shall take effect on January 1, 2017 and shall apply to  
16 taxable years beginning on or after such date.