

4415

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. MAGEE -- read once and referred to the Committee
on Ways and Means

AN ACT to amend the tax law, in relation to reducing farm-based taxes

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

1 Section 1. Subparagraphs (A) and (B) of paragraph 3 of subsection (c)
2 of section 658 of the tax law, subparagraph (A) as amended by section 18
3 of part U of chapter 61 of the laws of 2011 and subparagraph (B) as
4 amended by section 1 of part H-1 of chapter 57 of the laws of 2009, are
5 amended to read as follows:

6 (A) Every subchapter K limited liability company, every limited
7 liability company that is a disregarded entity for federal income tax
8 purposes, and every partnership which has any income derived from New
9 York sources, determined in accordance with the applicable rules of
10 section six hundred thirty-one of this article as in the case of a
11 nonresident individual, shall, within sixty days after the last day of
12 the taxable year, make a payment of a filing fee. SUCH DEADLINE SHALL
13 NOT APPLY TO FARMS, COMMERCIAL HORSE BOARDING OPERATIONS OR AGRICULTURAL
14 SERVICE PROVIDERS SUBJECT TO THE FEE, WHICH SHALL, WITHIN ONE HUNDRED
15 TWENTY DAYS AFTER THE LAST DAY OF THE TAXABLE YEAR, MAKE PAYMENT OF ANY
16 REQUIRED FILING FEE. The amount of the filing fee is the amount set
17 forth in subparagraph (B) of this paragraph. The minimum filing fee is
18 twenty-five dollars for taxable years beginning in two thousand eight
19 and thereafter. Limited liability companies that are disregarded enti-
20 ties for federal income tax purposes must pay a filing fee of twenty-
21 five dollars for taxable years beginning on or after January first, two
22 thousand eight.

23 (B) The filing fee will be based on the New York source gross income
24 of the limited liability company or partnership for the taxable year
25 immediately preceding the taxable year for which the fee is due. If the
26 limited liability company or partnership does not have any New York

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

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1 source gross income for the taxable year immediately preceding the taxa-
 2 ble year for which the fee is due, the limited liability company or
 3 partnership shall pay the minimum filing fee. Partnerships, other than
 4 limited liability partnerships under article eight-B of the partnership
 5 law and foreign limited liability partnerships, with less than one
 6 million dollars in New York source gross income are exempt from the
 7 filing fee. New York source gross income is the sum of the partners' or
 8 members' shares of federal gross income from the partnership or limited
 9 liability company derived from or connected with New York sources,
 10 determined in accordance with the provisions of section six hundred
 11 thirty-one of this article as if those provisions and any related
 12 provisions expressly referred to a computation of federal gross income
 13 from New York sources. For this purpose, federal gross income is
 14 computed without any allowance or deduction for cost of goods sold,
 15 EXCEPT THAT FOR COMPANIES ENGAGED PRIMARILY IN FARMING, COMMERCIAL HORSE
 16 BOARDING OR AGRICULTURAL SERVICE PROVIDERS, THE TERM FEDERAL GROSS
 17 INCOME SHALL MEAN NET INCOME AS REPORTED FOR FEDERAL TAX PURPOSES.
 18 The amount of the filing fee for taxable years beginning on or after
 19 January first, two thousand eight will be determined in accordance with
 20 the following table:

| | |
|--|-------------|
| 21 If the New York source gross income is: | The fee is: |
| 22 not more than \$100,000 | \$25 |
| 23 more than \$100,000 but not over \$250,000 | \$50 |
| 24 more than \$250,000 but not over \$500,000 | \$175 |
| 25 more than \$500,000 but not over \$1,000,000 | \$500 |
| 26 more than \$1,000,000 but not over \$5,000,000 | \$1,500 |
| 27 more than \$5,000,000 but not over \$25,000,000 | \$3,000 |
| 28 Over \$25,000,000 | \$4,500 |

29 S 2. Subparagraph 1 of paragraph (d) of subdivision 1 of section 210
 30 of the tax law, as amended by section 12 of part A of chapter 59 of the
 31 laws of 2014, is amended to read as follows:

32 (1) The amount prescribed by this paragraph for New York S corpo-
 33 rations will be determined in accordance with the following table:

| | |
|--|----------------------------------|
| 34 If New York receipts are: | The fixed dollar minimum tax is: |
| 35 not more than \$100,000 | \$ 25 |
| 36 more than \$100,000 but not over \$250,000 | \$ 50 |
| 37 more than \$250,000 but not over \$500,000 | \$ 175 |
| 38 more than \$500,000 but not over \$1,000,000 | \$ 300 |
| 39 more than \$1,000,000 but not over \$5,000,000 | \$1,000 |
| 40 more than \$5,000,000 but not over \$25,000,000 | \$3,000 |
| 41 Over \$25,000,000 | \$4,500 |

42 Provided further, the amount prescribed by this paragraph for a quali-
 43 fied New York manufacturer, as defined in subparagraph (vi) of paragraph
 44 (a) of this subdivision, and a qualified emerging technology company
 45 under paragraph (c) of subdivision one of section thirty-one hundred
 46 two-e of the public authorities law regardless of the ten million dollar
 47 limitation expressed in subparagraph one of such paragraph (c) will be
 48 determined in accordance with the following tables:

49 For tax years beginning on or after January 1, 2014 and before January
 50 1, 2015:

| | |
|------------------------------|----------------------------------|
| 51 If New York receipts are: | The fixed dollar minimum tax is: |
|------------------------------|----------------------------------|

| | | |
|---|---|---------|
| 1 | not more than \$100,000 | \$ 23 |
| 2 | more than \$100,000 but not over \$250,000 | \$ 68 |
| 3 | more than \$250,000 but not over \$500,000 | \$ 159 |
| 4 | more than \$500,000 but not over \$1,000,000 | \$ 454 |
| 5 | more than \$1,000,000 but not over \$5,000,000 | \$1,362 |
| 6 | more than \$5,000,000 but not over \$25,000,000 | \$3,178 |
| 7 | Over \$25,000,000 | \$4,500 |

8 For tax years beginning on or after January 1, 2015 and before January
9 1, 2016:

| | | |
|----|---|----------------------------------|
| 10 | If New York receipts are: | The fixed dollar minimum tax is: |
| 11 | not more than \$100,000 | \$ 22 |
| 12 | more than \$100,000 but not over \$250,000 | \$ 66 |
| 13 | more than \$250,000 but not over \$500,000 | \$ 153 |
| 14 | more than \$500,000 but not over \$1,000,000 | \$ 439 |
| 15 | more than \$1,000,000 but not over \$5,000,000 | \$1,316 |
| 16 | more than \$5,000,000 but not over \$25,000,000 | \$3,070 |
| 17 | Over \$25,000,000 | \$4,385 |

18 For tax years beginning on or after January 1, 2016 and before January
19 1, 2018:

| | | |
|----|---|----------------------------------|
| 20 | If New York receipts are: | The fixed dollar minimum tax is: |
| 21 | not more than \$100,000 | \$ 21 |
| 22 | more than \$100,000 but not over \$250,000 | \$ 63 |
| 23 | more than \$250,000 but not over \$500,000 | \$ 148 |
| 24 | more than \$500,000 but not over \$1,000,000 | \$ 423 |
| 25 | more than \$1,000,000 but not over \$5,000,000 | \$1,269 |
| 26 | more than \$5,000,000 but not over \$25,000,000 | \$2,961 |
| 27 | Over \$25,000,000 | \$4,230 |

28 For tax years beginning on or after January 1, 2018:

| | | |
|----|---|----------------------------------|
| 29 | If New York receipts are: | The fixed dollar minimum tax is: |
| 30 | not more than \$100,000 | \$ 19 |
| 31 | more than \$100,000 but not over \$250,000 | \$ 56 |
| 32 | more than \$250,000 but not over \$500,000 | \$ 131 |
| 33 | more than \$500,000 but not over \$1,000,000 | \$ 375 |
| 34 | more than \$1,000,000 but not over \$5,000,000 | \$1,125 |
| 35 | more than \$5,000,000 but not over \$25,000,000 | \$2,625 |
| 36 | Over \$25,000,000 | \$3,750 |

37 Otherwise the amount prescribed by this paragraph will be determined in
38 accordance with the following table:

| | | |
|----|---|----------------------------------|
| 39 | If New York receipts are: | The fixed dollar minimum tax is: |
| 40 | not more than \$100,000 | \$ 25 |
| 41 | more than \$100,000 but not over \$250,000 | \$ 75 |
| 42 | more than \$250,000 but not over \$500,000 | \$ 175 |
| 43 | more than \$500,000 but not over \$1,000,000 | \$ 500 |
| 44 | more than \$1,000,000 but not over \$5,000,000 | \$1,500 |
| 45 | more than \$5,000,000 but not over \$25,000,000 | \$3,500 |
| 46 | more than \$25,000,000 | |
| 47 | but not over \$50,000,000 | \$5,000 |
| 48 | more than \$50,000,000 but not over \$100,000,000 | \$10,000 |

| | | |
|---|--|-----------|
| 1 | more than \$100,000,000 but not over \$250,000,000 | \$20,000 |
| 2 | more than \$250,000,000 but not over \$500,000,000 | \$50,000 |
| 3 | more than \$500,000,000 but not over \$1,000,000,000 | \$100,000 |
| 4 | Over \$1,000,000,000 | \$200,000 |

5 For purposes of this paragraph, New York receipts are the receipts
6 included in the numerator of the apportionment factor determined under
7 section two hundred ten-A OF THIS ARTICLE for the taxable year, EXCEPT
8 THAT FOR CORPORATIONS ENGAGED PRIMARILY IN FARMING, COMMERCIAL HORSE
9 BOARDING, OR PROVIDING AGRICULTURAL SERVICES, THE TERM NEW YORK RECEIPTS
10 SHALL REFER TO NET FARM INCOME AS REPORTED FOR FEDERAL TAX PURPOSES.
11 S 3. This act shall take effect immediately.