

8075

2015-2016 Regular Sessions

I N   A S S E M B L Y

June 5, 2015

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Introduced by M. of A. MOYA -- 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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 606 of the tax law is amended by adding a new  
2     subsection (n-1) to read as follows:  
3     (N-1) 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 SIXTEEN. THE AMOUNT OF THE CREDIT  
8     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 TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARMING FOR  
15    THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME.  
16    EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS INCOME  
17    FROM ALL SOURCES FOR THE TAXABLE YEAR REDUCED BY THE SUM (NOT TO EXCEED  
18    THIRTY THOUSAND DOLLARS) OF THOSE ITEMS INCLUDED IN FEDERAL GROSS INCOME  
19    WHICH CONSIST OF (I) EARNED INCOME, (II) PENSION PAYMENTS, INCLUDING  
20    SOCIAL SECURITY PAYMENTS, (III) INTEREST, AND (IV) DIVIDENDS. FOR  
21    PURPOSES OF THIS PARAGRAPH, THE TERM "EARNED INCOME" SHALL MEAN WAGES,  
22    SALARIES, TIPS AND OTHER EMPLOYEE COMPENSATION, AND THOSE ITEMS OF GROSS  
23    INCOME WHICH ARE INCLUDIBLE IN THE COMPUTATION OF NET EARNINGS FROM  
24    SELF-EMPLOYMENT. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM THE  
25    STATE'S FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT OF

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

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1 AGRICULTURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM  
2 FARMING FOR OTHERWISE 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-ONE
22 CREDIT UNDER SUBSECTION (N-1)	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 51 to read as follows:

26 51. 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,  
28 THERE 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 SIXTEEN. THE AMOUNT OF THE CREDIT  
31 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 TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARM-  
38 ING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS  
39 INCOME. EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS  
40 INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR REDUCED BY THE SUM (NOT TO  
41 EXCEED THIRTY THOUSAND DOLLARS) OF THOSE ITEMS INCLUDED IN FEDERAL GROSS  
42 INCOME WHICH CONSIST OF (I) EARNED INCOME, (II) PENSION PAYMENTS,  
43 INCLUDING SOCIAL SECURITY PAYMENTS, (III) INTEREST, AND (IV) DIVIDENDS.  
44 FOR PURPOSES OF THIS PARAGRAPH, THE TERM "EARNED INCOME" SHALL MEAN  
45 WAGES, SALARIES, TIPS AND OTHER EMPLOYEE COMPENSATION, AND THOSE ITEMS  
46 OF GROSS INCOME WHICH ARE INCLUDIBLE IN THE COMPUTATION OF NET EARNINGS  
47 FROM SELF-EMPLOYMENT. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM  
48 THE STATE'S FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT  
49 OF AGRICULTURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME  
50 FROM FARMING FOR OTHERWISE ELIGIBLE FARMERS.

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

55 (D) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
56 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS

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

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

13 S 5. This act shall take effect on the first of January next succeed-  
14 ing the date on which it shall have become a law and shall apply to  
15 taxable years beginning on or after such date.