

2469

2015-2016 Regular Sessions

I N   S E N A T E

January 23, 2015

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Introduced by Sens. RITCHIE, FUNKE -- read twice and ordered printed,  
and when printed to be committed to the Committee on Investigations  
and Government Operations

AN ACT to amend the tax law, in relation to farm savings accounts

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

1     Section 1. The tax law is amended by adding a new section 42 to read  
2 as follows:  
3     S 42. FARM SAVINGS ACCOUNTS. 1. DEFINITIONS. (A) QUALIFIED FARMER. FOR  
4 PURPOSES OF THIS SECTION, THE TERM "QUALIFIED FARMER" MEANS, WITH  
5 RESPECT TO ANY TAXABLE YEAR, ANY INDIVIDUAL WHO, DURING SUCH YEAR, WAS  
6 ENGAGED IN THE TRADE OR BUSINESS OF FARMING.  
7     (B) FARM SAVINGS ACCOUNT. FOR PURPOSES OF THIS SECTION, THE TERM "FARM  
8 SAVINGS ACCOUNT" MEANS A TRUST CREATED OR ORGANIZED IN THE UNITED STATES  
9 AS A FARM SAVINGS ACCOUNT EXCLUSIVELY FOR THE PURPOSE OF MAKING QUALI-  
10 FIED DISTRIBUTIONS FOR PURPOSES OF FARM SUSTAINABILITY, BUT ONLY IF THE  
11 WRITTEN GOVERNING INSTRUMENT CREATING THE TRUST MEETS THE FOLLOWING  
12 REQUIREMENTS:  
13     (I) NO CONTRIBUTION WILL BE ACCEPTED UNLESS IT IS IN CASH.  
14     (II) THE TRUSTEE IS A BANK, CREDIT UNION OR OTHER APPROPRIATE INSTITU-  
15 TION THAT DEMONSTRATES ADMINISTRATION OF THE TRUST IN A MANNER THAT IS  
16 CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.  
17     (III) THE ASSETS OF THE TRUST WILL NOT BE COMMINGLED WITH OTHER PROP-  
18 ERTY EXCEPT IN A COMMON TRUST FUND OR COMMON INVESTMENT FUND.  
19     (IV) THE INTEREST OF AN INDIVIDUAL IN THE BALANCE IN HIS OR HER  
20 ACCOUNT IS NONFORFEITABLE.  
21     (C) QUALIFIED DISTRIBUTION. THE TERM "QUALIFIED DISTRIBUTION" MEANS  
22 ANY AMOUNT PAID FROM A FARM SAVINGS ACCOUNT TO THE ACCOUNT BENEFICIARY  
23 EXCLUSIVELY FOR PURPOSES OF FARM SUSTAINABILITY.  
24     (D) ACCOUNT BENEFICIARY. THE TERM "ACCOUNT BENEFICIARY" MEANS THE  
25 INDIVIDUAL OR BUSINESS ON WHOSE BEHALF THE FARM SAVINGS ACCOUNT WAS  
26 ESTABLISHED.  
27     2. PROGRAM DESCRIPTION. (A) DEDUCTIONS ALLOWED. IN THE CASE OF A QUAL-  
28 IFIED FARMER, THERE SHALL BE ALLOWED AS A DEDUCTION FOR THE TAXABLE YEAR

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

LBD07647-01-5

1 AN AMOUNT EQUAL TO THE AGGREGATE AMOUNT PAID IN CASH DURING SUCH TAXABLE  
2 YEAR BY OR ON BEHALF OF SUCH INDIVIDUAL TO A FARM SAVINGS ACCOUNT OF  
3 SUCH INDIVIDUAL.

4 (B) CONTRIBUTION REQUIREMENT. THERE SHALL BE NO MINIMUM OR MAXIMUM  
5 CONTRIBUTION REQUIREMENT. HOWEVER, AGGREGATE CONTRIBUTIONS MAY NOT  
6 EXCEED TOTAL INCOME DERIVED FROM FARMING DURING A GIVEN TAXABLE YEAR.

7 (C) TAX TREATMENT OF ACCOUNTS. A FARM SAVINGS ACCOUNT IS EXEMPT FROM  
8 TAXATION UNDER THIS CHAPTER UNLESS SUCH ACCOUNT HAS CEASED TO BE A FARM  
9 SAVINGS ACCOUNT.

10 (D) TERMINATION OF ACCOUNTS. IF THE ACCOUNT BENEFICIARY CEASES TO  
11 ENGAGE IN THE TRADE OR BUSINESS OF FARMING, ALL FARM SAVINGS ACCOUNTS OF  
12 SUCH INDIVIDUAL SHALL CEASE TO BE SUCH ACCOUNTS AND THE BALANCE OF ALL  
13 SUCH ACCOUNTS SHALL BE TREATED AS (I) DISTRIBUTED TO SUCH INDIVIDUAL,  
14 AND (II) NOT PAID IN A QUALIFIED DISTRIBUTION.

15 (E) TAX TREATMENT OF DISTRIBUTIONS. (I) GENERAL. IN GENERAL, ANY  
16 AMOUNT PAID OR DISTRIBUTED OUT OF A FARM SAVINGS ACCOUNT SHALL BE  
17 INCLUDED IN GROSS INCOME.

18 (II) ADDITIONAL TAX ON NON-QUALIFIED DISTRIBUTIONS. (1) IN ADDITION TO  
19 ANY OTHER TAX IMPOSED BY THIS CHAPTER, ANY NON-QUALIFIED DISTRIBUTION  
20 FROM A FARM SAVINGS ACCOUNT SHALL BE SUBJECT TO A FIFTEEN PERCENT  
21 SURCHARGE ON THE AMOUNT OF SUCH NON-QUALIFYING DISTRIBUTION.

22 (2) CLAUSE ONE OF THIS SUBPARAGRAPH SHALL NOT APPLY IF THE PAYMENT OR  
23 DISTRIBUTION IS MADE AFTER THE ACCOUNT BENEFICIARY BECOMES DISABLED OR  
24 DIES.

25 (III) ROLLOVER CONTRIBUTIONS. FOR PURPOSES OF THIS SECTION, ANY AMOUNT  
26 PAID OR DISTRIBUTED FROM A FARM SAVINGS ACCOUNT TO THE ACCOUNT BENEFICI-  
27 ARY SHALL BE TREATED AS A QUALIFIED DISTRIBUTION TO THE EXTENT THE  
28 AMOUNT RECEIVED IS PAID INTO A FARM SAVINGS ACCOUNT FOR THE BENEFIT OF  
29 SUCH BENEFICIARY NOT LATER THAN THE SIXTIETH DAY AFTER THE DAY ON WHICH  
30 THE BENEFICIARY RECEIVES THE PAYMENT OR DISTRIBUTION.

31 (IV) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE. THE TRANSFER OF AN INDI-  
32 VIDUAL'S INTEREST IN A FARM SAVINGS ACCOUNT TO AN INDIVIDUAL'S SPOUSE OR  
33 FORMER SPOUSE UNDER A DIVORCE OR SEPARATION INSTRUMENT SHALL NOT BE  
34 CONSIDERED A TAXABLE TRANSFER MADE BY SUCH INDIVIDUAL NOTWITHSTANDING  
35 ANY OTHER PROVISION OF THIS SECTION, AND SUCH INTEREST SHALL, AFTER SUCH  
36 TRANSFER, BE TREATED AS A FARM SAVINGS ACCOUNT WITH RESPECT TO WHICH  
37 SUCH SPOUSE IS THE ACCOUNT BENEFICIARY.

38 (V) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY. (1) TREATMENT IF  
39 DESIGNATED BENEFICIARY IS SPOUSE. IF THE ACCOUNT BENEFICIARY'S SURVIVING  
40 SPOUSE ACQUIRES SUCH BENEFICIARY'S INTEREST IN A FARM SAVINGS ACCOUNT BY  
41 REASON OF BEING THE DESIGNATED BENEFICIARY OF SUCH ACCOUNT AT THE DEATH  
42 OF THE ACCOUNT BENEFICIARY, SUCH FARM SAVINGS ACCOUNT SHALL BE TREATED  
43 AS IF THE SPOUSE WERE THE ACCOUNT BENEFICIARY.

44 (2) OTHER CASES. IF, BY REASON OF THE DEATH OF THE ACCOUNT BENEFICI-  
45 ARY, ANY PERSON ACQUIRES THE ACCOUNT BENEFICIARY'S INTEREST IN A FARM  
46 SAVINGS ACCOUNT IN A CASE TO WHICH CLAUSE ONE OF THIS SUBPARAGRAPH DOES  
47 NOT APPLY:

48 (A) SUCH ACCOUNT SHALL CEASE TO BE A FARM SAVINGS ACCOUNT AS OF THE  
49 DATE OF DEATH, AND

50 (B) AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH  
51 ACCOUNT ON SUCH DATE SHALL BE INCLUDED IN SUCH PERSON'S GROSS INCOME FOR  
52 THE TAXABLE YEAR WHICH INCLUDES SUCH DATE IF SUCH PERSON IS NOT THE  
53 ESTATE OF SUCH BENEFICIARY; OR IF SUCH PERSON IS THE ESTATE OF SUCH  
54 BENEFICIARY, IN SUCH BENEFICIARY'S GROSS INCOME FOR THE LAST TAXABLE  
55 YEAR OF SUCH BENEFICIARY.

1 S 2. Subsection (b) of section 612 of the tax law is amended by adding  
2 a new paragraph 42 to read as follows:

3 (42) ANY NON-QUALIFYING DISTRIBUTIONS MADE FROM A FARM SAVINGS  
4 ACCOUNT. THIS SHALL NOT INCLUDE ANY DISTRIBUTIONS THAT ARE EXEMPT FROM  
5 TAXATION AS SPECIFIED IN PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION  
6 FORTY-TWO OF THIS CHAPTER.

7 S 3. Subsection (c) of section 612 of the tax law is amended by adding  
8 a new paragraph 42 to read as follows:

9 (42) AN AMOUNT EQUAL TO ANY QUALIFIED CONTRIBUTION TO A FARM SAVINGS  
10 ACCOUNT ESTABLISHED PURSUANT TO SECTION FORTY-TWO OF THIS CHAPTER.

11 S 4. Subdivision 4 of section 209 of the tax law, as separately  
12 amended by section 2 of part FF-1 of chapter 57 of the laws of 2008 and  
13 section 5 of part A of chapter 59 of the laws of 2014, is amended to  
14 read as follows:

15 4. Corporations liable to tax under sections one hundred eighty-three  
16 to one hundred eighty-five, inclusive, corporations taxable under arti-  
17 cle thirty-three of this chapter, any trust company organized under a  
18 law of this state all of the stock of which is owned by not less than  
19 twenty savings banks organized under a law of this state, a captive REIT  
20 or a captive RIC filing a combined return under subdivision (f) of  
21 section fifteen hundred fifteen of this chapter, and housing companies  
22 organized and operating pursuant to the provisions of article two or  
23 article five of the private housing finance law and housing development  
24 fund companies organized pursuant to the provisions of article eleven of  
25 the private housing finance law, AND FARM SAVINGS ACCOUNTS PROPERLY  
26 ESTABLISHED UNDER SECTION FORTY-TWO OF THIS CHAPTER, shall not be  
27 subject to tax under this article.

28 S 5. Subdivision 4 of section 209 of the tax law, as amended by  
29 section 5 of part A of chapter 59 of the laws of 2014, is amended to  
30 read as follows:

31 4. Corporations liable to tax under sections one hundred eighty-three  
32 to one hundred eighty-four-a, inclusive, corporations taxable under  
33 article thirty-three of this chapter, any trust company organized under  
34 a law of this state all of the stock of which is owned by not less than  
35 twenty savings banks organized under a law of this state, a captive REIT  
36 or a captive RIC filing a combined return under subdivision (f) of  
37 section fifteen hundred fifteen of this chapter, and housing companies  
38 organized and operating pursuant to the provisions of article two or  
39 article five of the private housing finance law and housing development  
40 fund companies organized pursuant to the provisions of article eleven of  
41 the private housing finance law, AND FARM SAVINGS ACCOUNTS PROPERLY  
42 ESTABLISHED UNDER SECTION FORTY-TWO OF THIS CHAPTER, shall not be  
43 subject to tax under this article.

44 S 6. Section 601 of the tax law is amended by adding a new subsection  
45 (g-1) to read as follows:

46 (G-1) FARM SAVINGS ACCOUNTS. ANY FARM SAVINGS ACCOUNT PROPERLY ESTAB-  
47 LISHED UNDER SECTION FORTY-TWO OF THIS CHAPTER SHALL NOT BE SUBJECT TO  
48 TAX UNDER THIS ARTICLE.

49 S 7. This act shall take effect immediately and shall apply to taxable  
50 years commencing after such effective date; provided, however, that  
51 section five of this act shall take effect on the same date and in the  
52 same manner as section 27 of part S of chapter 59 of the laws of 2014,  
53 takes effect. Effective immediately, the commissioner of taxation and  
54 finance may add, amend, or repeal any rule or regulation necessary to  
55 timely implement the provisions of this act on its effective date.