

2469--A

2015-2016 Regular Sessions

I N S E N A T E

January 23, 2015

Introduced by Sens. RITCHIE, CARLUCCI, FUNKE, PANEPINTO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

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

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1 (C) QUALIFIED DISTRIBUTION. THE TERM "QUALIFIED DISTRIBUTION" MEANS
2 ANY AMOUNT PAID FROM A FARM SAVINGS ACCOUNT TO THE ACCOUNT BENEFICIARY
3 EXCLUSIVELY FOR PURPOSES OF FARM SUSTAINABILITY.

4 (D) ACCOUNT BENEFICIARY. THE TERM "ACCOUNT BENEFICIARY" MEANS THE
5 INDIVIDUAL OR BUSINESS ON WHOSE BEHALF THE FARM SAVINGS ACCOUNT WAS
6 ESTABLISHED.

7 2. PROGRAM DESCRIPTION. (A) DEDUCTIONS ALLOWED. IN THE CASE OF A QUAL-
8 IFIED FARMER, THERE SHALL BE ALLOWED AS A DEDUCTION FOR THE TAXABLE YEAR
9 AN AMOUNT EQUAL TO THE AGGREGATE AMOUNT PAID IN CASH DURING SUCH TAXABLE
10 YEAR BY OR ON BEHALF OF SUCH INDIVIDUAL TO A FARM SAVINGS ACCOUNT OF
11 SUCH INDIVIDUAL.

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

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

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

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

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

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

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

39 (IV) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE. THE TRANSFER OF AN INDIV-
40 IDUAL'S INTEREST IN A FARM SAVINGS ACCOUNT TO AN INDIVIDUAL'S SPOUSE OR
41 FORMER SPOUSE UNDER A DIVORCE OR SEPARATION INSTRUMENT SHALL NOT BE
42 CONSIDERED A TAXABLE TRANSFER MADE BY SUCH INDIVIDUAL NOTWITHSTANDING
43 ANY OTHER PROVISION OF THIS SECTION, AND SUCH INTEREST SHALL, AFTER SUCH
44 TRANSFER, BE TREATED AS A FARM SAVINGS ACCOUNT WITH RESPECT TO WHICH
45 SUCH SPOUSE IS THE ACCOUNT BENEFICIARY.

46 (V) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY. (1) TREATMENT IF
47 DESIGNATED BENEFICIARY IS SPOUSE. IF THE ACCOUNT BENEFICIARY'S SURVIVING
48 SPOUSE ACQUIRES SUCH BENEFICIARY'S INTEREST IN A FARM SAVINGS ACCOUNT BY
49 REASON OF BEING THE DESIGNATED BENEFICIARY OF SUCH ACCOUNT AT THE DEATH
50 OF THE ACCOUNT BENEFICIARY, SUCH FARM SAVINGS ACCOUNT SHALL BE TREATED
51 AS IF THE SPOUSE WERE THE ACCOUNT BENEFICIARY.

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

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

3 (B) AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH
4 ACCOUNT ON SUCH DATE SHALL BE INCLUDED IN SUCH PERSON'S GROSS INCOME FOR
5 THE TAXABLE YEAR WHICH INCLUDES SUCH DATE IF SUCH PERSON IS NOT THE
6 ESTATE OF SUCH BENEFICIARY; OR IF SUCH PERSON IS THE ESTATE OF SUCH
7 BENEFICIARY, IN SUCH BENEFICIARY'S GROSS INCOME FOR THE LAST TAXABLE
8 YEAR OF SUCH BENEFICIARY.

9 S 2. Subsection (b) of section 612 of the tax law is amended by adding
10 a new paragraph 43 to read as follows:

11 (43) ANY NON-QUALIFYING DISTRIBUTIONS MADE FROM A FARM SAVINGS
12 ACCOUNT. THIS SHALL NOT INCLUDE ANY DISTRIBUTIONS THAT ARE EXEMPT FROM
13 TAXATION AS SPECIFIED IN PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION
14 FORTY-TWO OF THIS CHAPTER.

15 S 3. Subsection (c) of section 612 of the tax law is amended by adding
16 a new paragraph 44 to read as follows:

17 (44) AN AMOUNT EQUAL TO ANY QUALIFIED CONTRIBUTION TO A FARM SAVINGS
18 ACCOUNT ESTABLISHED PURSUANT TO SECTION FORTY-TWO OF THIS CHAPTER.

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

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

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

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

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

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

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