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

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:

Section 1. Section 606 of the tax law is amended by adding a new subsection (n-2) to read as follows:

(N-2) CREDIT FOR FARM DONATIONS TO FOOD BANK OR EMERGENCY FOOD PROGRAM. (1) GENERAL. IN THE CASE OF A TAXPAYER WHO IS AN ELIGIBLE FARMER, THERE SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR TAXABLE YEARS ON AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN. THE AMOUNT OF THE CREDIT SHALL BE TWENTY-FIVE PERCENT OF THE WHOLESALE COST OF THE TAXPAYER'S QUALIFIED DONATIONS, AS DEFINED IN PARAGRAPH THREE OF THIS SUBSECTION, MADE TO ANY FOOD BANK OR OTHER PUBLIC, CHARITABLE OR NOT-FOR-PROFIT EMERGENCY FOOD PROGRAM OPERATING WITHIN THIS STATE, UP TO FIVE THOUSAND DOLLARS PER YEAR.

(2) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBSECTION, THE TERM "ELIGIBLE FARMER" MEANS A NEW YORK STATE RESIDENT TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME. EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR REDUCED BY THE SUM (NOT TO EXCEED THIRTY THOUSAND DOLLARS) OF THOSE ITEMS INCLUDED IN FEDERAL GROSS INCOME WHICH CONSIST OF (I) EARNED INCOME, (II) PENSION PAYMENTS, INCLUDING SOCIAL SECURITY PAYMENTS, (III) INTEREST, AND (IV) DIVIDENDS. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "EARNED INCOME" SHALL MEAN WAGES, SALARIES, TIPS AND OTHER EMPLOYEE COMPENSATION, AND THOSE ITEMS OF GROSS INCOME WHICH ARE INCLUDIBLE IN THE COMPUTATION OF NET EARNINGS FROM SELF-EMPLOYMENT. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION 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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SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE ELIGIBLE FARMERS.

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

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

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

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

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

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

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

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

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

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

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