

2469

2015-2016 Regular Sessions

I N S E N A T E

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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.

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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.