S T A T E O F N E W Y O R K

3016--A

2015-2016 Regular Sessions

I N S E N A T E

February 2, 2015

Introduced by Sens. YOUNG, BONACIC, GALLIVAN, ORTT, RANZENHOFER -- 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 limited liability company fees and business corporation franchise taxes for farms and commercial horse boarding operations

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

Section 1. Paragraph 3 of subsection (c) of section 658 of the tax law, as amended by section 1 of part H-1 of chapter 57 of the laws of 2009, subparagraph (A) as amended by section 18 of part U of chapter 61 of the laws of 2011, subparagraph (E) as added by section 13 of part S of chapter 59 of the laws of 2015, is amended to read as follows:

(3) Filing fees. (A) Every subchapter K limited liability company, every limited liability company that is a disregarded entity for federal income tax purposes, and every partnership which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall, within sixty days after the last day of the taxable year, make a payment of a filing fee. SUCH DEADLINE SHALL NOT APPLY TO FARMS OR COMMERCIAL HORSE BOARDING OPERATIONS, WHICH SHALL, WITHIN ONE HUNDRED TWENTY DAYS AFTER THE LAST DAY OF THE TAXABLE YEAR, MAKE PAYMENT OF A FILING FEE. The amount of the filing fee is the amount set forth in subparagraph (B) of this paragraph. The minimum filing fee is twenty-five dollars for taxable years beginning in two thousand eight and thereafter. Limited liability companies that are disregarded entities for federal income tax purposes must pay a filing

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

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fee of twenty-five dollars for taxable years beginning on or after January first, two thousand eight.

(B) The filing fee will be based on the New York source gross income of the limited liability company or partnership for the taxable year immediately preceding the taxable year for which the fee is due. If the limited liability company or partnership does not have any New York source gross income for the taxable year immediately preceding the taxable year for which the fee is due, the limited liability company or partnership shall pay the minimum filing fee. Partnerships, other than limited liability partnerships under article eight-B of the partnership law and foreign limited liability partnerships, with less than one million dollars in New York source gross income are exempt from the filing fee. New York source gross income is the sum of the partners' or members' shares of federal gross income from the partnership or limited liability company derived from or connected with New York sources, determined in accordance with the provisions of section six hundred thirty-one of this article as if those provisions and any related provisions expressly referred to a computation of federal gross income from New York sources. For this purpose, federal gross income is computed without any allowance or deduction for cost of goods sold, EXCEPT THAT FOR COMPANIES ENGAGED PRIMARILY IN FARMING OR COMMERCIAL HORSE BOARDING, FEDERAL GROSS INCOME SHALL BE BASED UPON NET INCOME AS REPORTED FOR FEDERAL TAX PURPOSES.

The amount of the filing fee for taxable years beginning on or after January first, two thousand eight will be determined in accordance with the following table:

If the New York source gross income is:	The fee is:
not more than $100,000	$25
more than $100,000 but not over $250,000	$50
more than $250,000 but not over $500,000	$175
more than $500,000 but not over $1,000,000	$500
more than $1,000,000 but not over $5,000,000	$1,500
more than $5,000,000 but not over $25,000,000	$3,000
Over $25,000,000	$4,500

(C) No credits provided by this article may be taken against the fee imposed by this paragraph.

(D) Where the filing fee is not timely paid, it shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as taxes, and for those purposes any reference in this article to tax imposed by this article shall be deemed also to refer to this filing fee.

(E) Notwithstanding the provisions of subsection (e) of section six hundred ninety-seven of this article, the commissioner shall provide the statements and other required information included on the filing fee payment form under section three hundred one of the limited liability company law, subdivision (g) of section 121-1500 of the partnership law, and subdivision (f) of section 121-1502 of the partnership law, to the secretary of state for filing. Such provision may also include a copy or image of that portion of the report solely pertinent to such information to the extent feasible. The commissioner may also provide information on noncompliance.

S 2. Clause (E) of subparagraph 1 of paragraph (d) of subdivision 1 of section 210 of the tax law, as amended by section 19 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(E) For purposes of this paragraph, New York receipts are the receipts included in the numerator of the apportionment factor determined under section two hundred ten-A OF THIS ARTICLE for the taxable year, EXCEPT THAT FOR CORPORATIONS ENGAGED PRIMARILY IN FARMING OR COMMERCIAL HORSE BOARDING, THE TERM NEW YORK RECEIPTS SHALL REFER TO NET FARM INCOME AS REPORTED FOR FEDERAL TAX PURPOSES.

S 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2016.