

STATE OF NEW YORK

1700

2017-2018 Regular Sessions

IN ASSEMBLY

January 12, 2017

Introduced by M. of A. HEVESI, BARRETT, SANTABARBARA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a tax credit to farmers who purchase biodiesel fuel for the operation of their farm equipment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 210-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. Credit for biodiesel fuel used in farming equipment. (a) Allowance of credit. A taxpayer that is a business principally engaged in farming, as such term is defined in paragraph nineteen of subdivision (b) of section eleven hundred one of this chapter shall be allowed a credit against the tax imposed by this article for the purchase of qualified biodiesel fuel to be used in farming equipment in this state. Such credit shall be \$0.01 per percent of biodiesel per gallon of qualified biodiesel fuel, not to exceed twenty cents per gallon, purchased by such taxpayer during the taxable year and used in farming equipment.

(b) For purposes of this subdivision, the following definitions shall apply:

(1) "Biodiesel" shall mean a fuel comprised exclusively of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designation D 6751.

(2) "Qualified biodiesel" shall mean a fuel that is a mixture of biodiesel and diesel motor fuel.

(c) Application of credit. In no event shall the credit herein provided for be allowed in an amount which will reduce the tax payable to less than the higher of the amounts prescribed in paragraphs (c) and (d) of subdivision one of section two hundred ten of this article. However, if the amount of the credit allowed under this subdivision for

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

LBD02457-01-7

1 any taxable year shall exceed the taxpayer's tax for such year, the
2 excess shall be treated as an overpayment of tax to be credited or
3 refunded in accordance with the provisions of section one thousand
4 eighty-six of this chapter, provided, however, that no interest shall be
5 paid on such refund, notwithstanding the provisions of subsection (c) of
6 section one thousand eighty-eight of this chapter.

7 § 2. Section 606 of the tax law is amended by adding a new subsection
8 (ccc) to read as follows:

9 (ccc) Credit for biodiesel fuel used in farming equipment. (1) Allow-
10 ance of credit. A taxpayer whose federal gross income from farming for
11 the taxable year is at least two-thirds of excess federal gross income
12 shall be allowed a credit against the tax imposed by this article for
13 the purchase of qualified biodiesel fuel to be used in farming equipment
14 in this state. Such credit shall be \$0.01 per percent of biodiesel per
15 gallon of qualified biodiesel fuel, not to exceed twenty cents per
16 gallon, purchased by such taxpayer during the taxable year and used in
17 farming equipment.

18 (2) Definitions. For purposes of this subsection, the following defi-
19 nitions shall apply:

20 (A) "Excess federal gross income" means the amount of federal gross
21 income from all sources for the taxable year reduced by the sum (not to
22 exceed thirty thousand dollars) of those items included in federal gross
23 income which consist of (i) earned income, (ii) pension payments,
24 including social security payments, (iii) interest, and (iv) dividends.
25 For purposes of this paragraph, the term "earned income" shall mean
26 wages, salaries, tips and other employee compensation, and those items
27 of gross income which are includible in the computation of net earnings
28 from self-employment. For the purposes of this paragraph, payments from
29 the state's farmland protection program, administered by the department
30 of agriculture and markets, shall be included as federal gross income
31 from farming.

32 (B) "Biodiesel" means a fuel comprised exclusively of monoalkyl esters
33 of long chain fatty acids derived from vegetable oils or animal fats,
34 designated B100, which meets the specifications of American Society of
35 Testing and Materials designation D 6751.

36 (C) "Qualified biodiesel" means a fuel that is a mixture of biodiesel
37 and diesel motor fuel.

38 (3) Application of credit. If the amount of the credit allowed under
39 this subsection for any taxable year shall exceed the taxpayer's tax for
40 such year, the excess shall be treated as an overpayment of tax to be
41 credited or refunded in accordance with the provisions of section six
42 hundred eighty-six of this article, provided, however, that no interest
43 shall be paid thereon.

44 § 3. This act shall take effect immediately and shall apply to taxable
45 years beginning on and after January 1, 2017.