

# STATE OF NEW YORK

1700--A

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 -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 53 to read as follows:

53. 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

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

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1 to less than the higher of the amounts prescribed in paragraphs (c) and  
2 (d) of subdivision one of section two hundred ten of this article.  
3 However, if the amount of the credit allowed under this subdivision for  
4 any taxable year shall exceed the taxpayer's tax for such year, the  
5 excess shall be treated as an overpayment of tax to be credited or  
6 refunded in accordance with the provisions of section one thousand  
7 eighty-six of this chapter, provided, however, that no interest shall be  
8 paid on such refund, notwithstanding the provisions of subsection (c) of  
9 section one thousand eighty-eight of this chapter.

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

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

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

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

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

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

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

47 § 3. This act shall take effect immediately and shall apply to taxable  
48 years beginning on and after January 1, 2018.