STATE OF NEW YORK

4388--B

2017-2018 Regular Sessions

IN ASSEMBLY

February 2, 2017

Introduced by M. of A. MAGEE, CROUCH, FINCH, GUNTHER, HAWLEY, OTIS, L. ROSENTHAL, JENNE, SKOUFIS, STIRPE, BARCLAY, JAFFEE, MAGNARELLI, SEPULVEDA, PEOPLES-STOKES, TITONE, DiPIETRO -- Multi-Sponsored by -- M. of A. BUTLER, COOK, GOTTFRIED, LUPARDO, PALMESANO, THIELE -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 sell or rent their agricultural land to a young farmer

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 farmers who sell or rent their agricultural land to a young farmer. (a) Allowance of credit. A taxpayer that is an agricultural 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 sale or rent of their agricultural lands to a young farmer, as defined in this section. Such credit shall be ten percent of the purchase price or rental amount of the agricultural lands; provided, however, that such price shall not exceed the fair market value of the real property. A taxpayer who sells or rents their agricultural land to a relative shall be eligible for the credit established in this section.

(b) For purposes of this subdivision, "young farmer" shall mean a farmer who is at least eighteen years old and who has not produced an agricultural product for more than ten consecutive years, where agricultural product means any agricultural or aquacultural product of the soil

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

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or water, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, horticultural specialties, and Christmas trees and who will materially and substantially participate in the production of an agricultural project.

(c) Prior to sale, the seller shall convey to the department of agriculture and markets, an easement, the terms of which limit development of the land to agricultural business, principally farming, as such term is defined in paragraph nineteen of subdivision (b) of section eleven hundred one of this chapter. The easement shall expire not less than ten years from the date of sale.

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

(ccc) Credit for the sale or rent of agricultural land to a young farmer. (1) Allowance of credit. A taxpayer whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income shall be allowed a credit against the tax imposed by this article for the sale or rent of agricultural land or equipment to a young farmer, as defined by section two hundred ten-B of this chapter. Such credit shall be ten percent of the purchase price of rental amount of the agricultural land, and shall be allowed notwithstanding subsection (kk) of this section.

(2) Definitions. For purposes of this subsection, the following definitions shall apply:

(A) "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.

(B) 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.

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

§ 3. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2019.