

STATE OF NEW YORK

6192

2017-2018 Regular Sessions

IN ASSEMBLY

February 27, 2017

Introduced by M. of A. MOYA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to a credit for donations to a food bank or other emergency food program by New York state farmers

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

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (n-2) to read as follows:

3 (n-2) Credit for farm donations to food bank or emergency food
4 program. (1) General. In the case of a taxpayer who is an eligible farm-
5 er, there shall be allowed a credit, to be computed as hereinafter
6 provided against the tax imposed by this article for taxable years on
7 and after January first, two thousand eighteen. The amount of the credit
8 shall be twenty-five percent of the wholesale cost of the taxpayer's
9 qualified donations, as defined in paragraph three of this subsection,
10 made to any food bank or other public, charitable or not-for-profit
11 emergency food program operating within this state, up to five thousand
12 dollars per year.

13 (2) Eligible farmer. For purposes of this subsection, the term "eligi-
14 ble farmer" means a taxpayer whose federal gross income from farming for
15 the taxable year is at least two-thirds of excess federal gross income.
16 Excess federal gross income means the amount of federal gross income
17 from all sources for the taxable year reduced by the sum (not to exceed
18 thirty thousand dollars) of those items included in federal gross income
19 which consist of (i) earned income, (ii) pension payments, including
20 social security payments, (iii) interest, and (iv) dividends. For
21 purposes of this paragraph, the term "earned income" shall mean wages,
22 salaries, tips and other employee compensation, and those items of gross
23 income which are includible in the computation of net earnings from
24 self-employment. For the purposes of this paragraph, payments from the
25 state's farmland protection program, administered by the department of

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

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1 agriculture and markets, shall be included as federal gross income from
 2 farming for otherwise eligible farmers.

3 (3) Qualified donation. For purposes of this subsection, the term
 4 "qualified donation" means a donation of any fresh food item grown or
 5 produced by an eligible farmer to a food bank or other emergency food
 6 program operating within this state.

7 (4) Application of credit. The credit allowed under this subsection
 8 for any taxable year will not reduce the tax due for such year to less
 9 than the minimum tax fixed by this article. However, if the amount of
 10 credit allowed under this subsection for any taxable year reduces the
 11 tax to such amount, any amount of credit thus not deductible in such
 12 taxable year will be treated as an overpayment of tax to be credited or
 13 refunded in accordance with the provisions of section one thousand
 14 eighty-six of this chapter. Provided, however, the provisions of
 15 subsection (c) of section one thousand eighty-eight of this chapter
 16 notwithstanding, no interest will be paid thereon.

17 § 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 18 of the tax law is amended by adding a new clause (xliii) to read as
 19 follows:

20 <u>(xliii) Farm donations to food</u>	<u>Amount of credit under</u>
21 <u>bank or emergency food program</u>	<u>subdivision fifty-two</u>
22 <u>credit under subsection (n-2)</u>	<u>of section two hundred</u>
23	<u>ten-B</u>

24 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
 25 sion 52 to read as follows:

26 52. Credit for farm donations to food bank or emergency food program.
 27 (a) General. In the case of a taxpayer who is an eligible farmer, there
 28 shall be allowed a credit, to be computed as hereinafter provided
 29 against the tax imposed by this article for taxable years beginning on
 30 and after January first, two thousand eighteen. The amount of the credit
 31 shall be twenty-five percent of the wholesale cost of the taxpayer's
 32 qualified donations, as defined in paragraph (c) of this subdivision,
 33 made to any food bank or other public, charitable or not-for-profit
 34 emergency food program operating within this state, up to five thousand
 35 dollars during the taxable year.

36 (b) Eligible farmer. For purposes of this subdivision, the term
 37 "eligible farmer" means a taxpayer whose federal gross income from farm-
 38 ing for the taxable year is at least two-thirds of excess federal gross
 39 income. Excess federal gross income means the amount of federal gross
 40 income from all sources for the taxable year reduced by the sum (not to
 41 exceed thirty thousand dollars) of those items included in federal gross
 42 income which consist of (i) earned income, (ii) pension payments,
 43 including social security payments, (iii) interest, and (iv) dividends.
 44 For purposes of this paragraph, the term "earned income" shall mean
 45 wages, salaries, tips and other employee compensation, and those items
 46 of gross income which are includible in the computation of net earnings
 47 from self-employment. For the purposes of this paragraph, payments from
 48 the state's farmland protection program, administered by the department
 49 of agriculture and markets, shall be included as federal gross income
 50 from farming for otherwise eligible farmers.

51 (c) Qualified donation. For purposes of this subdivision, the term
 52 "qualified donation" means a donation of any fresh food item grown or
 53 produced by an eligible farmer to a food bank or other emergency food
 54 program operating within this state.

55 (d) Application of credit. The credit allowed under this subdivision
 56 for any taxable year will not reduce the tax due for such year to less

1 than the minimum tax fixed by this article. However, if the amount of
2 credit allowed under this subdivision for any taxable year reduces the
3 tax to such amount, any amount of credit thus not deductible in such
4 taxable year will be treated as an overpayment of tax to be credited or
5 refunded in accordance with the provisions of section one thousand
6 eighty-six of this chapter. Provided, however, the provisions of
7 subsection (c) of section one thousand eighty-eight of this chapter
8 notwithstanding, no interest will be paid thereon.

9 § 4. The department of agriculture and markets, in conjunction with
10 the department of taxation and finance, shall establish an accepted
11 wholesale price of the taxpayer's qualified donations and promulgate any
12 necessary rules and regulations.

13 § 5. This act shall take effect on the first of January next succeed-
14 ing the date on which it shall have become a law and shall apply to
15 taxable years beginning on or after such date.