

# STATE OF NEW YORK

1438--A

2017-2018 Regular Sessions

## IN SENATE

January 9, 2017

Introduced by Sens. RITCHIE, BONACIC, DeFRANCISCO, GALLIVAN, GRIFFO, LARKIN, MARCHIONE, O'MARA, ORTT, RANZENHOFER, SEWARD, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee and committed to the Committee on Finance -- 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 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

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

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1 sap products, apple cider, fruit juice, horticultural specialties, and  
2 Christmas trees and who will materially and substantially participate in  
3 the production of an agricultural project.

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

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

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:

27 (i) earned income,

28 (ii) pension payments, including social security payments,

29 (iii) interest, and

30 (iv) dividends.

31 (B) For purposes of this paragraph, the term "earned income" shall  
32 mean wages, salaries, tips and other employee compensation, and those  
33 items of gross income which are includible in the computation of net  
34 earnings from self-employment. For the purposes of this paragraph,  
35 payments from the state's farmland protection program, administered by  
36 the department of agriculture and markets, shall be included as federal  
37 gross income from farming.

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, 2018.