

# STATE OF NEW YORK

1606

2017-2018 Regular Sessions

## IN SENATE

January 10, 2017

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

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

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1 of this paragraph, payments from the state's farmland protection  
 2 program, administered by the department of agriculture and markets,  
 3 shall be included as federal gross income from farming for otherwise  
 4 eligible farmers.

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

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

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

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

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

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

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

54 (c) Qualified donation. For purposes of this subdivision, the term  
 55 "qualified donation" means a donation of any fresh food item grown or

1 produced by an eligible farmer to a food bank or other emergency food  
2 program operating within this state.

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

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

17 § 5. This act shall take effect on January 1, 2018 and shall apply to  
18 taxable years beginning on or after such date.