STATE OF NEW YORK

4227

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

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

AN ACT to amend the tax law, in relation to creating a tax credit for companies that purchase New York-grown crops and use such crops in value added products

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

Section 1. The tax law is amended by adding a new section 45 to read as follows:

§ 45. NY crops for value added products tax credit. (a) General. A taxpayer subject to tax under article nine, nine-A or twenty-two of this chapter shall be allowed a credit against such tax pursuant to the provisions referenced in subdivision (e) of this section, however, the unused portion of any tax credit claimed shall not be carried forward and applied in another tax year. The tax credit allowed pursuant to this section shall apply to taxable years beginning on or after January first, two thousand twenty-two.

(b) Definitions. For the purposes of this section the following terms shall have the following meanings:

(1) "crop" shall mean (i) fruits, including apples, peaches, grapes, cherries and berries, (ii) vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions, and (iii) field crops, including corn, wheat, oats, rye, barley, hay, hops, potatoes and dry beans;

(2) "value added product" shall mean the increase in the fair market value of a product resulting from the processing of such product;

(3) "net sales" shall mean the total sales of the business subject to tax.

(4) "eligible taxpayer" means a corporation (including a New York S corporation), a sole proprietorship, a limited liability company or a partnership.

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

LBD07886-01-1

(c) The amount of the credit shall be proscribed according to the following schedule:

(1) for twenty percent of net sales attributed to value added products that used a New York-grown crop, the credit shall be one thousand five hundred dollars.

(2) for forty percent of net sales attributed to value added products that used a New York-grown crop, the credit shall be three thousand dollars.

(3) for sixty percent of net sales attributed to value added products that used a New York-grown crop, the credit shall be six thousand dollars.

(4) for eighty percent of net sales attributed to value added products that used a New York-grown crop, the credit shall be twelve thousand dollars.

(5) for one hundred percent of net sales attributed to value added products that used a New York-grown crop, the credit shall be twenty-five thousand dollars.

(d) (1) Businesses claiming the NY crops for value added products tax credit shall submit a computer-generated report with tax returns that claim a tax credit.

(2) Such report shall include the name of the producer and the physical place of business where the products are produced.

(3) The amount paid by the grocer or business to the producer and amount of units purchased.

(e) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-q.

(2) Article 9-A: Section 210-B, subdivision 55.

(3) Article 22: Section 606, subsections (i) and (kkk).

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 55 to read as follows:

55. NY crops for value added products tax credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-five of this chapter against the tax imposed by this article. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon. The tax credit allowed pursuant to this section shall apply to taxable years beginning on or after January first, two thousand twenty-two.

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

(kkk) NY crops for value added products tax credit. A taxpayer shall be allowed a credit to be computed as provided in section forty-five of this chapter against the tax imposed by this article. 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. The tax credit allowed pursuant to this section shall apply to taxable years beginning on or after January first, two thousand twenty-two.

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

(xlvi) NY crops for value added products tax credit under subsection (kkk)	Amount of credit under subdivision fifty-five of section two hundred ten-B

§ 5. The tax law is amended by adding a new section 187-q to read as follows:

§ 187-q. NY crops for value added products tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-five of this chapter against the tax imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this chapter. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon. The tax credit allowed pursuant to this section shall apply to taxable years beginning on or after January first, two thousand twenty-two.

§ 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2022.