

# STATE OF NEW YORK

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4773--A

2021-2022 Regular Sessions

## IN SENATE

February 11, 2021

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Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to the definition of eligible farmer for purposes of the agricultural property tax credit

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

1 Section 1. Paragraph (b) of subdivision 11 of section 210-B of the  
2 tax law, as added by section 17 of part A of chapter 59 of the laws of  
3 2014, is amended to read as follows:

4 (b) Eligible farmer. For purposes of this subdivision, the term  
5 "eligible farmer" means a taxpayer whose federal gross income from farm-  
6 ing for the taxable year is at least two-thirds of excess federal gross  
7 income. The term "eligible farmer" also includes a corporation other  
8 than the taxpayer of record for qualified agricultural land which has  
9 paid the school district property taxes on such land pursuant to a  
10 contract for the future purchase of such land; provided that such corpo-  
11 ration has a federal gross income from farming for the taxable year  
12 which is at least two-thirds of excess federal gross income; and  
13 provided further that, in determining such income eligibility, a taxpay-  
14 er may, for any taxable year, use the average of such federal gross  
15 income from farming for that taxable year and such income for the two  
16 consecutive taxable years immediately preceding such taxable year.  
17 Excess federal gross income means the amount of federal gross income  
18 from all sources for the taxable year in excess of [~~thirty~~] fifty thou-  
19 sand dollars. For the purposes of this paragraph, payments from the  
20 state's farmland protection program, administered by the department of  
21 agriculture and markets, shall be included as federal gross income from  
22 farming for otherwise eligible farmers.

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

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1     § 2. Paragraph 2 of subsection (n) of section 606 of the tax law, as  
2 amended by chapter 297 of the laws of 2010, is amended to read as  
3 follows:

4     (2) Eligible farmer. For purposes of this subsection, the term "eligi-  
5 ble farmer" means a taxpayer whose federal gross income from farming for  
6 the taxable year is at least two-thirds of excess federal gross income.  
7 The term "eligible farmer" also includes an individual other than the  
8 taxpayer of record for qualified agricultural land who has paid the  
9 school district property taxes on such land pursuant to a contract for  
10 the future purchase of such land; provided that such individual has a  
11 federal gross income from farming for the taxable year which is at least  
12 two-thirds of excess federal gross income; and provided further that, in  
13 determining such income eligibility, a taxpayer may, for any taxable  
14 year, use the average of such federal gross income from farming for that  
15 taxable year and such income for the two consecutive taxable years imme-  
16 diately preceding such taxable year. Excess federal gross income means  
17 the amount of federal gross income from all sources for the taxable year  
18 reduced by the sum (not to exceed [~~thirty~~ fifty thousand dollars) of  
19 those 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  
25 of this paragraph, payments from the state's farmland protection  
26 program, administered by the department of agriculture and markets,  
27 shall be included as federal gross income from farming for otherwise  
28 eligible farmers.

29     § 3. This act shall take effect immediately.