

STATE OF NEW YORK

4268

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 farm savings accounts

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

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

3 § 45. Farm savings accounts. 1. Definitions. (a) Qualified farmer. For
4 purposes of this section, the term "qualified farmer" means, with
5 respect to any taxable year, any individual who, during such year, was
6 engaged in the trade or business of farming.

7 (b) Farm savings account. For purposes of this section, the term "farm
8 savings account" means a trust created or organized in the United States
9 as a farm savings account exclusively for the purpose of making quali-
10 fied distributions for purposes of farm sustainability, but only if the
11 written governing instrument creating the trust meets the following
12 requirements:

13 (i) No contribution will be accepted unless it is in cash.

14 (ii) The trustee is a bank, credit union or other appropriate institu-
15 tion that demonstrates administration of the trust in a manner that is
16 consistent with the requirements of this section.

17 (iii) The assets of the trust will not be commingled with other prop-
18 erty except in a common trust fund or common investment fund.

19 (iv) The interest of an individual in the balance in his or her
20 account is nonforfeitable.

21 (c) Qualified distribution. The term "qualified distribution" means
22 any amount paid from a farm savings account to the account beneficiary
23 exclusively for purposes of farm sustainability.

24 (d) Account beneficiary. The term "account beneficiary" means the
25 individual or business on whose behalf the farm savings account was
26 established.

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

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1 2. Program description. (a) Deductions allowed. In the case of a qual-
2 ified farmer, there shall be allowed as a deduction for the taxable year
3 an amount equal to the aggregate amount paid in cash during such taxable
4 year by or on behalf of such individual to a farm savings account of
5 such individual.

6 (b) Contribution requirement. There shall be no minimum or maximum
7 contribution requirement. However, aggregate contributions may not
8 exceed total income derived from farming during a given taxable year.

9 (c) Tax treatment of accounts. A farm savings account is exempt from
10 taxation under this chapter unless such account has ceased to be a farm
11 savings account.

12 (d) Termination of accounts. If the account beneficiary ceases to
13 engage in the trade or business of farming, all farm savings accounts of
14 such individual shall cease to be such accounts and the balance of all
15 such accounts shall be treated as (i) distributed to such individual,
16 and (ii) not paid in a qualified distribution.

17 (e) Tax treatment of distributions. (i) General. In general, any
18 amount paid or distributed out of a farm savings account shall be
19 included in gross income.

20 (ii) Additional tax on non-qualified distributions. (1) In addition to
21 any other tax imposed by this chapter, any non-qualified distribution
22 from a farm savings account shall be subject to a fifteen percent
23 surcharge on the amount of such non-qualifying distribution.

24 (2) Clause one of this subparagraph shall not apply if the payment or
25 distribution is made after the account beneficiary becomes disabled or
26 dies.

27 (iii) Rollover contributions. For purposes of this section, any amount
28 paid or distributed from a farm savings account to the account benefi-
29 ciary shall be treated as a qualified distribution to the extent the
30 amount received is paid into a farm savings account for the benefit of
31 such beneficiary not later than the sixtieth day after the day on which
32 the beneficiary receives the payment or distribution.

33 (iv) Transfer of account incident to divorce. The transfer of an indi-
34 vidual's interest in a farm savings account to an individual's spouse or
35 former spouse under a divorce or separation instrument shall not be
36 considered a taxable transfer made by such individual notwithstanding
37 any other provision of this section, and such interest shall, after such
38 transfer, be treated as a farm savings account with respect to which
39 such spouse is the account beneficiary.

40 (v) Treatment after death of account beneficiary. (1) Treatment if
41 designated beneficiary is spouse. If the account beneficiary's surviving
42 spouse acquires such beneficiary's interest in a farm savings account by
43 reason of being the designated beneficiary of such account at the death
44 of the account beneficiary, such farm savings account shall be treated
45 as if the spouse were the account beneficiary.

46 (2) Other cases. If, by reason of the death of the account benefi-
47 ciary, any person acquires the account beneficiary's interest in a farm
48 savings account in a case to which clause one of this subparagraph does
49 not apply:

50 (A) such account shall cease to be a farm savings account as of the
51 date of death, and

52 (B) an amount equal to the fair market value of the assets in such
53 account on such date shall be included in such person's gross income for
54 the taxable year which includes such date if such person is not the
55 estate of such beneficiary; or if such person is the estate of such

1 beneficiary, in such beneficiary's gross income for the last taxable
2 year of such beneficiary.

3 § 2. Subsection (b) of section 612 of the tax law is amended by adding
4 a new paragraph 42 to read as follows:

5 (42) Any non-qualifying distributions made from a farm savings
6 account. This shall not include any distributions that are exempt from
7 taxation as specified in paragraph (e) of subdivision two of section
8 forty-five of this chapter.

9 § 3. Subsection (c) of section 612 of the tax law is amended by adding
10 a new paragraph 43 to read as follows:

11 (43) An amount equal to any qualified contribution to a farm savings
12 account established pursuant to section forty-five of this chapter.

13 § 4. Subdivision 4 of section 209 of the tax law, as amended by
14 section 5 of part A of chapter 59 of the laws of 2014, is amended to
15 read as follows:

16 4. Corporations liable to tax under sections one hundred eighty-three
17 to one hundred eighty-four-a, inclusive, corporations taxable under
18 article thirty-three of this chapter, any trust company organized under
19 a law of this state all of the stock of which is owned by not less than
20 twenty savings banks organized under a law of this state, a captive REIT
21 or a captive RIC filing a combined return under subdivision (f) of
22 section fifteen hundred fifteen of this chapter, and housing companies
23 organized and operating pursuant to the provisions of article two or
24 article five of the private housing finance law and housing development
25 fund companies organized pursuant to the provisions of article eleven of
26 the private housing finance law, and farm savings accounts properly
27 established under section forty-five of this chapter, shall not be
28 subject to tax under this article.

29 § 5. Section 601 of the tax law is amended by adding a new subsection
30 (g-1) to read as follows:

31 (g-1) Farm savings accounts. Any farm savings account properly estab-
32 lished under section forty-five of this chapter shall not be subject to
33 tax under this article.

34 § 6. This act shall take effect immediately and shall apply to taxable
35 years commencing after such effective date.