

STATE OF NEW YORK

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2021-2022 Regular Sessions

IN ASSEMBLY

February 24, 2021

Introduced by M. of A. HAWLEY, McDONOUGH, PALMESANO, DiPIETRO, MORINELLO, ASHBY, SALKA, NORRIS -- Multi-Sponsored by -- M. of A. THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the eligibility of farmers leasing land for 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. Paragraphs (a) and (b) of subdivision 11 of section 210-B
2 of the tax law, as added by section 17 of part A of chapter 59 of the
3 laws of 2014, are amended to read as follows:

4 (a) General. In the case of a taxpayer which is an eligible farmer
5 ~~[or]~~ an eligible farmer ~~[who]~~ which has paid taxes pursuant to a land
6 contract or an eligible farmer which has a leasehold interest of not
7 fewer than five continuous years as a lessee of qualified agricultural
8 property, there shall be allowed a credit for the allowable school
9 district property taxes. The term "allowable school district property
10 taxes" means the school district property taxes paid during the taxable
11 year on qualified agricultural property, subject to the acreage limita-
12 tion provided in paragraph (e) of this subdivision and the income limi-
13 tation provided in paragraph (f) of this subdivision.

14 (b) Eligible farmer. For purposes of this subdivision, the term
15 "eligible farmer" means a taxpayer whose federal gross income from farm-
16 ing for the taxable year is at least two-thirds of excess federal gross
17 income. The term "eligible farmer" also includes a corporation other
18 than the taxpayer of record for qualified agricultural land which has
19 paid the school district property taxes on such land or which has a
20 leasehold interest of not fewer than five continuous years as a lessee
21 of such land pursuant to a contract for the future purchase of such
22 land; provided that such corporation has a federal gross income from
23 farming for the taxable year which is at least two-thirds of excess
24 federal gross income; and provided further that, in determining such
25 income eligibility, a taxpayer may, for any taxable year, use the aver-
26 age of such federal gross income from farming for that taxable year and
27 such income for the two consecutive taxable years immediately preceding

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

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1 such taxable year. Excess federal gross income means the amount of
2 federal gross income from all sources for the taxable year in excess of
3 thirty thousand dollars. For the purposes of this paragraph, payments
4 from the state's farmland protection program, administered by the
5 department of agriculture and markets, shall be included as federal
6 gross income from farming for otherwise eligible farmers.

7 § 2. Paragraphs 1 and 2 of subsection (n) of section 606 of the tax
8 law, paragraph 1 as amended by chapter 315 of the laws of 1998 and para-
9 graph 2 as amended by chapter 297 of the laws of 2010, are amended to
10 read as follows:

11 (1) General. In the case of a taxpayer who is an eligible farmer ~~[or]~~,
12 an eligible farmer who has paid taxes pursuant to a land contract, or an
13 eligible farmer who has a leasehold interest of not fewer than five
14 continuous years as a lessee of qualified agricultural property, there
15 shall be allowed a credit for the allowable school district property
16 taxes. The term "allowable school district property taxes" means the
17 school district property taxes paid during the taxable year on qualified
18 agricultural property, subject to the acreage limitation provided in
19 paragraph five of this subsection and the income limitation provided in
20 paragraph six of this subsection. Such credit shall be allowed against
21 the taxes imposed by this article for the taxable year reduced by the
22 credits permitted by this article. If the credit exceeds the tax as so
23 reduced, the taxpayer may receive, and the comptroller, subject to a
24 certificate of the commissioner, shall pay as an overpayment, without
25 interest, the amount of such excess.

26 (2) Eligible farmer. For purposes of this subsection, the term "eligi-
27 ble farmer" means a taxpayer whose federal gross income from farming for
28 the taxable year is at least two-thirds of excess federal gross income.
29 The term "eligible farmer" also includes an individual other than the
30 taxpayer of record for qualified agricultural land who has paid the
31 school district property taxes on such land pursuant to a contract for
32 the future purchase of such land or who has a leasehold interest of not
33 fewer than five continuous years as a lessee of such land; provided that
34 such individual has a federal gross income from farming for the taxable
35 year which is at least two-thirds of excess federal gross income; and
36 provided further that, in determining such income eligibility, a taxpay-
37 er may, for any taxable year, use the average of such federal gross
38 income from farming for that taxable year and such income for the two
39 consecutive taxable years immediately preceding such taxable year.
40 Excess federal gross income means the amount of federal gross income
41 from all sources for the taxable year reduced by the sum (not to exceed
42 thirty thousand dollars) of those items included in federal gross income
43 which consist of (i) earned income, (ii) pension payments, including
44 social security payments, (iii) interest, and (iv) dividends. For
45 purposes of this paragraph, the term "earned income" ~~[shall mean]~~ means
46 wages, salaries, tips and other employee compensation, and those items
47 of gross income which are includible in the computation of net earnings
48 from self-employment. For the purposes of this paragraph, payments from
49 the state's farmland protection program, administered by the department
50 of agriculture and markets, shall be included as federal gross income
51 from farming for otherwise eligible farmers.

52 § 3. This act shall take effect immediately and shall apply to taxable
53 years commencing on or after January 1, 2023. Effective immediately the
54 addition, amendment and/or repeal of any rule or regulation necessary
55 for the implementation of this act on its effective date are authorized
56 to be made on or before such date.