

# STATE OF NEW YORK

3498

2021-2022 Regular Sessions

## IN SENATE

January 29, 2021

Introduced by Sen. ORTT -- 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 providing a tax credit to farmers who purchase biodiesel fuel for the operation of their farm equipment

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

1 Section 1. Section 210-B of the tax law is amended by adding a new  
2 subdivision 55 to read as follows:

3 55. Credit for biodiesel fuel used in farming equipment. (a) Allow-  
4 ance of credit. A taxpayer that is a business principally engaged in  
5 farming, as such term is defined in paragraph nineteen of subdivision  
6 (b) of section eleven hundred one of this chapter shall be allowed a  
7 credit against the tax imposed by this article for the purchase of  
8 qualified biodiesel fuel to be used in farming equipment in this state.  
9 Such credit shall be \$0.01 per percent of biodiesel per gallon of quali-  
10 fied biodiesel fuel, not to exceed twenty cents per gallon, purchased by  
11 such taxpayer during the taxable year and used in farming equipment.

12 (b) For purposes of this subdivision, the following definitions shall  
13 apply:

14 (1) "Biodiesel" shall mean a fuel comprised exclusively of monoalkyl  
15 esters of long chain fatty acids derived from vegetable oils or animal  
16 fats, designated B100, which meets the specifications of American Socie-  
17 ty of Testing and Materials designation D 6751.

18 (2) "Qualified biodiesel" shall mean a fuel that is a mixture of biod-  
19 iesel and diesel motor fuel.

20 (c) Application of credit. In no event shall the credit herein  
21 provided for be allowed in an amount which will reduce the tax payable  
22 to less than the amount prescribed in paragraph (d) of subdivision one  
23 of section two hundred ten of this article. However, if the amount of

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

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1 the credit allowed under this subdivision for any taxable year shall  
2 exceed the taxpayer's tax for such year, the excess shall be treated as  
3 an overpayment of tax to be credited or refunded in accordance with the  
4 provisions of section one thousand eighty-six of this chapter, provided,  
5 however, that no interest shall be paid on such refund, notwithstanding  
6 the provisions of subsection (c) of section one thousand eighty-eight of  
7 this chapter.

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

10 (kkk) Credit for biodiesel fuel used in farming equipment. (1) Allow-  
11 ance of credit. A taxpayer whose federal gross income from farming for  
12 the taxable year is at least two-thirds of excess federal gross income  
13 shall be allowed a credit against the tax imposed by this article for  
14 the purchase of qualified biodiesel fuel to be used in farming equipment  
15 in this state. Such credit shall be \$0.01 per percent of biodiesel per  
16 gallon of qualified biodiesel fuel, not to exceed twenty cents per  
17 gallon, purchased by such taxpayer during the taxable year and used in  
18 farming equipment.

19 (2) Definitions. For purposes of this subsection, the following defi-  
20 nitions shall apply:

21 (A) "Excess federal gross income" means the amount of federal gross  
22 income from all sources for the taxable year reduced by the sum (not to  
23 exceed thirty thousand dollars) of those items included in federal gross  
24 income which consist of (i) earned income, (ii) pension payments,  
25 including social security payments, (iii) interest, and (iv) dividends.  
26 For purposes of this paragraph, the term "earned income" shall mean  
27 wages, salaries, tips and other employee compensation, and those items  
28 of gross income which are includible in the computation of net earnings  
29 from self-employment. For the purposes of this paragraph, payments from  
30 the state's farmland protection program, administered by the department  
31 of agriculture and markets, shall be included as federal gross income  
32 from farming.

33 (B) "Biodiesel" means a fuel comprised exclusively of monoalkyl esters  
34 of long chain fatty acids derived from vegetable oils or animal fats,  
35 designated B100, which meets the specifications of American Society of  
36 Testing and Materials designation D 6751.

37 (C) "Qualified biodiesel" means a fuel that is a mixture of biodiesel  
38 and diesel motor fuel.

39 (3) Application of credit. If the amount of the credit allowed under  
40 this subsection for any taxable year shall exceed the taxpayer's tax for  
41 such year, the excess shall be treated as an overpayment of tax to be  
42 credited or refunded in accordance with the provisions of section six  
43 hundred eighty-six of this article, provided, however, that no interest  
44 shall be paid thereon.

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