

# STATE OF NEW YORK

8459

2023-2024 Regular Sessions

## IN ASSEMBLY

December 29, 2023

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

AN ACT to amend the tax law, in relation to advance payments of a portion of the farm employer overtime tax credit

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

1 Section 1. Paragraphs 1 and 2 of subdivision (h) of section 42-a of  
2 the tax law, as added by section 2 of subpart C of part B of chapter 59  
3 of the laws of 2022, are amended to read as follows:

4 (1) (i) Taxpayers shall have the option to request an advance payment  
5 of the portion of the amount of tax credit they are allowed under this  
6 section for the amount of eligible overtime that the farm employer paid  
7 from January first through [~~July~~] March thirty-first. To be eligible for  
8 the advance payment, the farm employer must submit by [~~September thirti-~~  
9 ~~eth~~] May thirty-first a properly completed application to the department  
10 of agriculture and markets, in a form prescribed by the commissioner of  
11 agriculture and markets, that demonstrates how much the farm employer  
12 paid in eligible overtime during that period.

13 (ii) Taxpayers shall have the option to request an advance payment of  
14 the portion of the amount of tax credit they are allowed under this  
15 section for the amount of eligible overtime that the farm employer paid  
16 from April first through June thirtieth. To be eligible for the advance  
17 payment, the farm employer must submit by August thirty-first a properly  
18 completed application to the department of agriculture and markets, in a  
19 form prescribed by the commissioner of agriculture and markets, that  
20 demonstrates how much the farm employer paid in eligible overtime during  
21 that period.

22 (iii) Taxpayers shall have the option to request an advance payment of  
23 the portion of the amount of tax credit they are allowed under this  
24 section for the amount of eligible overtime that the farm employer paid  
25 from July first through September thirtieth. To be eligible for the

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

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1 advance payment, the farm employer must submit by November thirtieth a  
2 properly completed application to the department of agriculture and  
3 markets, in a form prescribed by the commissioner of agriculture and  
4 markets, that demonstrates how much the farm employer paid in eligible  
5 overtime during that period.

6 (iv) After reviewing a farm employer's completed application for the  
7 advance payment of a portion of the amount of tax credit allowed under  
8 this section, the department of agriculture and markets may issue to  
9 that farm employer a certificate of tax credit that specifies the exact  
10 amount of the tax credit under this article that a taxpayer may claim as  
11 an advance payment pursuant to this subdivision.

12 (2) (i) A taxpayer must submit a request to the department in the  
13 manner prescribed by the commissioner after it has been issued a certif-  
14 icate of tax credit by the department of agriculture and markets pursu-  
15 ant to subparagraph (i) of paragraph one of this subdivision (or such  
16 certificate has been issued to a partnership, limited liability company  
17 or subchapter S corporation in which it is a partner, member or share-  
18 holder, respectively, that is a farm employer), but such request must be  
19 submitted no later than [~~November~~] July first of the taxable year for  
20 which the credit is being claimed.

21 (ii) A taxpayer must submit a request to the department in the manner  
22 prescribed by the commissioner after it has been issued a certificate of  
23 tax credit by the department of agriculture and markets pursuant to  
24 subparagraph (ii) of paragraph one of this subdivision (or such certif-  
25 icate has been issued to a partnership, limited liability company or  
26 subchapter S corporation in which it is a partner, member or sharehold-  
27 er, respectively, that is a farm employer), but such request must be  
28 submitted no later than October first of the taxable year for which the  
29 credit is being claimed.

30 (iii) A taxpayer must submit a request to the department in the manner  
31 prescribed by the commissioner after it has been issued a certificate of  
32 tax credit by the department of agriculture and markets pursuant to  
33 subparagraph (iii) of paragraph one of this subdivision (or such certif-  
34 icate has been issued to a partnership, limited liability company or  
35 subchapter S corporation in which it is a partner, member or sharehold-  
36 er, respectively, that is a farm employer), but such request must be  
37 submitted no later than January first of the calendar year following the  
38 taxable year for which the credit is being claimed.

39 (iv) For those taxpayers who have requested an advance payment pursu-  
40 ant to subparagraphs (i), (ii), or (iii) of this paragraph and for whom  
41 the commissioner has determined to be eligible for this credit, the  
42 commissioner shall advance a payment of the portion of the amount of tax  
43 credit allowed to the taxpayer. The taxpayer will claim on the taxpay-  
44 ers' return for the taxable year the portion of the amount of tax credit  
45 allowed for eligible overtime paid by the farm employer from [~~August~~]  
46 October first through December thirty-first. The taxpayer must properly  
47 reconcile the advance payment of tax credit allowed under this subdivi-  
48 sion on the taxpayer's return.

49 § 2. This act shall take effect January 1, 2025.