

# STATE OF NEW YORK

5920

2023-2024 Regular Sessions

## IN SENATE

March 22, 2023

Introduced by Sen. BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

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  
28 such taxable year. Excess federal gross income means the amount of

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

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

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

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

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

51 § 3. This act shall take effect immediately and shall apply to taxable  
52 years commencing on or after January 1, 2025. Effective immediately the  
53 addition, amendment and/or repeal of any rule or regulation necessary  
54 for the implementation of this act on its effective date are authorized  
55 to be made on or before such date.