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:

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

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

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

(iii) Taxpayers shall have the option to request an advance payment of the portion of the amount of tax credit they are allowed under this section for the amount of eligible overtime that the farm employer paid 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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advance payment, the farm employer must submit by November thirtieth a properly completed application to the department of agriculture and markets, in a form prescribed by the commissioner of agriculture and markets, that demonstrates how much the farm employer paid in eligible overtime during that period.

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

(2) **(i)** A taxpayer must submit a request to the department in the manner prescribed by the commissioner after it has been issued a certificate of tax credit by the department of agriculture and markets pursuant to **subparagraph (i) of** paragraph one of this subdivision (or such certificate has been issued to a partnership, limited liability company or subchapter S corporation in which it is a partner, member or shareholder, respectively, that is a farm employer), but such request must be submitted no later than [~~November~~] **July** first of the taxable year for which the credit is being claimed.

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

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

(iv) For those taxpayers who have requested an advance payment **pursuant to subparagraphs (i), (ii), or (iii) of this paragraph** and for whom the commissioner has determined to be eligible for this credit, the commissioner shall advance a payment of the portion of the amount of tax credit allowed to the taxpayer. The taxpayer will claim on the taxpayers' return for the taxable year the portion of the amount of tax credit allowed for eligible overtime paid by the farm employer from [~~August~~] **October** first through December thirty-first. The taxpayer must properly reconcile the advance payment of tax credit allowed under this subdivision on the taxpayer's return.

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