

# STATE OF NEW YORK

1680

2023-2024 Regular Sessions

## IN SENATE

January 13, 2023

Introduced by Sens. HINCHEY, KRUEGER -- 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 for  
sales or rentals of agricultural assets to beginning farmers; and to  
amend the agriculture and markets law, in relation to establishing  
duties of the commissioner of agriculture and markets with respect  
thereto

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

Section 1. This act shall be known and may be cited as the "New York  
farmland preservation act".

§ 2. The tax law is amended by adding a new section 48 to read as  
follows:

§ 48. Credit for owners of agricultural assets. (a) General. A taxpay-  
er that has been certified by the commissioner of agriculture and  
markets as a certified owner of agricultural assets shall be eligible  
for a credit against the tax imposed under article nine-A or twenty-two  
of this chapter, pursuant to the provisions referenced in this section.

(b) Definitions. For purposes of this section, the following terms  
shall have the following meanings:

(1) "Agricultural assets" shall mean agricultural land, livestock,  
facilities, buildings, or machinery used for farming.

(2) "Beginning farmer" means a resident of New York who:

(i) is seeking entry, or has entered within the last ten years, into  
farming;

(ii) intends to farm land located within the state borders of New  
York;

(iii) is not related by blood or marriage to the owner of the agricul-  
tural assets from whom the beginning farmer is seeking to purchase or  
rent agricultural assets;

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

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1 (iv) is not related by blood or marriage to a partner, member, share-  
2 holder, or trustee of the owner of agricultural assets from whom the  
3 beginning farmer is seeking to purchase or rent agricultural assets;

4 (v) intends to provide the majority of the day-to-day physical labor  
5 or management of the farm; and

6 (vi) meets the eligibility requirements for certification as a begin-  
7 ning farmer as determined by the commissioner of agriculture and  
8 markets.

9 (3) "Socially disadvantaged beginning farmer" means a farmer who is a  
10 member of a socially disadvantaged group and meets the definition of  
11 beginning farmer as defined in section twelve hundred eighty-five-r of  
12 the public authorities law.

13 (4) "Socially disadvantaged group" means a group whose members have  
14 been subjected to racial, ethnic, or gender prejudice because of their  
15 identity as members of a group without regard to their individual quali-  
16 ties. These groups include all of the following:

17 (i) African Americans;

18 (ii) Native Indians;

19 (iii) Alaskan Natives;

20 (iv) Hispanics;

21 (v) Asian Americans; and

22 (vi) Native Hawaiians and Pacific Islanders.

23 (5) "Farm product" shall have the same meaning as crops, livestock and  
24 livestock products as defined in subdivision two of section three  
25 hundred one of the agriculture and markets law.

26 (6) "Farming" means the active use, management, and operation of real  
27 and personal property for the production of a farm product.

28 (7) "Owner of agricultural assets" means an individual, trust, part-  
29 nership, or business entity that:

30 (i) is the owner in fee of agricultural land or has legal title to any  
31 other agricultural asset;

32 (ii) is a New York state resident;

33 (iii) derived at least fifty percent of the individual's, trust's,  
34 partnership's or business entity's gross income from farming in at least  
35 five of the preceding fifteen years; and

36 (iv) provided the majority of the day-to-day physical labor and  
37 management of a farm in at least five of the preceding fifteen years.  
38 If the owner is a partnership or business entity, the requirements  
39 outlined in subparagraphs (i), (ii), (iii) and (iv) of this paragraph  
40 shall be satisfied if any partner or shareowner, or any combination of  
41 the two, meet the requirements of this paragraph.

42 (8) "Rental agreement" means a rental agreement in which the principal  
43 consideration given to the owner of agricultural assets is a predeter-  
44 mined portion of the production of farm products produced from the rent-  
45 ed agricultural assets and which provides for sharing production costs  
46 or risk of loss, or both.

47 (c) Computation of credit. (1) An owner of agricultural assets may  
48 take a credit for the sale or rental of agricultural assets to a begin-  
49 ning farmer. The credit shall be equal to the greater of:

50 (i) five percent of the sale price of the agricultural asset;

51 (ii) ten percent of the gross rental income in each of the first,  
52 second, and third years of a rental agreement; or

53 (iii) fifteen percent of the cash equivalent of the gross rental  
54 income in each of the first, second, and third years of a rental agree-  
55 ment.

1 (2) An owner of agricultural assets may take an additional credit for  
2 the sale or rental of agricultural assets to a socially disadvantaged  
3 beginning farmer. The additional credit shall be the credit applied  
4 under paragraph one of this subdivision plus an additional two and one-  
5 half percent.

6 (3) A qualifying rental agreement includes cash rent of agricultural  
7 assets or a rental agreement. The agricultural asset must be rented at  
8 prevailing community rates as determined by the commissioner of agricul-  
9 ture. The credit may be claimed only after approval and certification by  
10 the commissioner of agriculture and markets.

11 (4) An owner of agricultural assets or beginning farmer may terminate  
12 a rental agreement, for reasonable cause. Within fifteen days, the owner  
13 of agricultural assets must notify the commissioner of agriculture in  
14 writing of such termination. If a rental agreement is terminated without  
15 the fault of the owner of agricultural assets, the tax credits shall not  
16 be retroactively disallowed. If an agreement is terminated with fault by  
17 the owner of agricultural assets, any prior tax credits claimed under  
18 this subdivision by the owner of agricultural assets shall be disallowed  
19 and must be repaid to the commissioner of taxation and finance.

20 (d) Cross-references. For application of the credit provided for in  
21 this section, see the following provisions of this chapter:

22 (1) article 9-A: section 210-B: subdivision 59.

23 (2) article 22: section 606: subsections (i) and (ooo).

24 § 3. Section 210-B of the tax law is amended by adding a new subdivi-  
25 sion 59 to read as follows:

26 59. Tax credit for owners of agricultural assets. (a) Allowance of  
27 credit. A taxpayer shall be allowed a credit, to be computed as provided  
28 in section forty-eight of this chapter, against the tax imposed by this  
29 article.

30 (b) Application of credit. The credit allowed under this subdivision  
31 for any taxable year may not reduce the tax due for such year to less  
32 than the amount prescribed in paragraph (d) of subdivision one of  
33 section two hundred ten of this article. However, if the amount of cred-  
34 it allowed under this subdivision for any taxable year reduces the tax  
35 to such amount or if the taxpayer otherwise pays tax based on the fixed  
36 dollar minimum amount, any amount of credit thus not deductible in such  
37 taxable year will be treated as an overpayment of tax to be credited or  
38 refunded in accordance with the provisions of section one thousand  
39 eighty-six of this chapter. Provided, however, the provisions of  
40 subsection (c) of section one thousand eighty-eight of this chapter  
41 notwithstanding, no interest will be paid thereon.

42 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
43 of the tax law is amended by adding a new clause (1) to read as follows:

44 <u>(1) Credit for owners of</u>	<u>Amount of credit under</u>
45 <u>agricultural assets under</u>	<u>subdivision fifty-nine of</u>
46 <u>subsection (ooo)</u>	<u>section two hundred ten-B</u>

47 § 5. Section 606 of the tax law is amended by adding a new subsection  
48 (ooo) to read as follows:

49 (ooo) Credit for owners of agricultural assets. (1) A taxpayer shall  
50 be allowed a credit, to be computed as provided in section forty-eight  
51 of this chapter, against the tax imposed by this article.

52 (2) Application of credit. If the amount of credit allowed under this  
53 subsection for any taxable year exceeds the taxpayer's tax for such  
54 year, the excess will be treated as an overpayment of tax to be credited  
55 or refunded in accordance with the provisions of section six hundred

1 eighty-six of this article, provided, however, that no interest will be  
2 paid thereon.

3 § 6. Section 16 of the agriculture and markets law is amended by  
4 adding a new subdivision 53 to read as follows:

5 53. (a) Establish a program for initial certification of owners of  
6 agricultural assets and beginning farmers for purposes of eligibility  
7 for a tax credit pursuant to section forty-eight of the tax law.

8 (b) Adopt, promulgate and implement rules, regulations and orders with  
9 respect to application for certification, continued qualification for  
10 certification and termination of certification of owners of agricultural  
11 assets and/or beginning farmers for purposes of eligibility for such tax  
12 credit.

13 (c) Certify rental agreements entered into by certified owners of  
14 agricultural assets and beginning farmers are fair and at rates equal to  
15 the market value of the farm product as provided in section forty-eight  
16 of the tax law; provided that agricultural assets must be rented at  
17 prevailing community rates as determined by the commissioner.

18 (d) Notify the commissioner of taxation and finance of all approved  
19 applications and all applications for which certification was subse-  
20 quently terminated by the commissioner.

21 § 7. This act shall take effect immediately and shall apply to taxable  
22 years beginning on or after January 1, 2025.