

STATE OF NEW YORK

297

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. BUTTENSCHON -- Multi-Sponsored by -- M. of A. WOERNER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to expanding a certain tax credit for farmers to include the cost of construction housing for farm workers

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

1 Section 1. Subparagraph (i) of paragraph (b) of subdivision 1 of
2 section 210-B of the tax law, as amended by section 2 of part P of chap-
3 ter 59 of the laws of 2017, is amended to read as follows:

4 (i) A credit shall be allowed under this subdivision with respect to
5 tangible personal property and other tangible property, including build-
6 ings and structural components of buildings, which are: depreciable
7 pursuant to section one hundred sixty-seven of the internal revenue
8 code, have a useful life of four years or more, are acquired by purchase
9 as defined in section one hundred seventy-nine (d) of the internal
10 revenue code, have a situs in this state and are (A) principally used by
11 the taxpayer in the production of goods by manufacturing, processing,
12 assembling, refining, mining, extracting, farming, agriculture, horti-
13 culture, floriculture, viticulture or commercial fishing, (B) industrial
14 waste treatment facilities or air pollution control facilities, used in
15 the taxpayer's trade or business, (C) research and development property,
16 or (D) principally used in the ordinary course of the taxpayer's trade
17 or business as a broker or dealer in connection with the purchase or
18 sale (which shall include but not be limited to the issuance, entering
19 into, assumption, offset, assignment, termination, or transfer) of
20 stocks, bonds or other securities as defined in section four hundred
21 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
22 defined in section four hundred seventy-five (e) of the Internal Revenue
23 Code, (E) principally used in the ordinary course of the taxpayer's

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

LBD00176-01-5

1 trade or business of providing investment advisory services for a regu-
2 lated investment company as defined in section eight hundred fifty-one
3 of the Internal Revenue Code, or lending, loan arrangement or loan orig-
4 ination services to customers in connection with the purchase or sale
5 (which shall include but not be limited to the issuance, entering into,
6 assumption, offset, assignment, termination, or transfer) of securities
7 as defined in section four hundred seventy-five (c)(2) of the Internal
8 Revenue Code, (F) principally used in the ordinary course of the taxpay-
9 er's business as an exchange registered as a national securities
10 exchange within the meaning of sections 3(a)(1) and 6(a) of the Securi-
11 ties Exchange Act of 1934 or a board of trade as defined in subparagraph
12 one of paragraph (a) of section fourteen hundred ten of the not-for-pro-
13 fit corporation law or as an entity that is wholly owned by one or more
14 such national securities exchanges or boards of trade and that provides
15 automation or technical services thereto, or (G) principally used as a
16 qualified film production facility including qualified film production
17 facilities having a situs in an empire zone designated as such pursuant
18 to article eighteen-B of the general municipal law, where the taxpayer
19 is providing three or more services to any qualified film production
20 company using the facility, including such services as a studio lighting
21 grid, lighting and grip equipment, multi-line phone service, broadband
22 information technology access, industrial scale electrical capacity,
23 food services, security services, and heating, ventilation and air
24 conditioning. For purposes of clauses (D), (E) and (F) of this subpara-
25 graph, property purchased by a taxpayer affiliated with a regulated
26 broker, dealer, registered investment advisor, national securities
27 exchange or board of trade, is allowed a credit under this subdivision
28 if the property is used by its affiliated regulated broker, dealer,
29 registered investment advisor, national securities exchange or board of
30 trade in accordance with this subdivision. For purposes of determining
31 if the property is principally used in qualifying uses, the uses by the
32 taxpayer described in clauses (D) and (E) of this subparagraph may be
33 aggregated. In addition, the uses by the taxpayer, its affiliated regu-
34 lated broker, dealer and registered investment advisor under either or
35 both of those clauses may be aggregated. Provided, however, a taxpayer
36 shall not be allowed the credit provided by clauses (D), (E) and (F) of
37 this subparagraph unless the property is first placed in service before
38 October first, two thousand fifteen and (i) eighty percent or more of
39 the employees performing the administrative and support functions
40 resulting from or related to the qualifying uses of such equipment are
41 located in this state or (ii) the average number of employees that
42 perform the administrative and support functions resulting from or
43 related to the qualifying uses of such equipment and are located in this
44 state during the taxable year for which the credit is claimed is equal
45 to or greater than ninety-five percent of the average number of employ-
46 ees that perform these functions and are located in this state during
47 the thirty-six months immediately preceding the year for which the cred-
48 it is claimed, or (iii) the number of employees located in this state
49 during the taxable year for which the credit is claimed is equal to or
50 greater than ninety percent of the number of employees located in this
51 state on December thirty-first, nineteen hundred ninety-eight or, if the
52 taxpayer was not a calendar year taxpayer in nineteen hundred ninety-
53 eight, the last day of its first taxable year ending after December
54 thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes
55 subject to tax in this state after the taxable year beginning in nine-
56 teen hundred ninety-eight, then the taxpayer is not required to satisfy

1 the employment test provided in the preceding sentence of this subpara-
2 graph for its first taxable year. For purposes of clause (iii) of this
3 subparagraph the employment test will be based on the number of employ-
4 ees located in this state on the last day of the first taxable year the
5 taxpayer is subject to tax in this state. If the uses of the property
6 must be aggregated to determine whether the property is principally used
7 in qualifying uses, then either each affiliate using the property must
8 satisfy this employment test or this employment test must be satisfied
9 through the aggregation of the employees of the taxpayer, its affiliated
10 regulated broker, dealer, and registered investment adviser using the
11 property. For purposes of clause (A) of this subparagraph, tangible
12 personal property and other tangible property shall not include property
13 principally used by the taxpayer in the production or distribution of
14 electricity, natural gas after extraction from wells, steam, or water
15 delivered through pipes and mains. For purposes of the credit allowed by
16 clause (A) of this subparagraph, for a taxpayer that is an eligible
17 farmer as provided in paragraph (a-1) of this subdivision, the eligible
18 cost of goods shall include the cost of standard construction materials
19 and labor used in the construction of residential housing occupied farm
20 workers employed by the taxpayer to provide labor in the production of
21 the qualifying product produced by the taxpayer, provided such costs
22 satisfy the other requirements of this subparagraph.

23 § 2. Subparagraph (A) of paragraph 2 of subsection (a) of section 606
24 of the tax law, as amended by section 3 of part P of chapter 59 of the
25 laws of 2017, is amended to read as follows:

26 (A) A credit shall be allowed under this subsection with respect to
27 tangible personal property and other tangible property, including build-
28 ings and structural components of buildings, which are: depreciable
29 pursuant to section one hundred sixty-seven of the internal revenue
30 code, have a useful life of four years or more, are acquired by purchase
31 as defined in section one hundred seventy-nine (d) of the internal
32 revenue code, have a situs in this state and are (i) principally used by
33 the taxpayer in the production of goods by manufacturing, processing,
34 assembling, refining, mining, extracting, farming, agriculture, horti-
35 culture, floriculture, viticulture or commercial fishing, (ii) indus-
36 trial waste treatment facilities or air pollution control facilities,
37 used in the taxpayer's trade or business, (iii) research and development
38 property, (iv) principally used in the ordinary course of the taxpayer's
39 trade or business as a broker or dealer in connection with the purchase
40 or sale (which shall include but not be limited to the issuance, enter-
41 ing into, assumption, offset, assignment, termination, or transfer) of
42 stocks, bonds or other securities as defined in section four hundred
43 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
44 defined in section 475(e) of the Internal Revenue Code, (v) principally
45 used in the ordinary course of the taxpayer's trade or business of
46 providing investment advisory services for a regulated investment compa-
47 ny as defined in section eight hundred fifty-one of the Internal Revenue
48 Code, or lending, loan arrangement or loan origination services to
49 customers in connection with the purchase or sale (which shall include
50 but not be limited to the issuance, entering into, assumption, offset,
51 assignment, termination, or transfer) of securities as defined in
52 section four hundred seventy-five (c)(2) of the Internal Revenue Code,
53 or (vi) principally used as a qualified film production facility includ-
54 ing qualified film production facilities having a situs in an empire
55 zone designated as such pursuant to article eighteen-B of the general
56 municipal law, where the taxpayer is providing three or more services to

1 any qualified film production company using the facility, including such
2 services as a studio lighting grid, lighting and grip equipment, multi-
3 line phone service, broadband information technology access, industrial
4 scale electrical capacity, food services, security services, and heat-
5 ing, ventilation and air conditioning. For purposes of clauses (iv) and
6 (v) of this subparagraph, property purchased by a taxpayer affiliated
7 with a regulated broker, dealer, or registered investment adviser is
8 allowed a credit under this subsection if the property is used by its
9 affiliated regulated broker, dealer or registered investment adviser in
10 accordance with this subsection. For purposes of determining if the
11 property is principally used in qualifying uses, the uses by the taxpay-
12 er described in clauses (iv) and (v) of this subparagraph may be aggre-
13 gated. In addition, the uses by the taxpayer, its affiliated regulated
14 broker, dealer and registered investment adviser under either or both of
15 those clauses may be aggregated. Provided, however, a taxpayer shall not
16 be allowed the credit provided by clauses (iv) and (v) of this subpara-
17 graph unless (I) eighty percent or more of the employees performing the
18 administrative and support functions resulting from or related to the
19 qualifying uses of such equipment are located in this state, or (II) the
20 average number of employees that perform the administrative and support
21 functions resulting from or related to the qualifying uses of such
22 equipment and are located in this state during the taxable year for
23 which the credit is claimed is equal to or greater than ninety-five
24 percent of the average number of employees that perform these functions
25 and are located in this state during the thirty-six months immediately
26 preceding the year for which the credit is claimed, or (III) the number
27 of employees located in this state during the taxable year for which the
28 credit is claimed is equal to or greater than ninety percent of the
29 number of employees located in this state on December thirty-first,
30 nineteen hundred ninety-eight or, if the taxpayer was not a calendar
31 year taxpayer in nineteen hundred ninety-eight, the last day of its
32 first taxable year ending after December thirty-first, nineteen hundred
33 ninety-eight. If the taxpayer becomes subject to tax in this state after
34 the taxable year beginning in nineteen hundred ninety-eight, then the
35 taxpayer is not required to satisfy the employment test provided in the
36 preceding sentence of this subparagraph for its first taxable year. For
37 the purposes of clause (III) of this subparagraph the employment test
38 will be based on the number of employees located in this state on the
39 last day of the first taxable year the taxpayer is subject to tax in
40 this state. If the uses of the property must be aggregated to determine
41 whether the property is principally used in qualifying uses, then either
42 each affiliate using the property must satisfy this employment test or
43 this employment test must be satisfied through the aggregation of the
44 employees of the taxpayer, its affiliated regulated broker, dealer, and
45 registered investment adviser using the property. For purposes of clause
46 (i) of this subparagraph, tangible personal property and other tangible
47 property shall not include property principally used by the taxpayer in
48 the production or distribution of electricity, natural gas after
49 extraction from wells, steam, or water delivered through pipes and
50 mains. For purposes of the credit allowed by clause (i) of this subpara-
51 graph, for a taxpayer that is an eligible farmer as provided in para-
52 graph one-a of this subsection, the eligible cost of goods shall include
53 the cost of standard construction materials and labor used in the
54 construction of residential housing occupied farm workers employed by
55 the taxpayer to provide labor in the production of the qualifying prod-

1 uct produced by the taxpayer, provided such costs satisfy the other
2 requirements of this subparagraph.

3 § 3. This act shall take effect on the first of January next succeed-
4 ing the date upon which it shall have become a law and shall apply to
5 tax years commencing on and after such effective date. Effective imme-
6 diately, the addition, amendment and/or repeal of any rule or regulation
7 necessary for the implementation of this act on its effective date are
8 authorized to be made and completed on or before such effective date.