

STATE OF NEW YORK

23

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. TEDISCO, BORRELLO, GALLIVAN, GRIFFO, HELMING, OBER-
ACKER, RHOADS, ROLISON -- 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 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 Assem-
bly, 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

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

LBD00176-01-5

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

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

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

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

1 municipal law, where the taxpayer is providing three or more services to
2 any qualified film production company using the facility, including such
3 services as a studio lighting grid, lighting and grip equipment, multi-
4 line phone service, broadband information technology access, industrial
5 scale electrical capacity, food services, security services, and heat-
6 ing, ventilation and air conditioning. For purposes of clauses (iv) and
7 (v) of this subparagraph, property purchased by a taxpayer affiliated
8 with a regulated broker, dealer, or registered investment adviser is
9 allowed a credit under this subsection if the property is used by its
10 affiliated regulated broker, dealer or registered investment adviser in
11 accordance with this subsection. For purposes of determining if the
12 property is principally used in qualifying uses, the uses by the taxpay-
13 er described in clauses (iv) and (v) of this subparagraph may be aggre-
14 gated. In addition, the uses by the taxpayer, its affiliated regulated
15 broker, dealer and registered investment adviser under either or both of
16 those clauses may be aggregated. Provided, however, a taxpayer shall not
17 be allowed the credit provided by clauses (iv) and (v) of this subpara-
18 graph unless (I) eighty percent or more of the employees performing the
19 administrative and support functions resulting from or related to the
20 qualifying uses of such equipment are located in this state, or (II) the
21 average number of employees that perform the administrative and support
22 functions resulting from or related to the qualifying uses of such
23 equipment and are located in this state during the taxable year for
24 which the credit is claimed is equal to or greater than ninety-five
25 percent of the average number of employees that perform these functions
26 and are located in this state during the thirty-six months immediately
27 preceding the year for which the credit is claimed, or (III) the number
28 of employees located in this state during the taxable year for which the
29 credit is claimed is equal to or greater than ninety percent of the
30 number of employees located in this state on December thirty-first,
31 nineteen hundred ninety-eight or, if the taxpayer was not a calendar
32 year taxpayer in nineteen hundred ninety-eight, the last day of its
33 first taxable year ending after December thirty-first, nineteen hundred
34 ninety-eight. If the taxpayer becomes subject to tax in this state after
35 the taxable year beginning in nineteen hundred ninety-eight, then the
36 taxpayer is not required to satisfy the employment test provided in the
37 preceding sentence of this subparagraph for its first taxable year. For
38 the purposes of clause (III) of this subparagraph the employment test
39 will be based on the number of employees located in this state on the
40 last day of the first taxable year the taxpayer is subject to tax in
41 this state. If the uses of the property must be aggregated to determine
42 whether the property is principally used in qualifying uses, then either
43 each affiliate using the property must satisfy this employment test or
44 this employment test must be satisfied through the aggregation of the
45 employees of the taxpayer, its affiliated regulated broker, dealer, and
46 registered investment adviser using the property. For purposes of clause
47 (i) of this subparagraph, tangible personal property and other tangible
48 property shall not include property principally used by the taxpayer in
49 the production or distribution of electricity, natural gas after
50 extraction from wells, steam, or water delivered through pipes and
51 mains. For purposes of the credit allowed by clause (i) of this subpara-
52 graph, for a taxpayer that is an eligible farmer as provided in para-
53 graph one-a of this subsection, the eligible cost of goods shall include
54 the cost of standard construction materials and labor used in the
55 construction of residential housing occupied farm workers employed by
56 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.