

# STATE OF NEW YORK

5628

2025-2026 Regular Sessions

## IN SENATE

February 26, 2025

Introduced by Sen. HARCKHAM -- 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 establishing an agrivoltaic production tax credit; and to amend the agriculture and markets law, in relation to the impact of agrivoltaics on agricultural assessments

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

1 Section 1. Section 210-B of the tax law is amended by adding a new  
2 subdivision 61 to read as follows:

3 61. Agrivoltaic production tax credit. (a) Definitions. As used in  
4 this subdivision, the following terms shall have the following meanings:

5 (i) "Agrivoltaics" means a simultaneous use of land for solar photo-  
6 voltaic power generation and agricultural production of crops, livestock  
7 and livestock products.

8 (ii) "Crops, livestock and livestock products" shall have the same  
9 meaning as such phrase is defined in section three hundred one of the  
10 agriculture and markets law.

11 (iii) "Eligible farmer" means a taxpayer who:

12 (A) manages a farm operation, as such phrase is defined in section  
13 three hundred one of the agriculture and markets law, that is situated  
14 wholly or in part within one or more qualified agrivoltaic facilities;  
15 and

16 (B) uses not less than two-thirds of the total land area of such  
17 facility or facilities as land used in agricultural production, as such  
18 phrase is defined in section three hundred one of the agriculture and  
19 markets law.

20 (iv) "Qualified agrivoltaic facility" means a photovoltaic electricity  
21 generation facility that:

22 (A) is pre-qualified by the New York state energy research and devel-  
23 opment authority in consultation with the department of agriculture and  
24 markets pursuant to paragraph (c) of this subdivision as being reason-

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

LBD10320-01-5

1 ably able to produce crops, livestock and livestock products sufficient  
2 to qualify the associated electricity for the credit provided by this  
3 subdivision;

4 (B) is connected to utility transmission or distribution infrastruc-  
5 ture and placed into service on or after January first, two thousand  
6 twenty-six;

7 (C) has an AC nameplate capacity of not more than ten thousand kilo-  
8 watts; and

9 (D) is designed and operated in such a manner that not less than four-  
10 fifths of the land area may be used as land used in agricultural  
11 production, as such phrase is defined in section three hundred one of  
12 the agriculture and markets law.

13 (b) Allowance of credit. (i) A taxpayer that is an eligible farmer  
14 shall be allowed a credit for taxable years beginning on and after Janu-  
15 ary first, two thousand twenty-six, to be computed as hereinafter  
16 provided, against the tax imposed by this article.

17 (ii) The amount of the credit provided by this subdivision for any  
18 taxable year shall be an amount equal to the product of:

19 (A) the kilowatt hours of electricity produced in that year by a qual-  
20 ified agrivoltaic facility during the twenty-year period beginning on  
21 the date such facility was originally placed in service;

22 (B) a base credit rate value of one cent per kilowatt-hour; and

23 (C) an agricultural use factor as determined by the type of agricul-  
24 tural production conducted within the facility at a rate of:

25 (1) one-half times for sheep grazing, with or without apiaries or  
26 other pollinator habitat;

27 (2) three times for mechanical harvesting of perennial forage crops;

28 (3) four times for cattle grazing with or without the presence of  
29 other livestock; and

30 (4) five times for the production of annual crops or perennial crops  
31 other than forages.

32 (iii) The agricultural use factor as described in clause (C) of  
33 subparagraph (ii) of this paragraph shall be prorated by the acreage of  
34 each respective agricultural production type.

35 (iv) Beginning on January first, two thousand twenty-seven, and for  
36 each calendar year thereafter, the value of the credit provided by this  
37 subdivision shall be adjusted annually using an inflation adjustment  
38 factor determined by the comptroller.

39 (c) Pre-qualification. The New York state energy research and develop-  
40 ment authority shall, in consultation with the department of agriculture  
41 and markets, develop a pre-qualification process for eligible farmers  
42 seeking to claim the credit provided by this subdivision to be approved  
43 by the public service commission no later than December thirty-first,  
44 two thousand twenty-five. Such pre-qualification process shall:

45 (i) determine that a qualified agrivoltaic facility is reasonably able  
46 to produce crops, livestock and livestock products sufficient to qualify  
47 the associated electricity for the credit provided by this subdivision;  
48 and

49 (ii) prioritize ease of application for the eligible farmer.

50 (d) Annual certification. The New York state energy research and  
51 development authority shall, in consultation with the department of  
52 agriculture and markets, develop a certification form for eligible farm-  
53 ers seeking to claim the credit provided by this subdivision to be  
54 approved by the public service commission no later than December thir-  
55 ty-first, two thousand twenty-five. Such certification form shall:

1 (i) collect the information required to certify that the electricity  
2 was produced in association with the farmer's simultaneous use of the  
3 land within the facility for agricultural production of crops, livestock  
4 and livestock products;

5 (ii) prioritize reducing the regulatory burden of compliance on the  
6 eligible farmer;

7 (iii) be certified by the eligible farmer for each year the credit  
8 provided by this subdivision is claimed; and

9 (iv) be auditable for a period not to exceed three years.

10 (e) Application of credit. Except as otherwise provided in this para-  
11 graph, the credit allowed under this subdivision for any taxable year  
12 shall not reduce the tax due for such year to less than the fixed dollar  
13 minimum amount prescribed in paragraph (d) of subdivision one of section  
14 two hundred ten of this article. However, if the amount of credit allow-  
15 able under this subdivision for any taxable year reduces the tax to such  
16 amount or if the taxpayer otherwise pays tax based on the fixed dollar  
17 minimum amount, any amount of credit allowed for a taxable year commenc-  
18 ing January first, two thousand twenty-six and not deductible in such  
19 taxable year may be carried over to the fifteen taxable years next  
20 following such taxable year and may be deducted from the taxpayer's tax  
21 for such year or years. In lieu of such carryover, any such taxpayer  
22 that is an eligible farmer may elect to treat the amount of such carry-  
23 over as an overpayment of tax to be credited or refunded in accordance  
24 with the provisions of section one thousand eighty-six of this chapter,  
25 provided, however, the provisions of subsection (c) of section one thou-  
26 sand eighty-eight of this chapter notwithstanding, no interest shall be  
27 paid thereon.

28 (f) Transfer of credit. With prior notice in accordance with regu-  
29 lations promulgated by the department, an eligible farmer may transfer  
30 all or part of the credit provided by this subdivision to an owner of a  
31 qualified agrivoltaic facility such eligible farmer's farm operation is  
32 situated within, with the same effect as if the owner of such qualified  
33 agrivoltaic facility had qualified for the credit provided by this  
34 subdivision itself.

35 § 2. Section 305 of the agriculture and markets law is amended by  
36 adding a new subdivision 8 to read as follows:

37 8. Agrivoltaics. Notwithstanding any provision of law, rule or regu-  
38 lation to the contrary, the presence of agrivoltaics shall not impact  
39 the eligibility of land to receive an assessment pursuant to this  
40 section. As used in this subdivision, "agrivoltaics" shall mean a simul-  
41 taneous use of land for solar photovoltaic power generation and agricul-  
42 tural production of crops, livestock and livestock products.

43 § 3. This act shall take effect immediately.