

1 amended by section 2 of part Q of chapter 58 of the laws of 2015, is  
2 amended to read as follows:

3 The provisions of [section] sections sixty-two through sixty-six of  
4 this act shall expire April fifteenth, two thousand eighteen, provided,  
5 however, that if the statewide disparity study regarding the partic-  
6 ipation of minority and women-owned business enterprises in state  
7 contracts required pursuant to subdivision one of section three hundred  
8 twelve-a of the executive law is completed and delivered to the governor  
9 and the legislature on or before June thirtieth, two thousand seventeen,  
10 then the provisions of sections sixty-two through sixty-six of this act  
11 shall expire on December thirty-first, two thousand [seventeen]  
12 eighteen, except that:

13 § 2. This act shall take effect immediately.

14

**PART DDD**

15 Section 1. Section 606 of the tax law is amended by adding a new  
16 subsection (n-2) to read as follows:

17 (n-2) Credit for farm donations to food pantries. (1) General. In the  
18 case of a taxpayer who is an eligible farmer, there shall be allowed a  
19 credit, to be computed as hereinafter provided, against the tax imposed  
20 by this article for taxable years beginning on and after January first,  
21 two thousand eighteen. The amount of the credit shall be twenty-five  
22 percent of the fair market value of the taxpayer's qualified donations  
23 made to any eligible food pantry during the taxable year, not to exceed  
24 five thousand dollars per taxable year. If the taxpayer is a partner in  
25 a partnership or a shareholder of a New York S corporation, then the cap  
26 imposed by the preceding sentence shall be applied at the entity level,  
27 so that the aggregate credit allowed to all partners or shareholders of  
28 such entity in the taxable year does not exceed five thousand dollars.

29 (2) Eligible farmer. For purposes of this subsection, the term "eligi-  
30 ble farmer" means a taxpayer whose federal gross income from farming for  
31 the taxable year is at least two-thirds of excess federal gross income.  
32 Excess federal gross income means the amount of federal gross income  
33 from all sources for the taxable year reduced by the sum (not to exceed  
34 thirty thousand dollars) of those items included in federal gross income  
35 that consist of: (i) earned income, (ii) pension payments, including  
36 social security payments, (iii) interest, and (iv) dividends. For  
37 purposes of this paragraph, the term "earned income" shall mean wages,  
38 salaries, tips and other employee compensation, and those items of gross  
39 income that are includible in the computation of net earnings from self-  
40 employment. For the purposes of this paragraph, payments from the  
41 state's farmland protection program, administered by the department of  
42 agriculture and markets, shall be included as federal gross income from  
43 farming for otherwise eligible farmers.

44 (3) Qualified donation. For purposes of this subsection, the term  
45 "qualified donation" means a donation of any apparently wholesome food,  
46 as defined in section 170(e)(3)(C)(vi) of the internal revenue code,  
47 grown or produced within this state, by an eligible farmer to an eligi-  
48 ble food pantry.

49 (4) Eligible food pantry. For purposes of this subsection, the term  
50 "eligible food pantry" means any food pantry, food bank, or other emer-  
51 gency food program operating within this state that has qualified for  
52 tax exemption under section 501(c)(3) of the internal revenue code.

53 (5) Determination of fair market value. For purposes of this  
54 subsection, to determine the fair market value of apparently wholesome

1 food donated to an eligible food pantry, the standards set forth under  
2 section 170(e)(3)(C)(v) of the internal revenue code shall apply.

3 (6) Record of donation. To claim a credit under this subsection, a  
4 taxpayer must get and keep a receipt from the eligible food pantry show-  
5 ing: (i) the name of the eligible food pantry; (ii) the date and  
6 location of the qualified donation; and (iii) a reasonably detailed  
7 description of the qualified donation. A letter or other written commu-  
8 nication from the eligible food pantry acknowledging receipt of the  
9 contribution and containing the information in subparagraphs (i), (ii),  
10 and (iii) of this paragraph will serve as a receipt.

11 (7) Application of credit. A taxpayer shall be allowed a credit under  
12 this subsection against the tax imposed by this article. However, if the  
13 amount of credit allowed under this subsection for any taxable year  
14 exceeds the taxpayer's tax for such year, the excess will be treated as  
15 an overpayment of tax to be credited or refunded in accordance with the  
16 provisions of section six hundred eighty-six of this article. Provided,  
17 however, the provisions of subsection (c) of section six hundred eight-  
18 y-eight of this article notwithstanding, no interest will be paid there-  
19 on.

20 § 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
21 of the tax law is amended by adding a new clause (xliii) to read as  
22 follows:

23 (xliii) Farm donations to food                      Amount of credit under  
24 pantries credit under                                    subdivision fifty-two of  
25 subsection (n-2)    section two hundred ten-B

26 § 3. Subsection (c) of section 615 of the tax law is amended by adding  
27 a new paragraph 9 to read as follows:

28 (9) with respect to a taxpayer who has claimed the farm donations to  
29 food pantries credit pursuant to subsection (n-2) of section six hundred  
30 six of this article, the taxpayer's New York itemized deductions shall  
31 be reduced by any charitable contribution deduction allowed under  
32 section one hundred seventy of the internal revenue code with respect to  
33 such donations.

34 § 4. Section 210-B of the tax law is amended by adding a new subdivi-  
35 sion 52 to read as follows:

36 52. Credit for farm donations to food pantries. (a) General. In the  
37 case of a taxpayer that is an eligible farmer, there shall be allowed a  
38 credit, to be computed as hereinafter provided against the tax imposed  
39 by this article for taxable years beginning on and after January first,  
40 two thousand eighteen. The amount of the credit shall be twenty-five  
41 percent of the fair market value of the taxpayer's qualified donations  
42 made to any eligible food pantry during the taxable year, not to exceed  
43 five thousand dollars per taxable year. If the taxpayer is a partner in  
44 a partnership, then the cap imposed by the preceding sentence shall be  
45 applied at the entity level, so that the aggregate credit allowed to all  
46 partners of such entity in the taxable year does not exceed five thou-  
47 sand dollars.

48 (b) Eligible farmer. For purposes of this subdivision, the term  
49 "eligible farmer" means a taxpayer whose federal gross income from farm-  
50 ing for the taxable year is at least two-thirds of excess federal gross  
51 income. Excess federal gross income means the amount of federal gross  
52 income from all sources for the taxable year in excess of thirty thou-  
53 sand dollars. For purposes of this paragraph, payments from the state's  
54 farmland protection program, administered by the department of agricul-

1 ture and markets, shall be included as federal gross income from farming  
2 for otherwise eligible farmers.

3 (c) Qualified donation. For purposes of this subdivision, the term  
4 "qualified donation" means a donation of apparently wholesome food, as  
5 defined in section 170(e)(3)(C)(vi) of the internal revenue code, grown  
6 or produced within this state, by an eligible farmer to an eligible food  
7 pantry.

8 (d) Eligible food pantry. For purposes of this subdivision, the term  
9 "eligible food pantry" means any food pantry, food bank, or other emer-  
10 gency food program operating within this state that has qualified for  
11 tax exemption under section 501(c)(3) of the internal revenue code.

12 (e) Determination of fair market value. For purposes of this subdivi-  
13 sion, to determine the fair market value of apparently wholesome food  
14 donated to an eligible food pantry, the standards set forth under  
15 section 170(e)(3)(C)(v) of the internal revenue code shall apply.

16 (f) Record of donation. To claim a credit under this subdivision, a  
17 taxpayer must get and keep a receipt from the eligible food pantry show-  
18 ing: (i) the name of the eligible food pantry; (ii) the date and  
19 location of the qualified donation; and (iii) a reasonably detailed  
20 description of the qualified donation. A letter or other written commu-  
21 nication from the eligible food pantry acknowledging receipt of the  
22 contribution and containing the information in subparagraphs (i), (ii),  
23 and (iii) of this paragraph will serve as a receipt.

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

36 § 5. Paragraph (b) of subdivision 9 of section 208 of the tax law is  
37 amended by adding a new subparagraph 22 to read as follows:

38 (22) the amount of any deduction for charitable contributions allowed  
39 under section one hundred seventy of the internal revenue code to the  
40 extent such contributions are used as the basis of the calculation of  
41 the farm donations to food pantries credit under subdivision fifty-two  
42 of section two hundred ten-B of this article.

43 § 6. This act shall take effect immediately.

44 PART EEE

45 Section 1. Subdivisions 1, 2, 3 and 4 of section 186-f of the tax law,  
46 as added by section 3 of part B of chapter 56 of the laws of 2009, are  
47 amended to read as follows:

48 1. Definitions. As used in this section, where not otherwise specif-  
49 ically defined and unless a different meaning is clearly required:

50 (a) "Place of primary use" has the same meaning as that term is  
51 defined in paragraph twenty-six of subdivision (b) of section eleven  
52 hundred one of this chapter.

53 (b) "Wireless communications customer" means mobile telecommunications  
54 customer as defined in subparagraph (i) of paragraph twenty-seven of