House of Representatives

General Assembly

File No. 542

February Session, 2024

Substitute House Bill No. 5492

House of Representatives, April 17, 2024

The Committee on Finance, Revenue and Bonding reported through REP. HORN of the 64th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ESTABLISHING A FARM INVESTMENT TAX CREDIT AND CONCERNING THE THRESHOLD FOR CERTAIN OPTIONAL FARM-RELATED PROPERTY TAX EXEMPTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective January 1, 2025, and applicable to income and taxable years commencing on or after January 1, 2025*) (a) As used in this section:

(1) "Eligible farmer" means a taxpayer in this state whose federal gross income from farming for the income or taxable year is at least two-thirds of excess federal gross income;

(2) "Excess federal gross income" means the amount of federal gross income from all sources for the income or taxable year in excess of thirty thousand dollars;

(3) "Agricultural production" has the same meaning as provided in subdivision (63) of section 12-412 of the general statutes;

(4) "Farm investment property" means machinery and equipment that are acquired by purchase by an eligible farmer on or after January 1, 2025, and buildings and structural components of buildings that are acquired, constructed, reconstructed or erected by an eligible farmer and placed in service on or after January 1, 2025, and (A) are situated in this state, (B) have a class life of more than four years, as described in Section 168(e) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, (C) are acquired by an eligible farmer from a person other than a related person, (D) are not acquired to be leased, and are not leased, to another person or persons during the twelve full months following their acquisition or placement in service, and (E) will be held and used in this state by the eligible farmer in the ordinary course of agricultural production for not less than five full years following the date of acquisition of such machinery and equipment or the date of placement in service of such buildings;

(5) "Related person" means (A) a corporation, limited liability company, partnership, association or trust controlled by the taxpayer, (B) an individual, corporation, limited liability company, partnership, association or trust that is in control of the taxpayer, (C) a corporation, limited liability company, partnership, association or trust controlled by an individual, corporation, limited liability company, partnership, association or trust that is in control of the taxpayer, or (D) a member of the same controlled group as the taxpayer; and

(6) "Control" means (A) with respect to a corporation, ownership, directly or indirectly, of stock possessing fifty per cent or more of the total combined voting power of all classes of the stock of such corporation entitled to vote, or (B) with respect to a trust, ownership, directly or indirectly, of fifty per cent or more of the beneficial interest in the principal or income of such trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c) of the Internal Revenue Code of 1986, or any subsequent

corresponding internal revenue code of the United States, as amended from time to time, other than paragraph (3) of said section.

(b) A taxpayer, in determining income eligibility for purposes of this section, may use for any income or taxable year the average of the taxpayer's federal gross income from farming for such income or taxable year and the two consecutive income or taxable years immediately preceding.

(c) (1) There shall be allowed a credit against the tax imposed under chapter 208 or 229 of the general statutes, other than the liability imposed by section 12-707 of the general statutes, of twenty per cent of the amount paid or incurred during an income or a taxable year for farm investment property by a taxpayer that is an eligible farmer.

(2) If the taxpayer is an S corporation or an entity treated as a partnership for federal income tax purposes, the credit may be claimed by the taxpayer's shareholders or partners. If the taxpayer is a single member limited liability company that is disregarded as an entity separate from its owner, the credit may be claimed by such limited liability company's owner, provided such owner is subject to the tax imposed under chapter 208 or 229 of the general statutes.

(3) If the amount of the credit allowed pursuant to this section exceeds the taxpayer's liability for the tax imposed under chapter 208 or 229 of the general statutes, the Commissioner of Revenue Services shall treat such excess as an overpayment and, except as provided in section 12-739 or 12-742 of the general statutes, shall refund the amount of such excess, without interest, to such taxpayer.

(4) No taxpayer claiming the credit under this section with respect to the acquisition of farm investment property may claim a credit against any tax under any other provision of the general statutes with respect to the same acquisition.

(d) If the farm investment property for which a taxpayer has claimed the credit allowed under this section is not held and used in this state in the ordinary course of agricultural production in this state for three full years following its acquisition, the taxpayer shall recapture one hundred per cent of the amount of the credit allowed under this section on its tax return required to be filed for the income or taxable year immediately succeeding the income or taxable year during which such three-year period expires. If the farm investment property for which a taxpayer has claimed the credit allowed under this section is not held and used in this state in the ordinary course of agricultural production in this state for five full years following its acquisition, the taxpayer shall recapture fifty per cent of the amount of the credit allowed under this section on its tax return required to be filed for the income or taxable year immediately succeeding the income or taxable year during which such five-year period expires. The provisions of this subsection shall not apply if the property that is the subject of the credit under this section is replaced. If any amount of credit required to be recaptured has not been paid to the commissioner on or before the first day of the fourth month next succeeding the end of the income year immediately succeeding the income year during which the three-year or five-year period, as the case may be, expires, such amount shall bear interest at the rate of one per cent per month or fraction thereof from such date to the date of payment.

Sec. 2. Section 12-91 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) All farm machinery, except motor vehicles, as defined in section 14-1, to the assessed value of one hundred thousand dollars, any horse or pony which is actually and exclusively used in farming, as defined in section 1-1, when owned and kept in this state by, or when held in trust for, any farmer or group of farmers operating as a unit, a partnership or a corporation, a majority of the stock of which corporation is held by members of a family actively engaged in farm operations, shall be exempt from local property taxation; provided each such farmer, whether operating individually or as one of a group, partnership or corporation, shall qualify for such exemption in accordance with the standards set forth in subsection (d) of this section for the assessment year for which such exemption is sought. Only one such exemption shall be allowed to each such farmer, group of farmers, partnership or corporation. Subdivision (38) of section 12-81 shall not apply to any person, group, partnership or corporation receiving the exemption provided for in this subsection.

(b) Any municipality, upon approval by its legislative body, may provide an additional exemption from property tax for such machinery to the extent of an additional assessed value of **[**one hundred**]** <u>two hundred fifty</u> thousand dollars. Any such exemption shall be subject to the same limitations as the exemption provided under subsection (a) of this section and the application and qualification process provided in subsection (d) of this section.

(c) Any municipality, upon approval by its legislative body, may provide an exemption from property tax for any building used actually and exclusively in farming, as defined in section 1-1, or for any building used to provide housing for seasonal employees of such farmer. The municipality shall establish the amount of such exemption from the assessed value, provided such amount may not exceed **[**one**]** <u>five</u> hundred thousand dollars with respect to each eligible building. Such exemption shall not apply to the residence of such farmer and shall be subject to the application and qualification process provided in subsection (d) of this section.

(d) Annually, on or before the first day of November or the extended filing date granted by the assessor pursuant to section 12-42, each such individual farmer, group of farmers, partnership or corporation shall make written application for the exemption provided for in subsection (a) of this section to the assessor or board of assessors in the town in which such farm is located, including therewith a notarized affidavit certifying that such farmer, individually or as part of a group, partnership or corporation, derived at least fifteen thousand dollars in gross sales from such farming operation, or incurred at least fifteen thousand dollars in expenses related to such farming operation, with respect to the most recently completed taxable year of such farmer prior to the commencement of the assessment year for which such application is made, on forms to be prescribed by the Commissioner of Agriculture. Failure to file such application in said manner and form on or before the first day of November shall be considered a waiver of the right to such exemption for the assessment year. Any person aggrieved by any action of the assessors shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of the assessors or board of assessment appeals.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2025, and applicable to income and taxable years commencing on or after January 1, 2025*	New section
Sec. 2	*from passage*	12-91

Statement of Legislative Commissioners:
In Section 1(a)(4)(B), ", in years," was deleted to eliminate redundancy.

FIN *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 $	FY 26 $
Revenue Serv., Dept.	GF - Revenue Loss	None	2.5 million
Revenue Serv., Dept.	GF - Cost	None	Up to 75,000

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 25 $	FY 26 $
Various Municipalities	Grand List Reduction	None	See Below

Explanation

The bill, which establishes a refundable corporation business and personal income tax credit for farmers' investments and increases the caps on the local option farm machinery and farm building tax exemptions, results in the fiscal impacts described below.

Section 1, which establishes a refundable farm investment tax credit, results in (1) a General Fund revenue loss of approximately $2.5 million annually beginning in FY 26 and (2) a one-time General Fund cost of up to $75,000 in FY 26 associated with programming updates to the CTax tax administration system and myconneCT online portal, and form modification.

Section 2 results in a grand list reduction for various municipalities beginning in FY 26.[1] This is associated with an increase for the

[1] A grand list reduction results in a revenue loss given a constant mill rate. However, it is likely that a municipality will adjust its mill rate to offset any predicted revenue loss.

maximum allowable local option property tax exemption for (1) farm machinery and (2) farm buildings. The bill increases the cap from $100,000 to $250,000 for farm machinery and from $100,000 to $500,000 for farm buildings. This will only impact municipalities that have adopted the additional exemption.[2]

Under current law, the local option property tax exemption for farm machinery is in addition to a state-mandated farm machinery tax exemption of $100,000.[3]

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of municipalities that increase the cap for the additional exemptions.

[2] According to a 2019 survey, 30 municipalities offered these optional exemptions.
[3] In FY 24, the farm and mechanics property tax exemption totaled $96 million of taxable property across all municipalities cumulatively.

OLR Bill Analysis
sHB 5492

AN ACT ESTABLISHING A FARM INVESTMENT TAX CREDIT AND CONCERNING THE THRESHOLD FOR CERTAIN OPTIONAL FARM-RELATED PROPERTY TAX EXEMPTIONS.

SUMMARY

This bill creates a corporation business and personal income tax credit for farmers' investments in eligible machinery, equipment, and buildings. The credit is refundable and equals 20% of the amount farmers spend on eligible property.

Under the bill, to be eligible for the credit, taxpayers' income from farming must exceed a specified threshold, and the property they invest in must meet certain criteria and be held and used in-state for at least five years.

The bill prohibits farmers who claim credits under the bill from claiming any other state tax credit for the same investment. It also subjects the credits to potential recapture for the first five years after they are claimed.

The bill also increases the cap on the local option farm machinery tax exemption from $100,000 to $250,000 in assessed value. A municipality may adopt the exemption, by vote of its legislative body, in any amount up to the cap. By law, this exemption applies in addition to the $100,000 state-mandated exemption.

EFFECTIVE DATE: January 1, 2025, and applicable to income and tax years beginning on or after that date, except that the property tax exemption cap increase is effective upon passage.

ELIGIBLE FARMERS

Under the bill, an eligible farmer is a taxpayer in the state whose federal gross income from farming for the income or tax year is at least two-thirds of "excess federal gross income" (i.e., the amount of federal gross income from all sources over $30,000).

The bill allows taxpayers, when determining income eligibility, to use the average of the taxpayer's federal gross income from farming for the income or taxable year and the two consecutive income or tax years immediately before.

ELIGIBLE PROPERTY

Under the bill, the credit is based on the amount eligible farmers paid or incurred for eligible property in the income or tax year, as applicable. Eligible property (i.e., farm investment property) is machinery, equipment, and buildings or their structural components that meet the following criteria:

1. is located in the state;
2. is purchased by an eligible farmer (for machinery and equipment) or acquired, constructed, reconstructed, or erected by a farmer and placed in service, as applicable, on or after January 1, 2025 (for buildings and their structural components);
3. has a class life of more than four years, as determined under specified IRS rules; and
4. will be held and used in the state by an eligible farmer in the course of "agricultural production" for at least five years after being acquired or placed in service.

Property is not eligible if it is (1) acquired from a related person (e.g., entities controlled by the farmer) or (2) leased or acquired to be leased to another person during the first 12 months after being acquired or placed into service.

Under the bill, agricultural production is engaging in any of the following as a trade or business: (1) raising or harvesting any agricultural or horticultural commodity; (2) dairy farming; (3) forestry; (4) raising, feeding, caring for, shearing, training, or managing livestock;

and (5) raising and harvesting fish, oysters, clams, mussels, or other molluscan shellfish.

CREDIT CLAIMS AND REFUNDS

Under the bill, farmers may claim the tax credits against the corporation business tax or the personal income tax (but not the withholding tax). If the taxpayer is an S corporation or treated as a partnership for federal income tax purposes, the taxpayer's shareholders and partners may claim the credit. If the taxpayer is a single member limited liability company (LLC) that is disregarded for federal tax purposes, the LLC's owner may claim the credit as long as the owner is subject to corporation business or personal income tax.

If a farmer's credit amount exceeds his or her liability, the bill requires the Department of Revenue Services (DRS) commissioner to treat the excess as an overpayment and refund the excess amount to the farmer without interest. By law, and under the bill, the DRS commissioner may withhold tax refunds to pay outstanding liabilities for other taxes and to reimburse the state for certain debts (CGS §§ 12-739 & -742).

RECAPTURE

The bill subjects these credits to potential recapture for five years if the property for which a credit was claimed is no longer held or used in the state for agricultural production.

If this occurs within the first three years after the property's acquisition, the farmer must repay 100% of the credit received for that property on his or her tax return for the income or tax year immediately after the year in which the three-year period expires. If the property is held for more than three years but less than five years after the property was acquired, the farmer must repay 50% of the credit received for that property on his or her tax return for the income or tax year immediately after the year in which the five-year period expires. Recapture payments that are not paid within three months after the income or tax year ends are subject to interest at the rate of 1% per month or partial month.

Under the bill, the recapture requirements do not apply to property for which the farmer received a credit and subsequently replaced.

BACKGROUND

Related Bill

SB 225 (File 180), favorably reported by the Planning and Development Committee, makes motor vehicles qualifying property for the farm machinery property tax exemption.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable
Yea 50 Nay 0 (04/02/2024)