

Dairy Farm Preservation Act

Dairy Farmer Tax Credit Program

Chapter 310 Sections 3-6 and 14

Summary: Sections 3-6 and 14 of Chapter 310 of the Acts of 2008 establish Dairy Farmer Tax Credit Program. The Dairy Farmer Tax Credit Program establishes a dairy farm tax credit that offers dairy farms an income tax credit for production in any month when the farm price for milk falls below a “trigger” price. Such a trigger price will be established by DAR and will reflect costs of production. Farms receive the credit when they file their tax return. The Department in consultation with the Department of Revenue shall establish a regulation to administer the program. Section 14 requires a review after 2 tax years.

SECTION 3. Section 6 of chapter 62 of the General Laws, as most recently amended by section 17 of chapter 130 of the acts of 2008, is hereby amended by adding the following subsection:-

(o)(1) There shall be established a dairy farmer tax credit program under which a taxpayer who holds a certificate of registration as a dairy farmer pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced and sold. The credit shall be claimed against the taxes due pursuant to chapter 62. The credit shall be established to offset the cyclical downturns in milk prices paid to dairy farmers and shall be based on the United States Federal Milk Marketing Order for the applicable market such that if the United States Federal Milk Marketing Order price drops below a trigger price anytime during the taxable year such taxpayer may receive the tax credit.

(2) The commissioner of agricultural resources, in consultation with the commissioner of revenue, shall adopt regulations for the implementation, administration and enforcement of this subsection, including the establishment of the trigger price, which shall take into account the operating costs of milk production, including hired labor and some portion of the value of unpaid labor, and the amount of the tax credit which shall be based upon volume of milk production.

(3) The total cumulative value of the credits authorized pursuant to this section and section 38Z of chapter 63 shall not exceed \$4,000,000 annually.

(4) If the amount of the credit allowed hereunder exceeds the taxpayer’s liability, the commissioner of revenue shall treat such excess as an overpayment and shall pay the taxpayer 90 per cent of the amount of such excess, without interest. The commissioner of agricultural resources shall certify to the department of revenue whether a dairy farmer claiming credits under this section has met the eligibility requirements provided in this subsection and the amount of credit to which any such eligible applicant is entitled.

SECTION 4. Section 6L of said chapter 62, inserted by section 5 of chapter 63 of the acts of 2007, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

- (a) This section shall apply to credits earned under subsections (l) or (o) of section 6.
- (b) At the written election of a taxpayer entitled to a credit under subsections (l) or (o) of section 6, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, at first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of the credits.

SECTION 5. Section 32E of chapter 63, as amended by section 54 of chapter 173 of the acts of 2008, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

- (a) This section shall apply to credits earned under sections 38X or 38Z.
- (b) At the written election of a taxpayer entitled to a credit under sections 38X or 38Z, the commissioner shall apply the credit against the liability of the taxpayer as determined on his return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of credits.

SECTION 6. Said chapter 63 is hereby further amended by inserting after section 38Y, inserted by section 83 of chapter 173 of the acts of 2008, the following section:-

Section 38Z. (a) There shall be established a dairy farm tax credit program under which a domestic or foreign corporation that holds a certificate of registration as a dairy farm pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced and sold. The credit may be claimed against the taxes due pursuant to this chapter. The credit shall be established to offset the cyclical downturns in milk prices paid to dairy farmers and shall be based on the United States Federal Milk Marketing Order for the applicable market such that if the United States Federal Milk Marketing Order price drops below a trigger price anytime during the taxable year such domestic or foreign corporation may receive the tax credit.

(b) The commissioner of agricultural resources, in consultation with the commissioner of revenue, shall adopt regulations for the implementation, administration and enforcement of this section, including the establishment of the trigger price, which shall take into account the operating costs of milk production including hired labor and some portion of the value of unpaid labor, and the amount of the tax credit which shall be based upon volume of milk production.

(c) The total cumulative value of the tax credits authorized pursuant to this section and subsection (o) of section 6 of chapter 62 shall not exceed \$4,000,000 annually.

(d) If the amount of the credit allowed under this section exceeds the taxpayer's liability,

the commissioner of revenue shall treat such excess as an overpayment and shall pay the taxpayer 90 per cent of the amount of such excess, without interest. The commissioner of agricultural resources shall certify to the department of revenue whether a dairy farm claiming credits under this section has met the eligibility requirements provided in this section and the amount of credit to which any such eligible applicant is entitled.

SECTION 14. The credits allowed under subsection (o) of section 6 of chapter 62 of the General Laws and section 38Z of chapter 63 of the General Laws shall be reviewed by the department of agricultural resources after the tax credit programs established in said subsection (o) of said chapter 63 and said section 38Z have been in place for 2 tax years.