



Department of  
Taxation and Finance

Agriculture  
and Markets

# Farm Employer Overtime Credit





# Background, eligibility, and definitions



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# Farm Employer Overtime Credit

- A new refundable credit is available for farm employers who pay overtime wages after January 1, 2024, based on the phase in of an OT threshold.
- The credit equals 118% of the additional cost of the eligible overtime paid to eligible farm employees.
  - In 2024, hours between 56 and 60 count towards the credit
  - Credit is the OT pay minus base pay \* eligible hours \* 118%



# Calculation Example

- An eligible farm employee works 59 hours in 2024 at \$15/hr normal rate and \$22.50/hr OT rate.
- The calculation will be:
  - $1.18 \times (59 - 56) \times (22.50 - 15)$ ; or
  - $118\% \times 3 \text{ eligible hours} \times \$7.50 \text{ OT additional cost.}$



# Definitions

- Farm employer – a corporation (including a New York S corporation), a sole proprietorship, a limited liability company (LLC), or a partnership that is an eligible farmer as defined in §606(n), *Agricultural property tax credit*.
- Eligible farmer – a taxpayer whose federal gross income from farming for the tax year is at least two-thirds of *excess federal gross income* (the amount of federal gross income from **all** sources for the taxable year **in excess of** thirty thousand dollars).
- Eligible farm employee – an individual who meets the definition of a farm laborer under Labor Law § 2, who is employed by a farm employer in New York State. A general executive officer of the farm employer is **not** an eligible farm employee.
- Eligible overtime - the total number of hours your employee worked in a week that exceeds the overtime work threshold shown on the next slide, **not including hours in excess of 60 hours** in a calendar week.



# Eligible Overtime Thresholds

Starting on	Hours in excess of	And no more than
January 1, 2024	56 hours	60 hours
January 1, 2026	52 hours	
January 1, 2028	48 hours	
January 1, 2030	44 hours	
January 1, 2032	40 hours	



# Record keeping requirements

- For claiming both the credit and advance payment, you will need to keep employee payroll records including:

Employee's name, SSN or ITIN, Pay period, Eligible OT hours worked, Employee's OT rate, Employee's normal rate.

<b>A</b>	<b>B</b>	<b>C</b>	<b>B2</b>
Name of eligible farm employee (Last name First name)	Social Security / ITIN	Pay period(s)	Social Security / ITIN (same as column B)

<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
Eligible OT hours worked for year (Do not include hours before 1/1/24)	Employee overtime rate	Employee normal rate	Eligible rate available for credit (Column F – Column G)	Eligible OT pay per Employee (column E x column H)



# Advance Payment Option

- Farm employers may apply for an advance payment of the eligible overtime paid between **January 1 and July 31**.
- The farm employer must apply with the Department of Agriculture and Markets for an advance payment certificate **by September 30**.





# Advance Payment Option

- The Department of Agriculture and Markets will issue a **certificate** listing the farm employer's name, the applicable owners' names, and advance payment amounts.
- The farm is responsible for informing all owners/partners/shareholders of the advance payment opportunity and the steps to apply.
- Each owner must apply to the Department of Tax and Finance for advance payment **no later than November 1**.



# Farm Employer Overtime Credit

- Overtime paid between August 1 and December 31 is **not** eligible for the advance payment and can only be claimed when you file your tax return.
- Any months where advance payment is not claimed can also be taken as a credit on the return.
- Between the advance payment and credit claimed on a tax return, taxpayers will receive credit for all 12 months in some way.





# Overview of Application Process

## Submit via online portal:

**Step 1** – Visit online application

**Step 2** – Register your farm

**Step 3** – Input or upload eligible farm employee information (Excel template provided in the system)

**Step 4** – Review, sign attestation, and submit application

Email notices provided when application received, more information needed, approved, etc.



# Step 1: Visit Online Application

- Visit [www.agriculture.ny.gov/OTadvance](http://www.agriculture.ny.gov/OTadvance) or search “overtime” on AGM’s homepage
- Must have **My.NY.gov account** before starting



# Step 2: Register

- My.NY.gov account
- Farm name and taxpayer ID number
- Farm organizational structure (Corporation, S-corp, partnership, sole-proprietor, etc.)
- Ownership information (all names with social security numbers or taxpayer identification numbers, percent of ownership)



# Step 3: Provide Employee(s) Information

- Full name
- Social security number or taxpayer identification number
- Total eligible overtime hours worked between 1/1 – 7/31
- Employee overtime rate
- Employee regular/base rate

\* per employee



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# Step 4: Attestation

- **True, accurate and complete.**
- Expect to meet the **eligibility requirement** of having federal gross income from farming that is at least **2/3<sup>rd</sup> of the farm's federal gross income** from all sources that **exceeds \$30,000** for the taxable year.
- Aware of the serious implications regarding **tax liability** and that you are responsible to consult with a **tax professional** as necessary.
- **Authorized** to submit the application on behalf of the farm owners/partners/members/shareholders.





# Steps 4: Attestation, cont.

- You are responsible/liable for **sharing the information** provided in the application with all **owners/partners/members/shareholders**.
- If it is determined that the farm is eligible for an advance certificate, you are responsible for **sharing the certificate** with all **owners/partners** so they can each **request their advance credit** payment from the New York State Department of Taxation and Finance.



# Certificate Approval Process

- Online approval process is automatic.
- If information is missing or improperly entered (e.g., total farm ownership does not equal 100%) an error message will appear and the application cannot be submitted.
- When approved, the farm or their designee will immediately receive confirmation on the screen with their certificate number and instructions for next steps.



# Approved Applications

- **Certificate emailed** to the farm employer or designee with the amount of the advanced credit and a unique certificate number.
- Names of owners, partners or shareholders with **corresponding amounts listed on certificate.**
- Farm employer will be **responsible for sharing** the certificate with all owners, partners or shareholders so they can each claim their advanced credit.



# Advanced payment and tax credit



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# Claiming the Advanced Credit

- The farm owners (for example partners or shareholders if the farm employer is a partnership or S-corporation) will provide DTF with the information from the certificate.
- Application via DTF Online Services.
- Payment will be issued once information is verified.
- Advance payment received will be deducted from annual calculation on the credit form.



# For More Information

## Department of Agriculture and Markets

- Website: [www.agriculture.ny.gov/OTadvance](http://www.agriculture.ny.gov/OTadvance)
- Email: [FarmOTAdvance@agriculture.ny.gov](mailto:FarmOTAdvance@agriculture.ny.gov)
- Telephone: (518) 457-7076



# For More Information

## Department of Taxation and Finance

- Website: [www.tax.ny.gov](http://www.tax.ny.gov) (search: *overtime*)
- Webpage: <https://www.tax.ny.gov/pit/credits/farm-employer-overtime-credit.htm>
- For corporations: Call (518) 485-6027 to obtain Form CT-661 and its instructions (for corporations)
- For all others: Call (518) 457-5181 to obtain Form IT-661, Farm Employer Overtime Credit and Attachment, and its instructions

