

Farm Employer Overtime Credit -- Advance Payment Certificate

Frequently Asked Questions

Updated November 17, 2023

Q. How do I know if my farm qualifies for this new credit?

- A. You are entitled to this refundable credit if you or your business is an [eligible farmer](#); and employs eligible farm employees that you paid eligible overtime.

Q. How much is the credit?

- A. The credit amount is based on the eligible overtime you or your business pay. The credit is 118% (1.18) of the eligible overtime hours you or your business paid multiplied by the difference between the employees' overtime rate of pay and their regular rate of pay.

Calculation: $1.18 \times \text{eligible overtime hours} \times (\text{overtime rate} - \text{regular rate}) = \text{credit amount}$

Eligible overtime is the total number of hours your eligible farm employee works in a week that exceeds the [overtime work threshold](#) not including hours in excess of 60 hours in a calendar week.

Q. What records will I need to provide to get the overtime credit advance and when should I start keeping them?

- A. For each eligible farm employee who has worked qualifying overtime, farm employers will need to provide the following information when requesting an advance payment certificate:
- the employee's full name and social security number or taxpayer identification number,
 - the primary zip code where the work was completed,
 - the pay period start and end date(s) for any pay period(s) during which eligible overtime was completed,
 - the base rate of pay and overtime rate of pay, and
 - the number of regular hours and eligible overtime hours worked by that employee.

Farm employers applying for the advance payment certificate must provide documentation for the time period between January 1 – July 31 that they are seeking an advance payment.

Additional information regarding recording keeping for this credit can be found [here](#).

Q. If my farm has multiple owners/partners/members/shareholders, how do we each receive the credit? How is the amount for each partner determined? Will we get separate advance checks?

A. If the farm has multiple owners, partners, members or shareholders, the entity applying for the advance payment certificate will need to provide the social security number (SSN) or taxpayer identification number (TPIN) for each owner/partner/member/shareholder, along with their percentage of ownership.

The advance payment certificate issued by the Department of Agriculture and Markets to the farm employer will include all owners' names that were provided along with the credit amount for each. The farm will be responsible for sharing the certificate with each owner/partner/member/shareholder so they can each request their advanced credit payment from the New York State Department of Taxation and Finance. The request to the Tax Department must be made **no later than November 1**.

Q. How do I know if an employee is eligible to be counted towards the overtime credit? Does it matter what they do on the farm or if they are family members?

A. An eligible farm employee is 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 is **not** an eligible farm employee.

Q. What happens if an employee has different hourly rates for different jobs or if their rate changes during the year? How should their "regular pay" be calculated?

A. If an employee has different rates of pay, their information will need to be listed in the application at the different rates. The online application will accommodate this requirement.

Q. Can I claim the overtime credit for farm laborers that work in our tasting room?

A. Licensed farm wineries/cideries whose sale of wine/cider accounts for more than 50% of farm income may only claim the credit for employees who are employed directly on the agricultural property. Tasting rooms do not qualify as agricultural property.

Q. Do I have to apply for the mid-year advance credit payment if I plan to apply at the end of the year?

A. No, you do not have to apply for the mid-year advance. It is an optional service provided to farm employers by the Department of Agriculture and Markets and the Department of Taxation and Finance. If no advance payment

is claimed or authorized for the January - July period, the entire year's overtime is claimed when filing the year-end tax return.

Q. What are the deadlines to apply for the overtime credit advance payment?

- A. The deadline to apply for an advance payment certificate from the Department of Agriculture and Markets is **September 30**.

In order to receive a credit advance payment, each owner, partner, member or shareholder must apply to [New York State Department of Taxation and Finance Online Services](#) no later than **November 1**.

Q. If I have questions, where can I get help?

- A. Questions regarding the Farm Employer Overtime Credit Advance Payment Certificate may be directed to farmOTadvance@agriculture.ny.gov or (518) 457-7076.