

2376

2011-2012 Regular Sessions

I N   S E N A T E

January 19, 2011

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Introduced by Sens. SEWARD, BONACIC, DeFRANCISCO, FUSCHILLO, GRISANTI, LARKIN, MAZIARZ, O'MARA, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to extending the benefits of the STAR program to small businesses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 3 of section 425 of the real property tax law,  
2     as added by section 1 of part B of chapter 389 of the laws of 1997,  
3     paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph  
4     (b-1) as added by section 1 of part FF of chapter 57 of the laws of  
5     2010, paragraph (d) as added by chapter 443 of the laws of 2003 and  
6     paragraph (e) as added by section 2 of part W of chapter 57 of the laws  
7     of 2008, is amended to read as follows:  
8     3. Eligibility requirements. (a) Property use. To qualify for  
9     exemption pursuant to this section, the property must be a one, two or  
10    three family residence, a farm dwelling, A SMALL BUSINESS or residential  
11    property held in condominium or cooperative form of ownership. If the  
12    property is not an eligible type of property, but a portion of the prop-  
13    erty is partially used by the owner as a primary residence, that portion  
14    which is so used shall be entitled to the exemption provided by this  
15    section; provided that in no event shall the exemption exceed the  
16    assessed value attributable to that portion.  
17    (b) Primary residence. The property must serve as the primary resi-  
18    dence of one or more of the owners thereof, UNLESS SUCH PROPERTY IS  
19    OWNED BY A SMALL BUSINESS AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVI-  
20    SION.  
21    (b-1) Income. For final assessment rolls to be used for the levy of  
22    taxes for the two thousand eleven-two thousand twelve school year and  
23    thereafter, the parcel's affiliated income may be no greater than five

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD05745-01-1

1 hundred thousand dollars, as determined by the commissioner of taxation  
2 and finance pursuant to section one hundred seventy-one-u of the tax  
3 law, in order to be eligible for the basic exemption authorized by this  
4 section. As used herein, the term "affiliated income" shall mean the  
5 combined income of all of the owners of the parcel who resided primarily  
6 thereon on the applicable taxable status date, and of any owners' spouses  
7 residing primarily thereon. For exemptions on final assessment rolls  
8 to be used for the levy of taxes for the two thousand eleven-two thousand  
9 twelve school year, affiliated income shall be determined based  
10 upon the parties' incomes for the income tax year ending in two thousand  
11 nine. In each subsequent school year, the applicable income tax year  
12 shall be advanced by one year. The term "income" as used herein shall  
13 have the same meaning as in subdivision four of this section.

14 (c) Trusts. If legal title to the property is held by one or more  
15 trustees, the beneficial owner or owners shall be deemed to own the  
16 property for purposes of this subdivision.

17 (d) Farm dwellings not owned by the resident. (i) If legal title to  
18 the farm dwelling is held by an S-corporation or by a C-corporation, the  
19 exemption shall be granted if the property serves as the primary residence  
20 of a shareholder of such corporation.

21 (ii) If the legal title to the farm dwelling is held by a partnership,  
22 the exemption shall be granted if the property serves as the primary  
23 residence of one or more of the partners.

24 (iii) Any information deemed necessary to establish shareholder or  
25 partner status for eligibility purposes shall be considered confidential  
26 and exempt from the freedom of information law.

27 (e) Dwellings owned by limited partnerships. (i) If legal title to a  
28 dwelling is held by a limited partnership, the exemption shall be granted  
29 if the property serves as the primary residence of one or more of the  
30 partners, provided that the limited partnership which holds title to the  
31 property does not engage in any commercial activity, that the limited  
32 partnership was lawfully created to hold title solely for estate planning  
33 and asset protection purposes, and that the partner or partners who  
34 primarily reside thereon personally pay all of the real property taxes  
35 and other costs associated with the property's ownership.

36 (ii) Any information deemed necessary to establish partner status for  
37 eligibility purposes shall be considered confidential and exempt from  
38 the freedom of information law.

39 (F) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "SMALL BUSINESS"  
40 SHALL MEAN A BUSINESS WHICH EMPLOYS TWENTY PERSONS OR LESS.

41 S 2. This act shall take effect immediately and shall apply to all  
42 taxable years beginning on and after January 1, 2011.