

STATE OF NEW YORK

4734

2021-2022 Regular Sessions

IN SENATE

February 10, 2021

Introduced by Sens. GRIFFO, O'MARA, ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to enact the "Made in New York act"; and to amend the tax law, in relation to increasing the reduction of federal adjusted gross income granted to certain small businesses (Part A); to amend the real property tax law, in relation to extending eligibility for the school tax relief exemption to certain small businesses (Part B); and to amend the economic development law, in relation to establishing the 3-D program (Part C)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known as the "Made in New
2 York act".

3 § 2. This act enacts into law major components of legislation enabling
4 existing businesses in the state to compete, succeed and create new
5 jobs. Each component is wholly contained within a Part identified as
6 Parts A through C. The effective date for each particular provision
7 contained within such Part is set forth in the last section of such
8 Part. Any provision in any section contained within a Part, including
9 the effective date of the Part, which makes reference to a section "of
10 this act", when used in connection with that particular component, shall
11 be deemed to mean and refer to the corresponding section of the Part in
12 which it is found. Section four of this act sets forth the general
13 effective date of this act.

14 PART A

15 Section 1. Paragraph 39 of subsection (c) of section 612 of the tax
16 law, as added by section 1 of part Y of chapter 59 of the laws of 2013,
17 is amended to read as follows:

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

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(39) In the case of a taxpayer who is a small business who has business income and/or farm income as defined in the laws of the United States, an amount equal to three percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand thirteen, an amount equal to [~~three and three-quarters~~] five percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fourteen, and an amount equal to [~~five~~] ten percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fifteen. For the purposes of this paragraph, the term small business shall mean a sole proprietor or a farm business who employs one or more persons during the taxable year and who has net business income or net farm income of less than two hundred fifty thousand dollars.

§ 2. This act shall take effect immediately.

PART B

Section 1. Paragraph (a) of subdivision 2 of section 425 of the real property tax law, as amended by section 1 of part E of chapter 83 of the laws of 2002, is amended to read as follows:

(a) Overview. There shall be two variations of the exemption authorized by this section: an exemption for property owned by persons who satisfy or a small business which satisfies the criteria set forth in subdivision three of this section, which shall be known as the "basic" STAR exemption, and an exemption for property owned by senior citizens who satisfy the criteria set forth in both subdivisions three and four of this section, which shall be known as the "enhanced" STAR exemption. The exempt amount for each assessing unit shall be determined annually as set forth in this subdivision, by multiplying the "base figure" by the locally-applicable "sales price differential factor," if any, multiplying the product by the appropriate "equalization factor" for the assessing unit, and, if necessary, increasing the result to equal the applicable "floor." The result is then rounded to the nearest multiple of ten dollars.

§ 2. Paragraphs (a), (b) and (b-1) of subdivision 3 of section 425 of the real property tax law, paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph (b) as added by section 1 of part B of chapter 389 of the laws of 1997 and paragraph (b-1) as amended by section 1 of part RR of chapter 59 of the laws of 2019, are amended and three new paragraphs (a-1), (a-2) and (b-2) are added to read as follows:

(a) Property use. To qualify for exemption pursuant to this section, the property must be a one, two or three family residence, a farm dwelling ~~[or]~~, residential property held in condominium or cooperative form of ownership or the primary place of business of a small business. If the property is not an eligible type of property, but a portion of the property is partially used by the owner as a primary residence, that portion which is so used shall be entitled to the exemption provided by this section; provided that in no event shall the exemption exceed the assessed value attributable to that portion.

(a-1) Small business. To qualify for an exemption pursuant to this section, a small business must be a business entity, other than a sole

1 proprietorship, which employs not less than two employees, nor more than
2 fifty employees at its primary place of business.

3 (a-2) Person. For the purposes of this section, "person" or "owner"
4 shall include a small business.

5 (b) Primary residence. The property must serve as the primary resi-
6 dence of one or more of the owners thereof, or as the primary place of
7 business of a small business.

8 (b-1) Income. For final assessment rolls to be used for the levy of
9 taxes for the two thousand eleven-two thousand twelve through two thou-
10 sand eighteen-two thousand nineteen school years, the parcel's affil-
11 iated income may be no greater than five hundred thousand dollars, as
12 determined by the commissioner pursuant to subdivision fourteen of this
13 section or section one hundred seventy-one-u of the tax law, in order to
14 be eligible for the basic exemption authorized by this section. Begin-
15 ning with the two thousand nineteen-two thousand twenty school year, for
16 purposes of the exemption authorized by this section, [the] a residen-
17 tial parcel's affiliated income may be no greater than two hundred fifty
18 thousand dollars, as so determined. As used herein, the term "affiliated
19 income" shall mean the combined income of all of the owners of the
20 parcel who resided primarily thereon on the applicable taxable status
21 date, and of any owners' spouses residing primarily thereon. For
22 exemptions on final assessment rolls to be used for the levy of taxes
23 for the two thousand eleven-two thousand twelve school year, affiliated
24 income shall be determined based upon the parties' incomes for the
25 income tax year ending in two thousand nine. In each subsequent school
26 year, the applicable income tax year shall be advanced by one year. The
27 term "income" as used herein shall have the same meaning as in subdivi-
28 sion four of this section.

29 (b-2) Primary place of business. For small businesses, the property
30 shall be property at a single location within the state, upon which the
31 small business carries on its business enterprise.

32 § 3. Paragraph (a) of subdivision 5 of section 425 of the real proper-
33 ty tax law, as amended by section 5 of part E of chapter 83 of the laws
34 of 2002, is amended to read as follows:

35 (a) Generally. Every school district shall notify, or cause to be
36 notified, each person owning residential real property and each small
37 business owning real property in the school district of the provisions
38 of this section. The provisions of this subdivision may be met by a
39 notice sent to such persons in substantially the following form: "Resi-
40 dential and small business real property may qualify for a partial
41 exemption from school district taxes under the New York state school tax
42 relief (STAR) program. To receive such exemption, owners of qualifying
43 property must file an application with their local assessor on or before
44 the applicable taxable status date. For further information, please
45 contact your local assessor."

46 § 4. Paragraph (a) of subdivision 6 of section 425 of the real proper-
47 ty tax law, as amended by section 1 of part A of chapter 60 of the laws
48 of 2016, is amended to read as follows:

49 (a) Generally. All owners of the property who primarily reside thereon
50 and who are not subject to the provisions of subdivision sixteen of this
51 section must jointly or, in the case of a small business, the owner or
52 owners thereof must file an application for exemption with the assessor
53 on or before the appropriate taxable status date. Such application may
54 be filed by mail if it is enclosed in a postpaid envelope properly
55 addressed to the appropriate assessor, deposited in a post office or
56 official depository under the exclusive care of the United States postal

1 service, and postmarked by the United States postal service on or before
2 the applicable taxable status date. Each such application shall be made
3 on a form prescribed by the commissioner, which shall require the appli-
4 cant or applicants to agree to notify the assessor if their primary
5 residence or primary place of business changes while their property is
6 receiving the exemption. The assessor may request that proof of residen-
7 cy be submitted with the application. If the applicant requests a
8 receipt from the assessor as proof of submission of the application, the
9 assessor shall provide such receipt. If such request is made by other
10 than personal request, the applicant shall provide the assessor with a
11 self-addressed postpaid envelope in which to mail the receipt.

12 § 5. Subdivision 10 of section 425 of the real property tax law, as
13 added by section 1 of part B of chapter 389 of the laws of 1997, para-
14 graph (a) as further amended by subdivision (b) of section 1 of part W
15 of chapter 56 of the laws of 2010, is amended to read as follows:

16 10. Proof of residency. (a) Requests. From time to time, the assessor
17 may request proof of residency or proof of primary place of business
18 from the owner or owners of any property which is exempt pursuant to
19 this section. In addition, the assessor shall request proof of residency
20 or primary place of business from any such owner or owners when
21 requested to do so by the commissioner.

22 (b) Timing. A request for proof of residency or primary place of busi-
23 ness shall be mailed at least sixty days prior to the ensuing taxable
24 status date. The owner or owners shall submit proof of their residency
25 or primary place of business to the assessor on or before the ensuing
26 taxable status date.

27 (c) Review of submission. The burden shall be on the owner or owners
28 to establish that the property is their primary residence or primary
29 place of business. If they submit proof of residency or primary place
30 of business on or before the ensuing taxable status date, and the
31 submission demonstrates to the assessor's satisfaction that the property
32 is the primary residence or primary place of business of one or more of
33 the owners thereof, and if the requirements of this section are other-
34 wise satisfied, the exemption shall continue in effect on the ensuing
35 tentative assessment roll. Otherwise, the assessor shall discontinue
36 the exemption on the next ensuing tentative assessment roll as provided
37 ~~herein~~ in this section, and, where appropriate, shall proceed as
38 further provided ~~herein~~ in this section.

39 § 6. Subparagraph (i) of paragraph (a) of subdivision 11 of section
40 425 of the real property tax law, as added by section 1 of part B of
41 chapter 389 of the laws of 1997, is amended to read as follows:

42 (i) the property may not be the primary residence or primary place of
43 business of the owner or owners who applied for the exemption,

44 § 7. Subparagraph (iii) of paragraph (b) of subdivision 14 of section
45 425 of the real property tax law, as added by section 1 of part J of
46 chapter 57 of the laws of 2013, is amended to read as follows:

47 (iii) the property does not serve as the primary residence or the
48 primary place of business of any of its owners;

49 § 8. This act shall take effect immediately and shall apply to taxable
50 years beginning on or after January 1, 2022.

51 PART C

52 Section 1. The economic development law is amended by adding a new
53 article 24 to read as follows:

ARTICLE 24
3-D PROGRAM

Section 500. Short title.

501. Eligibility criteria for manufacturers.

502. Tax benefits.

§ 500. Short title. This article shall be known and may be cited as the "Dreamed in New York, Designed in New York and Developed in New York program" or the "3-D program".

§ 501. Eligibility criteria for manufacturers. 1. In order to participate in the 3-D program, a business that manufactures a product within the state shall satisfy all of the following criteria:

(a) the manufacturer designed and developed a new product within the state;

(b) the manufacturer manufactures such new product in this state;

(c) the manufacturer's primary place for the manufacture of such new product is in the state; and

(d) the commissioner shall have certified that such manufacturer has satisfied the requirements of paragraphs (a), (b) and (c) of this subdivision, and shall have certified the location or locations within the state at which the new product is manufactured.

2. An eligible business may be organized as a corporation, a partnership, a limited liability company or a sole proprietorship.

3. A business must be in compliance with all worker protection and environmental laws and regulations. In addition, a business shall not owe any past due federal, state or municipal taxes.

§ 502. Tax benefits. A business that is certified by the commissioner to be eligible to participate in the 3-D program and its employees shall be entitled to all benefits granted to participants in the START-UP NY program pursuant to article twenty-one of this chapter and any other provision of law related thereto.

§ 2. This act shall take effect immediately and shall apply to taxes imposed on or after January 1, 2022.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.