S T A T E   O F   N E W   Y O R K

9007

2009-2010 Regular Sessions

I N A S S E M B L Y

June 18, 2009

Introduced by M. of A. MILLER, BURLING, CALHOUN, REILICH, SAYWARD, TOWNSEND -- Multi-Sponsored by -- M. of A. CROUCH, McDONOUGH -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, the tax law and the real property law, in relation to funding for school districts

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

Section 1. Legislative findings and intent. The legislature hereby finds that the real property tax on residential properties is often an archaic and inequitable form of taxation which requires lower income taxpayers to pay a higher percentage of their income on property taxes. The current property tax system often creates a disincentive for local residents to become homeowners and hinders the ability to sell or transfer property.

The legislature finds that a tax on personal income instead of the tax on residential property would be a fairer and more progressive way to raise the revenue needed to fund local school districts. However, the legislature further finds that it is necessary to maintain the current system of taxation for real property that is non-residential.

S 2. The real property tax law is amended by adding a new section 1301 to read as follows:

S 1301. APPLICABILITY OF ARTICLE. THE PROVISIONS OF THIS ARTICLE, INCLUDING ALL PROVISIONS RELATING TO THE ASSESSMENT OF PROPERTIES AND THE TAXATION OF SUCH PROPERTIES SHALL APPLY TO NON-RESIDENTIAL PROPERTY AND ALL RENTAL PROPERTY WHETHER OR NOT SUCH RENTAL PROPERTY IS ALSO THE RESIDENCE OF THE LANDLORD ONLY FOLLOWING IMPLEMENTATION OF SECTION SIX HUNDRED ONE-A OF THE TAX LAW.

S 3. Section 1308 of the real property tax law is amended to read as follows:

S 1308. Property subject to levy. [Except as provided in section thirteen hundred ten of this chapter, school] SCHOOL district taxes shall be

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

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levied by the school authorities upon all NON-RESIDENTIAL real property AND ALL RENTAL PROPERTY WHETHER OR NOT SUCH RENTAL PROPERTY IS ALSO THE RESIDENCE OF THE LANDLORD within the boundaries of the district which is not by law exempt from such taxation. Such taxes shall be levied against each parcel of such real property. In all cases the levy shall be deemed as against the real property itself. The name of the owner, last known owner or reputed owner shall be regarded as an aid to identify such parcel. A mistake in any such name shall not affect the validity of the levy against the parcel.

S 4. The tax law is amended by adding a new section 601-a to read as follows:

S 601-A. ADDITIONAL PERSONAL INCOME TAX FOR EDUCATION. (A) IN ADDITION TO THE TAXES ON INCOME IMPOSED BY THIS CHAPTER, THERE SHALL BE IMPOSED A TAX FOR THE FUNDING OF EDUCATION IN THE LOCAL SCHOOL DISTRICTS OF THE STATE.

(B) IN ESTABLISHING THE INITIAL RATES OF TAXATION FOR THE ADDITIONAL PERSONAL INCOME TAX AUTHORIZED BY THIS SECTION, THE DEPARTMENT SHALL DETERMINE THE TOTAL AMOUNT FOR EDUCATION THAT WAS LEVIED THROUGH THE RESIDENTIAL PROPERTY TAX IN EFFECT PURSUANT TO ARTICLE THIRTEEN OF THE REAL PROPERTY TAX LAW IN THE YEAR PRECEDING IMPLEMENTATION OF THE ADDITIONAL PERSONAL INCOME TAX FOR EDUCATION AUTHORIZED BY THIS SECTION. SUCH RATES OF TAXATION SHALL RESULT IN AN AMOUNT OF FUNDING THAT IS EQUAL TO OR MORE THAN THE FUNDING PREVIOUSLY PROVIDED TO LOCAL SCHOOL DISTRICTS UNDER THE SYSTEM OF RESIDENTIAL PROPERTY TAXATION, AS WELL AS THE NECESSARY AMOUNT OF FUNDING TO FULFILL THE BUDGET OF EVERY LOCAL SCHOOL DISTRICT.

(C) THE BASE AMOUNT OF TOTAL TAXPAYER INCOME THAT MAY BE SUBJECT TO THE ADDITIONAL PERSONAL INCOME TAX AUTHORIZED BY THIS SECTION SHALL BE THIRTY THOUSAND DOLLARS. IN NO EVENT SHALL A TAXPAYER WITH A TOTAL INCOME OF LESS THAN THIRTY THOUSAND DOLLARS BE SUBJECT TO THE ADDITIONAL TAX AUTHORIZED BY THIS SECTION.

(D) THE COMMISSIONER SHALL ESTABLISH A SEPARATE ACCOUNT OR ACCOUNTS TO RECEIVE THE ADDITIONAL TAX IMPOSED BY SUBSECTION (A) OF THIS SECTION AND SHALL PAY INTO SUCH ACCOUNT OR ACCOUNTS THE TOTAL OF ALL SUCH TAXES WHEN RECEIVED AND RETAIN THE SAME SUBJECT TO DISBURSEMENT BY THE STATE.

S 5. The real property law is amended by adding a new section 235-g to read as follows:

S 235-G. NOTICE TO TENANT OF RENT AMOUNT ATTRIBUTABLE TO TAXATION ON PROPERTY. IT SHALL BE THE DUTY OF THE LANDLORD TO PROVIDE WRITTEN NOTIFICATION TO EACH TENANT OF THE PRO-RATA AMOUNT OF RENT FOR EACH UNIT WHICH IS ATTRIBUTABLE TO THE AMOUNT OF TAXATION OF SUCH PROPERTY IN ACCORDANCE WITH THE ASSESSMENT AND TAXATION OF SUCH RENTAL PROPERTY PURSUANT TO ARTICLE THIRTEEN OF THE REAL PROPERTY TAX LAW FOR THE PURPOSES OF ENABLING SUCH TENANT TO DETERMINE THE AMOUNT OF TAX CREDIT AUTHORIZED PURSUANT TO SUBSECTION (QQ) OF SECTION SIX HUNDRED SIX OF THE TAX LAW.

S 6. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) CREDIT FOR RENT AMOUNT ATTRIBUTABLE TO PROPERTY TAXATION. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO THE AMOUNT OF SUCH TAXPAYER'S RENT ATTRIBUTABLE TO THE TAXATION ON SUCH RENTAL PROPERTY AS DETERMINED BY THE WRITTEN NOTIFICATION PROVIDED TO SUCH TENANT BY HIS OR HER LANDLORD PURSUANT TO SECTION TWO HUNDRED THIRTY-FIVE-G OF THE REAL PROPERTY LAW.

S 7. Construction with other laws. The provisions of this act shall be controlling, notwithstanding the provisions of any other law, code, rule or regulation to the contrary. However, no existing right or remedy of any character shall be lost, impaired or affected by reason of this act, nor shall the validity of any action taken by any public official under the law in force immediately prior to the time this act shall take effect be affected by the enactment of this act. Collection of all outstanding tax liens shall be pursuant to the provisions of the real property tax law.

S 8. Severability. If any clause, sentence, paragraph, 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, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 9. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law.