

2028

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 13, 2011

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Introduced by M. of A. REILICH, SAYWARD, FINCH, RAIA, KOLB -- Multi-Sponsored by -- M. of A. BARCLAY, BOYLE, BURLING, BUTLER, CALHOUN, CONTE, CROUCH, DUPREY, FITZPATRICK, GIGLIO, HAWLEY, HAYES, P. LOPEZ, McDONOUGH, McKEVITT, J. MILLER, MOLINARO, OAKS, SALADINO, SPANO, TEDISCO, THIELE, WEISENBERG -- read once and referred to the Committee on Real Property Taxation

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, para-  
6     graph (e) as added by section 2 of part W of chapter 57 of the laws of  
7     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.

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

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1 (b-1) Income. For final assessment rolls to be used for the levy of  
2 taxes for the two thousand eleven-two thousand twelve school year and  
3 thereafter, the parcel's affiliated income may be no greater than five  
4 hundred thousand dollars, as determined by the commissioner of taxation  
5 and finance pursuant to section one hundred seventy-one-u of the tax  
6 law, in order to be eligible for the basic exemption authorized by this  
7 section. As used herein, the term "affiliated income" shall mean the  
8 combined income of all of the owners of the parcel who resided primarily  
9 thereon on the applicable taxable status date, and of any owners' spouses  
10 residing primarily thereon. For exemptions on final assessment rolls  
11 to be used for the levy of taxes for the two thousand eleven-two thousand  
12 twelve school year, affiliated income shall be determined based  
13 upon the parties' incomes for the income tax year ending in two thousand  
14 nine. In each subsequent school year, the applicable income tax year  
15 shall be advanced by one year. The term "income" as used herein shall  
16 have the same meaning as in subdivision four of this section.

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

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

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

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

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

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

42 (F) SMALL BUSINESSES. FOR THE PURPOSES OF THIS SUBDIVISION:

43 (I) THE TERM "SMALL BUSINESS" SHALL MEAN A BUSINESS WHICH EMPLOYS ONE  
44 HUNDRED PERSONS OR LESS AND IS LOCATED ON A NON-RESIDENTIAL PROPERTY  
45 USED PRIMARILY FOR COMMERCIAL PURPOSES. SUCH BUSINESS WILL ONLY BE  
46 ELIGIBLE FOR THE EXEMPTION IF IT DOES NOT RECEIVE EMPIRE ZONE REAL PROPERTY  
47 TAX BENEFITS PURSUANT TO SECTION FIFTEEN OF THE TAX LAW OR DOES NOT  
48 MAKE PAYMENTS IN LIEU OF TAXES TO THE PUBLIC SCHOOL DISTRICT IN WHICH  
49 SUCH SMALL BUSINESS IS LOCATED AT A RATE BELOW THE RATE APPLICABLE TO  
50 ALL OTHER PROPERTIES; AND

51 (II) THE TERM "COMMERCIAL" SHALL HAVE THE SAME MEANING AS SET FORTH IN  
52 SECTION FOUR HUNDRED EIGHTY-NINE-AAA OF THIS ARTICLE.

53 S 2. This act shall take effect immediately and shall apply to all  
54 taxable years beginning on and after January 1, 2012.