

2641

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

Introduced by M. of A. SCHIMMINGER, RA -- 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, and paragraph (f) as added by section 1 of part B of chapter 59 of
8 the laws of 2012, is amended to read as follows:
9 3. Eligibility requirements. (a) Property use. To qualify for
10 exemption pursuant to this section, the property must be a one, two or
11 three family residence, a farm dwelling, A SMALL BUSINESS or residential
12 property held in condominium or cooperative form of ownership. If the
13 property is not an eligible type of property, but a portion of the prop-
14 erty is partially used by the owner as a primary residence, that portion
15 which is so used shall be entitled to the exemption provided by this
16 section; provided that in no event shall the exemption exceed the
17 assessed value attributable to that portion.
18 (b) Primary residence. The property must serve as the primary resi-
19 dence of one or more of the owners thereof, UNLESS SUCH PROPERTY IS
20 OWNED BY A SMALL BUSINESS AS DEFINED IN PARAGRAPH (G) OF THIS SUBDIVI-
21 SION.
22 (b-1) Income. For final assessment rolls to be used for the levy of
23 taxes for the two thousand eleven-two thousand twelve school year and
24 thereafter, the parcel's affiliated income may be no greater than five
25 hundred thousand dollars, as determined by the commissioner of taxation

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

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

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

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

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

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

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

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

38 (f) Compliance with state tax obligations. The property's eligibility
39 for the STAR exemption must not be suspended pursuant to section one
40 hundred seventy-one-y of the tax law due to the past-due state tax
41 liabilities of one or more of its owners. Notwithstanding any provision
42 of law to the contrary, where a property's eligibility for a STAR
43 exemption has been suspended pursuant to such section, the following
44 provisions shall be applicable:

45 (i) The property shall be ineligible for a basic or enhanced STAR
46 exemption effective with the next school year commencing after the issu-
47 ance of notice by the department of the suspension of its eligibility
48 for the STAR exemption, even if the notice was issued after the applica-
49 ble taxable status date. If a STAR exemption has been granted to such a
50 property on a tentative or final assessment roll, the assessor or other
51 person having custody of that roll is hereby authorized and directed to
52 immediately remove that STAR exemption from the roll.

53 (ii) Any challenge to the factual or legal basis behind the suspension
54 of a property's eligibility for a STAR exemption pursuant to section one
55 hundred seventy-one-y of the tax law must be presented to the department
56 in the manner prescribed by such section. Neither an assessor nor a

1 board of assessment review has the authority to consider such a chal-
2 lenge.

3 (iii) The property shall remain ineligible for the STAR exemption
4 until the department notifies the assessor that the suspension of its
5 eligibility has been lifted. Once the assessor has been so notified, the
6 exemption may be resumed on a prospective basis only, provided that the
7 eligibility requirements of this section are otherwise satisfied.

8 (iv) In the case of a cooperative apartment or mobile home receiving a
9 STAR exemption pursuant to paragraph (k) or (l) of subdivision two of
10 this section, a suspension of a STAR exemption due to a taxpayer's past-
11 due state tax liabilities shall only apply to the STAR exemption on the
12 cooperative apartment or mobile home owned, or deemed to be owned, by
13 that taxpayer.

14 (G) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "SMALL BUSINESS"
15 SHALL MEAN A BUSINESS WHICH EMPLOYS TWENTY PERSONS OR LESS.

16 S 2. This act shall take effect immediately and shall apply to all
17 taxable years beginning on and after January 1, 2013.