

2794

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 18, 2013

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Introduced by M. of A. REILICH, FINCH, RAIA, KOLB -- Multi-Sponsored by  
-- M. of A. CROUCH, DUPREY, FITZPATRICK, GIGLIO, HAWLEY, P. LOPEZ,  
McDONOUGH, McKEVITT, OAKS, SALADINO, 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 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

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

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

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

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

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

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

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

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

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

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

55 (ii) Any challenge to the factual or legal basis behind the suspension  
56 of a property's eligibility for a STAR exemption pursuant to section one

1 hundred seventy-one-y of the tax law must be presented to the department  
2 in the manner prescribed by such section. Neither an assessor nor a  
3 board of assessment review has the authority to consider such a chal-  
4 lenge.

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

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

16 (G) SMALL BUSINESSES. FOR THE PURPOSES OF THIS SUBDIVISION:

17 (I) THE TERM "SMALL BUSINESS" SHALL MEAN A BUSINESS WHICH EMPLOYS ONE  
18 HUNDRED PERSONS OR LESS AND IS LOCATED ON A NON-RESIDENTIAL PROPERTY  
19 USED PRIMARILY FOR COMMERCIAL PURPOSES. SUCH BUSINESS WILL ONLY BE  
20 ELIGIBLE FOR THE EXEMPTION IF IT DOES NOT RECEIVE EMPIRE ZONE REAL PROP-  
21 ERTY TAX BENEFITS PURSUANT TO SECTION FIFTEEN OF THE TAX LAW OR DOES NOT  
22 MAKE PAYMENTS IN LIEU OF TAXES TO THE PUBLIC SCHOOL DISTRICT IN WHICH  
23 SUCH SMALL BUSINESS IS LOCATED AT A RATE BELOW THE RATE APPLICABLE TO  
24 ALL OTHER PROPERTIES; AND

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

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