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

7121

2015-2016 Regular Sessions

I N A S S E M B L Y

April 24, 2015

Introduced by M. of A. LAWRENCE -- 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:

Section 1. Subdivision 3 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997, paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph (b-1) as added by section 1 of part FF of chapter 57 of the laws of 2010, paragraph (d) as added by chapter 443 of the laws of 2003, paragraph (e) as added by section 2 of part W of chapter 57 of the laws of 2008 and paragraph (f) as added by section 1 of part B of chapter 59 of the laws of 2012, is amended to read as follows:

3. Eligibility requirements. (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, A SMALL BUSINESS or residential property held in condominium or cooperative form of ownership. 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.

(b) Primary residence. The property must serve as the primary residence of one or more of the owners thereof, UNLESS SUCH PROPERTY IS OWNED BY A SMALL BUSINESS AS DEFINED IN PARAGRAPH (G) OF THIS SUBDIVISION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 2. This act shall take effect immediately and shall apply to all taxable years beginning on and after January 1, 2015.