# STATE OF NEW YORK

4734

2021-2022 Regular Sessions

# IN SENATE

February 10, 2021

Introduced by Sens. GRIFFO, O'MARA, ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to enact the "Made in New York act"; and to amend the tax law, in relation to increasing the reduction of federal adjusted gross income granted to certain small businesses (Part A); to amend the real property tax law, in relation to extending eligibility for the school tax relief exemption to certain small businesses (Part B); and to amend the economic development law, in relation to establishing the 3-D program (Part C)

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Short title. This act shall be known as the "Made in New York act".

§ 2. This act enacts into law major components of legislation enabling existing businesses in the state to compete, succeed and create new jobs. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

Section 1. Paragraph 39 of subsection (c) of section 612 of the tax law, as added by section 1 of part Y of chapter 59 of the laws of 2013, is amended to read as follows:

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

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(39) In the case of a taxpayer who is a small business who has business income and/or farm income as defined in the laws of the United States, an amount equal to three percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand thirteen, an amount equal to [~~three and three-quarters~~] **five** percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fourteen, and an amount equal to [~~five~~] **ten** percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fifteen. For the purposes of this paragraph, the term small business shall mean a sole proprietor or a farm business who employs one or more persons during the taxable year and who has net business income or net farm income of less than two hundred fifty thousand dollars.

§ 2. This act shall take effect immediately.

PART B

Section 1. Paragraph (a) of subdivision 2 of section 425 of the real property tax law, as amended by section 1 of part E of chapter 83 of the laws of 2002, is amended to read as follows:

(a) Overview. There shall be two variations of the exemption authorized by this section: an exemption for property owned by persons who satisfy **or a small business which satisfies** the criteria set forth in subdivision three of this section, which shall be known as the "basic" STAR exemption, and an exemption for property owned by senior citizens who satisfy the criteria set forth in both subdivisions three and four of this section, which shall be known as the "enhanced" STAR exemption. The exempt amount for each assessing unit shall be determined annually as set forth in this subdivision, by multiplying the "base figure" by the locally-applicable "sales price differential factor," if any, multiplying the product by the appropriate "equalization factor" for the assessing unit, and, if necessary, increasing the result to equal the applicable "floor." The result is then rounded to the nearest multiple of ten dollars.

§ 2. Paragraphs (a), (b) and (b-1) of subdivision 3 of section 425 of the real property tax law, paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph (b) as added by section 1 of part B of chapter 389 of the laws of 1997 and paragraph (b-1) as amended by section 1 of part RR of chapter 59 of the laws of 2019, are amended and three new paragraphs (a-1), (a-2) and (b-2) are added to read as follows:

(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 [~~or~~]**,** residential property held in condominium or cooperative form of ownership **or the primary place of business of a small business**. 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.

**(a-1) Small business. To qualify for an exemption pursuant to this section, a small business must be a business entity, other than a sole**

**proprietorship, which employs not less than two employees, nor more than fifty employees at its primary place of business.**

**(a-2) Person. For the purposes of this section, "person" or "owner" shall include a small business.**

(b) Primary residence. The property must serve as the primary residence of one or more of the owners thereof**, or as the primary place of business of a small business**.

(b-1) Income. For final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve through two thousand eighteen-two thousand nineteen school years, the parcel's affiliated income may be no greater than five hundred thousand dollars, as determined by the commissioner pursuant to subdivision fourteen of this section or section one hundred seventy-one-u of the tax law, in order to be eligible for the basic exemption authorized by this section. Beginning with the two thousand nineteen-two thousand twenty school year, for purposes of the exemption authorized by this section, [~~the~~] **a residential** parcel's affiliated income may be no greater than two hundred fifty thousand dollars, as so determined. 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.

**(b-2) Primary place of business. For small businesses, the property shall be property at a single location within the state, upon which the small business carries on its business enterprise.**

§ 3. Paragraph (a) of subdivision 5 of section 425 of the real property tax law, as amended by section 5 of part E of chapter 83 of the laws of 2002, is amended to read as follows:

(a) Generally. Every school district shall notify, or cause to be notified, each person owning residential real property **and each small business owning real property** in the school district of the provisions of this section. The provisions of this subdivision may be met by a notice sent to such persons in substantially the following form: "Residential **and small business** real property may qualify for a partial exemption from school district taxes under the New York state school tax relief (STAR) program. To receive such exemption, owners of qualifying property must file an application with their local assessor on or before the applicable taxable status date. For further information, please contact your local assessor."

§ 4. Paragraph (a) of subdivision 6 of section 425 of the real property tax law, as amended by section 1 of part A of chapter 60 of the laws of 2016, is amended to read as follows:

(a) Generally. All owners of the property who primarily reside thereon and who are not subject to the provisions of subdivision sixteen of this section must jointly **or, in the case of a small business, the owner or owners thereof must** file an application for exemption with the assessor on or before the appropriate taxable status date. Such application may be filed by mail if it is enclosed in a postpaid envelope properly addressed to the appropriate assessor, deposited in a post office or official depository under the exclusive care of the United States postal

service, and postmarked by the United States postal service on or before the applicable taxable status date. Each such application shall be made on a form prescribed by the commissioner, which shall require the applicant or applicants to agree to notify the assessor if their primary residence **or primary place of business** changes while their property is receiving the exemption. The assessor may request that proof of residency be submitted with the application. If the applicant requests a receipt from the assessor as proof of submission of the application, the assessor shall provide such receipt. If such request is made by other than personal request, the applicant shall provide the assessor with a self-addressed postpaid envelope in which to mail the receipt.

§ 5. Subdivision 10 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 further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

10. Proof of residency. (a) Requests. From time to time, the assessor may request proof of residency **or proof of primary place of business** from the owner or owners of any property which is exempt pursuant to this section. In addition, the assessor shall request proof of residency **or primary place of business** from any such owner or owners when requested to do so by the commissioner.

(b) Timing. A request for proof of residency **or primary place of business** shall be mailed at least sixty days prior to the ensuing taxable status date. The owner or owners shall submit proof of their residency **or primary place of business** to the assessor on or before the ensuing taxable status date.

(c) Review of submission. The burden shall be on the owner or owners to establish that the property is their primary residence **or primary place of business**. If they submit proof of residency **or primary place of business** on or before the ensuing taxable status date, and the submission demonstrates to the assessor's satisfaction that the property is the primary residence **or primary place of business** of one or more of the owners thereof, and if the requirements of this section are otherwise satisfied, the exemption shall continue in effect on the ensuing tentative assessment roll. Otherwise, the assessor shall discontinue the exemption on the next ensuing tentative assessment roll as provided [~~herein~~] **in this section**, and, where appropriate, shall proceed as further provided [~~herein~~] **in this section**.

§ 6. Subparagraph (i) of paragraph (a) of subdivision 11 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, is amended to read as follows:

(i) the property may not be the primary residence **or primary place of business** of the owner or owners who applied for the exemption,

§ 7. Subparagraph (iii) of paragraph (b) of subdivision 14 of section 425 of the real property tax law, as added by section 1 of part J of chapter 57 of the laws of 2013, is amended to read as follows:

(iii) the property does not serve as the primary residence **or the primary place of business** of any of its owners;

§ 8. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2022.

PART C

Section 1. The economic development law is amended by adding a new article 24 to read as follows:

**ARTICLE 24**
**3-D PROGRAM**

**Section 500. Short title.**
**501. Eligibility criteria for manufacturers.**
**502. Tax benefits.**

**§ 500. Short title. This article shall be known and may be cited as the "Dreamed in New York, Designed in New York and Developed in New York program" or the "3-D program".**

**§ 501. Eligibility criteria for manufacturers. 1. In order to participate in the 3-D program, a business that manufactures a product within the state shall satisfy all of the following criteria:**

**(a) the manufacturer designed and developed a new product within the state;**

**(b) the manufacturer manufactures such new product in this state;**

**(c) the manufacturer's primary place for the manufacture of such new product is in the state; and**

**(d) the commissioner shall have certified that such manufacturer has satisfied the requirements of paragraphs (a), (b) and (c) of this subdivision, and shall have certified the location or locations within the state at which the new product is manufactured.**

**2. An eligible business may be organized as a corporation, a partnership, a limited liability company or a sole proprietorship.**

**3. A business must be in compliance with all worker protection and environmental laws and regulations. In addition, a business shall not owe any past due federal, state or municipal taxes.**

**§ 502. Tax benefits. A business that is certified by the commissioner to be eligible to participate in the 3-D program and its employees shall be entitled to all benefits granted to participants in the START-UP NY program pursuant to article twenty-one of this chapter and any other provision of law related thereto.**

§ 2. This act shall take effect immediately and shall apply to taxes imposed on or after January 1, 2022.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, 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, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.