

STATE OF NEW YORK

2262

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

Introduced by M. of A. BARNWELL -- Multi-Sponsored by -- M. of A. ABBATE, ABINANTI, ARROYO, BRABENEC, CROUCH, DAVILA, D'URSO, GIGLIO, HYNDMAN, LENTOL, MONTESANO, NORRIS, ORTIZ, PALMESANO, PALUMBO, RAMOS, D. ROSENTHAL, SANTABARBARA, SEAWRIGHT, THIELE, VANEL, WALLACE, WALSH, WEPRIN -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to creating an age based school tax relief exemption

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

1 Section 1. The real property tax law is amended by adding a new
2 section 425-b to read as follows:

3 § 425-b. Age based school tax refund. 1. Generally. Real property
4 which satisfies the requirements of this section shall receive a school
5 tax refund as provided herein.

6 2. Overview. Where all of the owners of the parcel who reside primari-
7 ly thereon and any owner's spouse who resides primarily thereon combined
8 have an income, defined as the combined income of all owners, and of any
9 owner's spouses residing on the premises, of not more than three hundred
10 thousand dollars, such property shall be granted an age based school tax
11 refund based on the following formula:

12 (a) seniors aged sixty-five to sixty-nine shall be granted a five
13 hundred dollar refund;

14 (b) seniors aged seventy to seventy-four shall be granted a one thou-
15 sand dollar refund;

16 (c) seniors aged seventy-five to seventy-nine shall be granted a one
17 thousand five hundred dollar refund;

18 (d) seniors aged eighty to eighty-four shall be granted a two thousand
19 dollar refund;

20 (e) seniors aged eighty-five to eighty-nine shall be granted a two
21 thousand five hundred dollar refund; and

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

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1 (f) seniors ninety years of age or older shall be granted a three
2 thousand dollar refund.

3 3. Eligibility requirements. To qualify for the refund pursuant to
4 this section, the property must be a one, two or three family residence,
5 a farm dwelling or residential property held in condominium or cooper-
6 ative form of ownership. If the property is not an eligible type of
7 property, but a portion of the property is partially used by the owner
8 as a primary residence, that portion which is so used shall be entitled
9 to the refund provided by this section. Provided, however, that the
10 property must serve as the primary residence of one or more of the
11 owners thereof.

12 4. Age. (a) All of the owners must meet the age required for the
13 refund as of the date specified herein, or in the case of property owned
14 by husband and wife or by siblings, one of the owners must meet the age
15 required as of that date and the property must serve as the primary
16 residence of that owner. For the two thousand nineteen--two thousand
17 twenty school year, eligibility for the exemption shall be based upon
18 age as of December thirty-first, two thousand nineteen. For each subse-
19 quent school year, the applicable date shall be advanced by one year.

20 (b) The term "siblings" as used in this section shall have the same
21 meaning as set forth in section four hundred sixty-seven of this title.

22 (c) In the case of property owned by husband and wife, one of whom
23 meets the age required, the refund, once granted, shall continue to be
24 issued at the same level each year upon the death of the older spouse so
25 long as the surviving spouse is at least sixty-two years of age as of
26 the date specified in this subdivision until the surviving spouse meets
27 the age required for the same level of refund.

28 5. Computation and certification by commissioner. It shall be the
29 responsibility of the commissioner to compute the exempt amount for each
30 assessing unit in each county in the manner provided in this section,
31 and to certify the same to the assessor of each assessing unit and to
32 the county director of real property tax services of each county. Such
33 certification shall be made at least twenty days before the last date
34 prescribed by law for the filing of the tentative assessment roll.

35 6. Notice requirement. (a) Generally. Every school district shall
36 notify, or cause to be notified, each person owning residential real
37 property in the school district of the provisions of this section. The
38 provisions of this subdivision may be met by a notice sent to such
39 persons in substantially the following form: "Residential real property
40 may qualify for a partial refund from school district taxes under the
41 New York state age based school tax refund program. To receive such
42 refund, owners of qualifying property must file an application with
43 their local assessor on or before the applicable taxable status date.
44 For further information, please contact your local assessor."

45 (b) Third party notice. (i) A person eligible for the age based school
46 tax refund may request that a notice be sent to an adult third party.
47 Such request shall be made on a form prescribed by the commissioner and
48 shall be submitted to the assessor of the assessing unit in which the
49 eligible taxpayer resides no later than sixty days before the first
50 taxable status date to which it is to apply. Such form shall provide a
51 section whereby the designated third party shall consent to such desig-
52 nation. Such request shall be effective upon receipt by the assessor.
53 The assessor shall maintain a list of all eligible property owners who
54 have requested notices pursuant to this paragraph and shall furnish a
55 copy of such list to the department upon request.

1 (ii) The obligation to mail such notices shall cease if the eligible
2 taxpayer cancels the request.

3 (c) Notice not mailed or received. Failure to mail any notice required
4 by this subdivision, or the failure of a party to receive same, shall
5 not affect the validity of the levy, collection, or enforcement of taxes
6 on property owned by such person, or in the case of a third party
7 notice, on property owned by the person requesting the third party
8 notice.

9 7. Application procedure. (a) Generally. All owners of the property
10 who primarily reside thereon must jointly file an application for the
11 refund with the assessor on or before the appropriate taxable status
12 date. Such application may be filed by mail if it is enclosed in a post-
13 paid envelope properly addressed to the appropriate assessor, deposited
14 in a post office or official depository under the exclusive care of the
15 United States postal service, and postmarked by the United States postal
16 service on or before the applicable taxable status date. Each such
17 application shall be made on a form prescribed by the commissioner,
18 which shall require the applicant or applicants to agree to notify the
19 assessor if their primary residence changes while their property is
20 receiving the refund. The assessor may request that proof of residency
21 be submitted with the application. If the applicant requests a receipt
22 from the assessor as proof of submission of the application, the asses-
23 sor shall provide such receipt. If such request is made by other than
24 personal request, the applicant shall provide the assessor with a self-
25 addressed postpaid envelope in which to mail the receipt.

26 (b) Approval or denial of application. If the assessor is satisfied
27 that the applicant or applicants are entitled to a refund pursuant to
28 this section, he or she shall approve the application and such real
29 property shall thereafter receive the age based school tax refund as
30 provided in this section. If the assessor determines that the applicant
31 or applicants are not entitled to a refund pursuant to this section, he
32 or she shall, not later than ten days prior to the date for hearing
33 complaints in relation to assessments, mail to each applicant not enti-
34 tled to the exemption a notice of denial of that application for such
35 refund for that year. The notice of denial shall specify each reason for
36 such denial and shall be sent on a form prescribed by the commissioner.
37 Failure to mail any such notice of denial or the failure of any person
38 to receive such notice shall not prevent the levy, collection and
39 enforcement of the taxes on property owned by such person.

40 8. Effect of refund. The refund shall not be considered when determin-
41 ing state aid to education pursuant to section thirty-six hundred two of
42 the education law, when determining school district debt limits pursuant
43 to law, when determining the amount of taxes to be levied by or on
44 behalf of a school district, when calculating tax rates for a school
45 district, when apportioning taxes between or among school districts,
46 when apportioning taxes among classes in a special assessing unit under
47 article eighteen of this chapter, or when apportioning taxes between
48 classes in an approved assessing unit under article nineteen of this
49 chapter.

50 9. Duration of refund. The refund, once granted, shall remain in
51 effect until discontinued in the manner provided in this section.

52 10. Discontinuance of exemption. (a) Generally. The assessor shall
53 discontinue any refund granted pursuant to this section if it appears
54 that: (i) the owner or owners have qualified for a higher level of
55 refund, upon which such assessor shall approve such higher level of
56 refund, (ii) the property may not be the primary residence of the owner

1 or owners who applied for the exemption, (iii) title to the property has
2 been transferred to a new owner or owners, or (iv) the property other-
3 wise may no longer be eligible for the refund.

4 (b) Rights of owners. Upon determining that a refund granted pursuant
5 to this section should be discontinued, the assessor shall mail a notice
6 stating so to the owner or owners thereof at the time and in the manner
7 provided by section five hundred ten of this chapter. Such owner or
8 owners shall be entitled to seek administrative and judicial review of
9 such action in the manner provided by law, provided, that the burden
10 shall be on such owner or owners to establish eligibility for the
11 exemption.

12 11. Proof of residency. (a) Requests. From time to time, the assessor
13 may request proof of residency from the owner or owners of any property
14 which is receiving a refund pursuant to this section. In addition, the
15 assessor shall request proof of residency from any such owner or owners
16 when requested to do so by the commissioner.

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

21 (c) Review of submission. The burden shall be on the owner or owners
22 to establish that the property is their primary residence. If they
23 submit proof of residency on or before the ensuing taxable status date,
24 and the submission demonstrates to the assessor's satisfaction that the
25 property is the primary residence of one or more of the owners thereof,
26 and if the requirements of this section are otherwise satisfied, the
27 exemption shall continue in effect on the ensuing tentative assessment
28 roll. Otherwise, the assessor shall discontinue the exemption on the
29 next ensuing tentative assessment roll as provided in this section, and,
30 where appropriate, shall proceed as further provided.

31 § 2. This act shall take effect on the one hundred eightieth day after
32 it shall have become a law. Effective immediately, the addition, amend-
33 ment and/or repeal of any rule or regulation necessary for the implemen-
34 tation of this act on its effective date are authorized to be made on or
35 before such date.