

5796

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 20, 2009

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Introduced by M. of A. HAYES, FINCH, HAWLEY, KOLB, MOLINARO, WALKER --  
Multi-Sponsored by -- M. of A. BACALLES, BARCLAY, BURLING, ERRIGO,  
McDONOUGH, RABBITT, TOWNSEND -- read once and referred to the Committee on Aging

AN ACT to amend the real property tax law, in relation to defining the term "income" for senior citizens

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of subdivision 3 of section 467 of the real  
2     property tax law, as amended by section 2 of chapter 186 of the laws of  
3     2006, is amended to read as follows:  
4     (a) if the income of the owner or the combined income of the owners of  
5     the property for the income tax year immediately preceding the date of  
6     making application for exemption exceeds the sum of three thousand  
7     dollars, or such other sum not less than three thousand dollars nor more  
8     than twenty-six thousand dollars beginning July first, two thousand six,  
9     twenty-seven thousand dollars beginning July first, two thousand seven,  
10    twenty-eight thousand dollars beginning July first, two thousand eight,  
11    and twenty-nine thousand dollars beginning July first, two thousand  
12    nine, as may be provided by the local law, ordinance or resolution  
13    adopted pursuant to this section. [Income tax year shall mean the twelve  
14    month period for which the owner or owners filed a federal personal  
15    income tax return, or if no such return is filed, the calendar year.  
16    Where title is vested in either the husband or the wife, their combined  
17    income may not exceed such sum, except where the husband or wife, or  
18    ex-husband or ex-wife is absent from the property as provided in subparagraph (ii) of paragraph (d) of this subdivision, then only the income  
19    of the spouse or ex-spouse residing on the property shall be considered  
20    and may not exceed such sum. Such income shall include social security  
21    and retirement benefits, interest, dividends, total gain from the sale  
22    or exchange of a capital asset which may be offset by a loss from the  
23

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

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1 sale or exchange of a capital asset in the same income tax year, net  
2 rental income, salary or earnings, and net income from self-employment,  
3 but shall not include a return of capital, gifts, inheritances, payments  
4 made to individuals because of their status as victims of Nazi perse-  
5 cution, as defined in P.L. 103-286 or monies earned through employment  
6 in the federal foster grandparent program and any such income shall be  
7 offset by all medical and prescription drug expenses actually paid which  
8 were not reimbursed or paid for by insurance, if the governing board of  
9 a municipality, after a public hearing, adopts a local law, ordinance or  
10 resolution providing therefor. The provisions of this paragraph  
11 notwithstanding, such income shall not include veterans disability  
12 compensation, as defined in Title 38 of the United States Code provided  
13 the governing board of such municipality, after public hearing, adopts a  
14 local law, ordinance or resolution providing therefor. In computing net  
15 rental income and net income from self-employment no depreciation  
16 deduction shall be allowed for the exhaustion, wear and tear of real or  
17 personal property held for the production of income;] THE TERM "INCOME"  
18 AS USED HEREIN SHALL MEAN THE "ADJUSTED GROSS INCOME" FOR FEDERAL INCOME  
19 TAX PURPOSES AS REPORTED ON THE APPLICANT'S LATEST AVAILABLE FEDERAL OR  
20 STATE INCOME TAX RETURN, SUBJECT TO ANY SUBSEQUENT AMENDMENTS OR  
21 REVISIONS, REDUCED BY DISTRIBUTIONS, TO THE EXTENT INCLUDED IN FEDERAL  
22 ADJUSTED GROSS INCOME, RECEIVED FROM AN INDIVIDUAL RETIREMENT ACCOUNT  
23 AND AN INDIVIDUAL RETIREMENT ANNUITY; PROVIDED THAT IF NO SUCH RETURN  
24 WAS FILED WITHIN THE ONE YEAR PERIOD PRECEDING TAXABLE STATUS DATE,  
25 "INCOME" SHALL MEAN THE ADJUSTED GROSS INCOME THAT WOULD HAVE BEEN SO  
26 REPORTED IF SUCH A RETURN HAD BEEN FILED. FOR PURPOSES OF THIS SUBDIVI-  
27 SION, "LATEST AVAILABLE RETURN" SHALL MEAN THE FEDERAL OR STATE INCOME  
28 TAX RETURN FOR THE TAX YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING  
29 APPLICATION, PROVIDED HOWEVER, THAT IF THE TAX RETURN FOR SUCH TAX YEAR  
30 HAS NOT BEEN FILED, THEN THE INCOME TAX RETURN FOR THE TAX YEAR TWO  
31 YEARS PRECEDING THE DATE OF MAKING APPLICATION SHALL BE CONSIDERED THE  
32 LATEST AVAILABLE;

33 S 2. This act shall take effect immediately.