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

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2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. HAYES, FINCH, HAWLEY, KOLB, D. MILLER, MOLINARO -- Multi-Sponsored by -- M. of A. BARCLAY, BURLING, JORDAN, McDONOUGH, MONTESANO, RABBITT -- 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:

Section 1. Paragraph (a) of subdivision 3 of section 467 of the real property tax law, as amended by chapter 259 of the laws of 2009, is amended to read as follows:

(a) if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of three thousand dollars, or such other sum not less than three thousand dollars nor more than twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, as may be provided by the local law, ordinance or resolution adopted pursuant to this section. [Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or 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 of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net

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

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rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286 or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law, ordinance or resolution providing therefor. Furthermore, such income shall not include the proceeds of a reverse mortgage, as authorized by section six-h of the banking law, and sections two hundred eighty and two hundred eighty-a of the real property law; provided, however, that monies used to repay a reverse mortgage may not be deducted from income, and provided additionally that any interest or dividends realized from the investment of reverse mortgage proceeds shall be considered income. The provisions of this paragraph notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code provided the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income] THE TERM "INCOME" AS USED HEREIN SHALL MEAN THE "ADJUSTED GROSS INCOME" FOR FEDERAL INCOME TAX PURPOSES AS REPORTED ON THE APPLICANT'S LATEST AVAILABLE FEDERAL OR STATE INCOME TAX RETURN, SUBJECT TO ANY SUBSEQUENT AMENDMENTS OR REVISIONS, REDUCED BY DISTRIBUTIONS, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED GROSS INCOME, RECEIVED FROM AN INDIVIDUAL RETIREMENT ACCOUNT AND AN INDIVIDUAL RETIREMENT ANNUITY; PROVIDED THAT IF NO SUCH RETURN WAS FILED WITHIN THE ONE YEAR PERIOD PRECEDING TAXABLE STATUS DATE, "INCOME" SHALL MEAN THE ADJUSTED GROSS INCOME THAT WOULD HAVE BEEN SO REPORTED IF SUCH A RETURN HAD BEEN FILED. FOR PURPOSES OF THIS SUBDIVISION, "LATEST AVAILABLE RETURN" SHALL MEAN THE FEDERAL OR STATE INCOME TAX RETURN FOR THE TAX YEAR IMMEDIATELY PRECEDING THE DATE OF MAKING APPLICATION, PROVIDED HOWEVER, THAT IF THE TAX RETURN FOR SUCH TAX YEAR HAS NOT BEEN FILED, THEN THE INCOME TAX RETURN FOR THE TAX YEAR TWO YEARS PRECEDING THE DATE OF MAKING APPLICATION SHALL BE CONSIDERED THE LATEST AVAILABLE;

S 2. This act shall take effect immediately.