

STATE OF NEW YORK

7628--B

2017-2018 Regular Sessions

IN ASSEMBLY

May 5, 2017

Introduced by M. of A. BARNWELL, WALLACE, MAGEE, ERRIGO, D. ROSENTHAL, SANTABARBARA, NORRIS, GIGLIO, BRABENEC, CROUCH, OAKS, SEAWRIGHT, HYNDMAN, SKOUFIS, RAMOS, ABINANTI, ARROYO, D'URSO, THIELE, DAVILA, WEPRIN, LENTOL, ORTIZ, VANEL, WALSH, MONTESANO, PALUMBO -- Multi-Sponsored by -- M. of A. ABBATE, BARCLAY, PALMESANO -- read once and referred to the Committee on Real Property Taxation -- recommitted to the Committee on Real Property Taxation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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;

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

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

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

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

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

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

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

26 (b) The term "siblings" as used in this section shall have the same
27 meaning as set forth in section four hundred sixty-seven of this arti-
28 cle.

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

35 5. Computation and certification by commissioner. It shall be the
36 responsibility of the commissioner to compute the exempt amount for each
37 assessing unit in each county in the manner provided in this section,
38 and to certify the same to the assessor of each assessing unit and to
39 the county director of real property tax services of each county. Such
40 certification shall be made at least twenty days before the last date
41 prescribed by law for the filing of the tentative assessment roll.

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

52 (b) Third party notice. (i) A person eligible for the age based school
53 tax refund may request that a notice be sent to an adult third party.
54 Such request shall be made on a form prescribed by the commissioner and
55 shall be submitted to the assessor of the assessing unit in which the
56 eligible taxpayer resides no later than sixty days before the first

1 taxable status date to which it is to apply. Such form shall provide a
2 section whereby the designated third party shall consent to such desig-
3 nation. Such request shall be effective upon receipt by the assessor.
4 The assessor shall maintain a list of all eligible property owners who
5 have requested notices pursuant to this paragraph and shall furnish a
6 copy of such list to the department upon request.

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

9 (c) Notice not mailed or received. Failure to mail any notice required
10 by this subdivision, or the failure of a party to receive same, shall
11 not affect the validity of the levy, collection, or enforcement of taxes
12 on property owned by such person, or in the case of a third party
13 notice, on property owned by the person requesting the third party
14 notice.

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

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

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

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

3 10. Discontinuance of exemption. (a) Generally. The assessor shall
4 discontinue any refund granted pursuant to this section if it appears
5 that: (i) the owner or owners have qualified for a higher level of
6 refund, upon which such assessor shall approve such higher level of
7 refund, (ii) the property may not be the primary residence of the owner
8 or owners who applied for the exemption, (iii) title to the property has
9 been transferred to a new owner or owners, or (iv) the property other-
10 wise may no longer be eligible for the refund.

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

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

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

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

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