

# STATE OF NEW YORK

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4732

2017-2018 Regular Sessions

## IN SENATE

February 24, 2017

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Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the real property tax law, in relation to excluding annuity roll-over transfers from taxable income for seniors

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 chapter 259 of the laws of 2009, is  
3 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 sale or exchange of a capital asset in the same income tax year, net  
24 rental income, salary or earnings, and net income from self-employment,  
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 but shall not include a return of capital, gifts, inheritances, payments  
2 made to individuals because of their status as victims of Nazi perse-  
3 cution, as defined in P.L. 103-286 or monies earned through employment  
4 in the federal foster grandparent program and any such income shall be  
5 offset by all medical and prescription drug expenses actually paid which  
6 were not reimbursed or paid for by insurance, if the governing board of  
7 a municipality, after a public hearing, adopts a local law, ordinance or  
8 resolution providing therefor. In addition, an exchange of an annuity  
9 for an annuity contract, which resulted in non-taxable gain, as deter-  
10 mined in section one thousand thirty-five of the internal revenue code,  
11 shall be excluded from such income. Provided that such exclusion shall  
12 be based on satisfactory proof that such an exchange was solely an  
13 exchange of an annuity for an annuity contract that resulted in a non-  
14 taxable transfer determined by such section of the internal revenue  
15 code. Furthermore, such income shall not include the proceeds of a  
16 reverse mortgage, as authorized by section six-h of the banking law, and  
17 sections two hundred eighty and two hundred eighty-a of the real proper-  
18 ty law; provided, however, that monies used to repay a reverse mortgage  
19 may not be deducted from income, and provided additionally that any  
20 interest or dividends realized from the investment of reverse mortgage  
21 proceeds shall be considered income. The provisions of this paragraph  
22 notwithstanding, such income shall not include veterans disability  
23 compensation, as defined in Title 38 of the United States Code provided  
24 the governing board of such municipality, after public hearing, adopts a  
25 local law, ordinance or resolution providing therefor. In computing net  
26 rental income and net income from self-employment no depreciation  
27 deduction shall be allowed for the exhaustion, wear and tear of real or  
28 personal property held for the production of income;

29 § 2. This act shall take effect immediately.