

# STATE OF NEW YORK

7463--A

2017-2018 Regular Sessions

## IN ASSEMBLY

April 26, 2017

Introduced by M. of A. KAVANAGH, COOK, LENTOL, DINOWITZ, DenDEKKER, FARRELL, WRIGHT, ROZIC, M. G. MILLER, PHEFFER AMATO, CARROLL, CUSICK -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, CAHILL, COLTON, CYMBROWITZ, GLICK, GOTTFRIED, MOSLEY, O'DONNELL, ORTIZ, PERRY, RIVERA -- read once and referred to the Committee on Aging -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to increasing the allowable maximum income of certain persons otherwise eligible for tax abatement in certain cases

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, and in a city with a population of one million or more fifty thou-  
13 sand dollars beginning July first, two thousand seventeen, as may be  
14 provided by the local law, ordinance or resolution adopted pursuant to  
15 this section. Income tax year shall mean the twelve month period for  
16 which the owner or owners filed a federal personal income tax return, or  
17 if no such return is filed, the calendar year. Where title is vested in  
18 either the husband or the wife, their combined income may not exceed  
19 such sum, except where the husband or wife, or ex-husband or ex-wife is

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

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1 absent from the property as provided in subparagraph (ii) of paragraph  
2 (d) of this subdivision, then only the income of the spouse or ex-spouse  
3 residing on the property shall be considered and may not exceed such  
4 sum. Such income shall include social security and retirement benefits,  
5 interest, dividends, total gain from the sale or exchange of a capital  
6 asset which may be offset by a loss from the sale or exchange of a capi-  
7 tal asset in the same income tax year, net rental income, salary or  
8 earnings, and net income from self-employment, but shall not include a  
9 return of capital, gifts, inheritances, payments made to individuals  
10 because of their status as victims of Nazi persecution, as defined in  
11 P.L. 103-286 or monies earned through employment in the federal foster  
12 grandparent program and any such income shall be offset by all medical  
13 and prescription drug expenses actually paid which were not reimbursed  
14 or paid for by insurance, if the governing board of a municipality,  
15 after a public hearing, adopts a local law, ordinance or resolution  
16 providing therefor. Furthermore, such income shall not include the  
17 proceeds of a reverse mortgage, as authorized by section six-h of the  
18 banking law, and sections two hundred eighty and two hundred eighty-a of  
19 the real property law; provided, however, that monies used to repay a  
20 reverse mortgage may not be deducted from income, and provided addi-  
21 tionally that any interest or dividends realized from the investment of  
22 reverse mortgage proceeds shall be considered income. The provisions of  
23 this paragraph notwithstanding, such income shall not include veterans  
24 disability compensation, as defined in Title 38 of the United States  
25 Code provided the governing board of such municipality, after public  
26 hearing, adopts a local law, ordinance or resolution providing therefor.  
27 In computing net rental income and net income from self-employment no  
28 depreciation deduction shall be allowed for the exhaustion, wear and  
29 tear of real or personal property held for the production of income;

30 § 2. Paragraph (a) of subdivision 5 of section 459-c of the real prop-  
31 erty tax law, as separately amended by chapters 187 and 252 of the laws  
32 of 2006, is amended to read as follows:

33 (a) if the income of the owner or the combined income of the owners of  
34 the property for the income tax year immediately preceding the date of  
35 making application for exemption exceeds the sum of three thousand  
36 dollars, or such other sum not less than three thousand dollars nor more  
37 than twenty-six thousand dollars beginning July first, two thousand six,  
38 twenty-seven thousand dollars beginning July first, two thousand seven,  
39 twenty-eight thousand dollars beginning July first, two thousand eight,  
40 ~~and~~ twenty-nine thousand dollars beginning July first, two thousand  
41 nine, and in a city with a population of one million or more fifty thou-  
42 sand dollars beginning July first, two thousand seventeen, as may be  
43 provided by the local law or resolution adopted pursuant to this  
44 section. Income tax year shall mean the twelve month period for which  
45 the owner or owners filed a federal personal income tax return, or if no  
46 such return is filed, the calendar year. Where title is vested in either  
47 the husband or the wife, their combined income may not exceed such sum,  
48 except where the husband or wife, or ex-husband or ex-wife is absent  
49 from the property due to divorce, legal separation or abandonment, then  
50 only the income of the spouse or ex-spouse residing on the property  
51 shall be considered and may not exceed such sum. Such income shall  
52 include social security and retirement benefits, interest, dividends,  
53 total gain from the sale or exchange of a capital asset which may be  
54 offset by a loss from the sale or exchange of a capital asset in the  
55 same income tax year, net rental income, salary or earnings, and net  
56 income from self-employment, but shall not include a return of capital,

1 gifts, inheritances or monies earned through employment in the federal  
2 foster grandparent program and any such income shall be offset by all  
3 medical and prescription drug expenses actually paid which were not  
4 reimbursed or paid for by insurance, if the governing board of a munici-  
5 pality, after a public hearing, adopts a local law or resolution provid-  
6 ing therefor. In computing net rental income and net income from self-  
7 employment no depreciation deduction shall be allowed for the  
8 exhaustion, wear and tear of real or personal property held for the  
9 production of income;

10 § 3. This act shall take effect immediately and shall apply to appli-  
11 cations made for an exemption pursuant to this act for the city fiscal  
12 year commencing in 2017 and all city fiscal years thereafter. Applica-  
13 tions received for the city fiscal year commencing in 2017 shall be  
14 considered timely if they are filed on or before the one hundred twenti-  
15 eth day following the effective date of the local law implementing the  
16 provisions of this act.