

# STATE OF NEW YORK

S. 3817--A

A. 3146--A

2017-2018 Regular Sessions

## SENATE - ASSEMBLY

January 27, 2017

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Assembly Rule 3, sec. 2 -- 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 income requirements for the real property school tax exemption granted to persons sixty-five years of age or over in high-appreciation municipalities

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 separately amended by chapters 131 and 279 of the  
3 laws of 2017, 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 twenty-nine thousand dollars beginning July first, two thousand nine,  
12 [~~and~~] in a city with a population of one million or more fifty thousand  
13 dollars beginning July first, two thousand seventeen, and fifty thousand  
14 dollars beginning July first, two thousand seventeen in a county, city,

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

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1 town, village or school district which is a "high-appreciation municipi-  
2 pality", as may be provided by the local law, ordinance or resolution  
3 adopted pursuant to this section. For purposes of this paragraph, a  
4 "high-appreciation municipality" means: (i) a special assessing unit  
5 that is a city, (ii) a county for which the commissioner has established  
6 a sales price differential factor for purposes of the STAR exemption  
7 authorized by section four hundred twenty-five of this title in three  
8 consecutive years, and (iii) a city, town, village or school district  
9 which is wholly or partly located within such a county. Income tax year  
10 shall mean the twelve month period for which the owner or owners filed a  
11 federal personal income tax return, or if no such return is filed, the  
12 calendar year. Where title is vested in either the husband or the wife,  
13 their combined income may not exceed such sum, except where the husband  
14 or wife, or ex-husband or ex-wife is absent from the property as  
15 provided in subparagraph (ii) of paragraph (d) of this subdivision, then  
16 only the income of the spouse or ex-spouse residing on the property  
17 shall be considered and may not exceed such sum. Such income shall  
18 include social security and retirement benefits, interest, dividends,  
19 total gain from the sale or exchange of a capital asset which may be  
20 offset by a loss from the sale or exchange of a capital asset in the  
21 same income tax year, net rental income, salary or earnings, and net  
22 income from self-employment, but shall not include a return of capital,  
23 gifts, inheritances, payments made to individuals because of their  
24 status as victims of Nazi persecution, as defined in P.L. 103-286 or  
25 monies earned through employment in the federal foster grandparent  
26 program and any such income shall be offset by all medical and  
27 prescription drug expenses actually paid which were not reimbursed or  
28 paid for by insurance, if the governing board of a municipality, after a  
29 public hearing, adopts a local law, ordinance or resolution providing  
30 therefor. In addition, an exchange of an annuity for an annuity  
31 contract, which resulted in non-taxable gain, as determined in section  
32 one thousand thirty-five of the internal revenue code, shall be excluded  
33 from such income. Provided that such exclusion shall be based on satis-  
34 factory proof that such an exchange was solely an exchange of an annuity  
35 for an annuity contract that resulted in a non-taxable transfer deter-  
36 mined by such section of the internal revenue code. Furthermore, such  
37 income shall not include the proceeds of a reverse mortgage, as author-  
38 ized by section six-h of the banking law, and sections two hundred  
39 eighty and two hundred eighty-a of the real property law; provided,  
40 however, that monies used to repay a reverse mortgage may not be  
41 deducted from income, and provided additionally that any interest or  
42 dividends realized from the investment of reverse mortgage proceeds  
43 shall be considered income. The provisions of this paragraph notwith-  
44 standing, such income shall not include veterans disability compen-  
45 sation, as defined in Title 38 of the United States Code provided the  
46 governing board of such municipality, after public hearing, adopts a  
47 local law, ordinance or resolution providing therefor. In computing net  
48 rental income and net income from self-employment no depreciation  
49 deduction shall be allowed for the exhaustion, wear and tear of real or  
50 personal property held for the production of income;

51 § 2. This act shall take effect immediately.