

# STATE OF NEW YORK

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3149

2019-2020 Regular Sessions

## IN ASSEMBLY

January 28, 2019

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Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Aging

AN ACT to amend the real property tax law, in relation to increasing the amount of income property owners may earn for the purpose of eligibility for the property tax exemption for persons sixty-five years of age or over and for persons with disabilities and limited income

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 fifty thousand dollars beginning July first, two thousand nineteen, and  
13 in a city with a population of one million or more fifty thousand  
14 dollars beginning July first, two thousand seventeen, as may be provided  
15 by the local law, ordinance or resolution adopted pursuant to this  
16 section. Income tax year shall mean the twelve month period for which  
17 the owner or owners filed a federal personal income tax return, or if no  
18 such return is filed, the calendar year. Where title is vested in either  
19 the husband or the wife, their combined income may not exceed such sum,  
20 except where the husband or wife, or ex-husband or ex-wife is absent  
21 from the property as provided in subparagraph (ii) of paragraph (d) of  
22 this subdivision, then only the income of the spouse or ex-spouse resid-  
23 ing on the property shall be considered and may not exceed such sum.

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

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

34 § 2. Paragraph (a) of subdivision 5 of section 459-c of the real prop-  
35 erty tax law, as amended by chapter 131 of the laws of 2017, is amended  
36 to read as follows:

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

1 and retirement benefits, interest, dividends, total gain from the sale  
2 or exchange of a capital asset which may be offset by a loss from the  
3 sale or exchange of a capital asset in the same income tax year, net  
4 rental income, salary or earnings, and net income from self-employment,  
5 but shall not include a return of capital, gifts, inheritances or monies  
6 earned through employment in the federal foster grandparent program and  
7 any such income shall be offset by all medical and prescription drug  
8 expenses actually paid which were not reimbursed or paid for by insur-  
9 ance, if the governing board of a municipality, after a public hearing,  
10 adopts a local law or resolution providing therefor. In computing net  
11 rental income and net income from self-employment no depreciation  
12 deduction shall be allowed for the exhaustion, wear and tear of real or  
13 personal property held for the production of income;  
14 § 3. This act shall take effect immediately.