

STATE OF NEW YORK

5252

2019-2020 Regular Sessions

IN ASSEMBLY

February 8, 2019

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

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 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 in a county
14 with a population of between one million and one million four hundred
15 thousand as of the last decennial census fifty thousand dollars begin-
16 ning July first, two thousand twenty, as may be provided by the local
17 law, ordinance or resolution adopted pursuant to this section. Income
18 tax year shall mean the twelve month period for which the owner or
19 owners filed a federal personal income tax return, or if no such return
20 is filed, the calendar year. Where title is vested in either the husband
21 or the wife, their combined income may not exceed such sum, except where
22 the husband or wife, or ex-husband or ex-wife is absent from the proper-
23 ty as provided in subparagraph (ii) of paragraph (d) of this subdivi-
24 sion, then only the income of the spouse or ex-spouse residing on the

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

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

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

38 (a) if the income of the owner or the combined income of the owners of
39 the property for the income tax year immediately preceding the date of
40 making application for exemption exceeds the sum of three thousand
41 dollars, or such other sum not less than three thousand dollars nor more
42 than twenty-six thousand dollars beginning July first, two thousand six,
43 twenty-seven thousand dollars beginning July first, two thousand seven,
44 twenty-eight thousand dollars beginning July first, two thousand eight,
45 twenty-nine thousand dollars beginning July first, two thousand nine,
46 [~~and~~] in a city with a population of one million or more fifty thousand
47 dollars beginning July first, two thousand seventeen, and in a county
48 with a population of between one million and one million four hundred
49 thousand as of the last decennial census fifty thousand dollars begin-
50 ning July first, two thousand twenty, as may be provided by the local
51 law or resolution adopted pursuant to this section. Income tax year
52 shall mean the twelve month period for which the owner or owners filed a
53 federal personal income tax return, or if no such return is filed, the
54 calendar year. Where title is vested in either the husband or the wife,
55 their combined income may not exceed such sum, except where the husband
56 or wife, or ex-husband or ex-wife is absent from the property due to

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

17 § 3. This act shall take effect immediately and shall apply to appli-
18 cations made for an exemption pursuant to this act for the county fiscal
19 year commencing in 2020 and all county fiscal years thereafter. Appli-
20 cations received for the county fiscal year commencing in 2020 shall be
21 considered timely if they are filed on or before the one hundred twenti-
22 eth day following the effective date of the local law implementing the
23 provisions of this act.