

STATE OF NEW YORK

5336

2019-2020 Regular Sessions

IN ASSEMBLY

February 11, 2019

Introduced by M. of A. DiPIETRO -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to exemption from taxation of qualifying residential real property for active duty service members

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The real property tax law is amended by adding a new
2 section 458-c to read as follows:

3 § 458-c. Exemption for active duty service members. 1. The following
4 terms whenever used or referred to in this section shall have the
5 following meanings:

6 (a) "Active duty service member" means a person who is serving in
7 full-time active duty in the United States army, navy, marine corps, air
8 force, or coast guard, for other than training purposes.

9 (b) "Qualified owner" means an active duty service member, the spouse
10 of an active duty service member or the unremarried surviving spouse of
11 an active duty service member. Where property is owned by more than one
12 qualified owner, the exemption to which each is entitled may be
13 combined. Where an active duty service member is also the unremarried
14 surviving spouse of an active duty service member, such person may also
15 receive any exemption to which the deceased spouse was entitled.

16 (c) "Qualifying residential real property" means property owned by a
17 qualified owner which is used exclusively for residential purposes;
18 provided, however, that in the event any portion of such property is not
19 so used exclusively for residential purposes but is used for other
20 purposes, such portion shall be subject to taxation and the remaining
21 portion only shall be entitled to the exemption provided by this
22 section. Such property must be the primary residence of the active duty
23 service member or unremarried surviving spouse of the active duty
24 service member, unless the active duty service member or unremarried

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

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1 surviving spouse is absent from the property due to medical reasons or
2 institutionalization. In the event the active duty service member dies
3 and there is no unremarried surviving spouse, "qualifying residential
4 real property" shall mean the primary residence owned by the qualified
5 owner prior to death, provided that the title to the property becomes
6 vested in the dependent father or mother or dependent child or children
7 under twenty-one years of age of an active duty service member by virtue
8 of devise by or descent from the deceased qualified owner, provided that
9 the property is the primary residence of one or all of the devisees.

10 (d) "Latest state equalization rate" means the latest final state
11 equalization rate or special equalization rate established by the
12 commissioner pursuant to article twelve of this chapter. The commis-
13 sioner shall establish a special equalization rate if he or she finds that
14 there has been a material change in the level of assessment since the
15 establishment of the latest state equalization rate, but in no event
16 shall such special equalization rate exceed one hundred. In the event
17 that the state equalization rate exceeds one hundred, then the state
18 equalization rate shall be one hundred for the purposes of this section.
19 Where a special equalization rate is established for purposes of this
20 section, the assessor is directed and authorized to recompute the active
21 duty service member exemption on the assessment roll by applying such
22 special equalization rate instead of the latest state equalization rate
23 applied in the previous year and to make the appropriate corrections on
24 the assessment roll, notwithstanding the fact that such assessor may
25 receive the special equalization rate after the completion, verification
26 and filing of such final assessment roll. In the event that the assessor
27 does not have custody of the roll when such recomputation is accom-
28 plished, the assessor shall certify such recomputation to the local
29 officers having custody and control of such roll, and such local offi-
30 cers are hereby directed and authorized to enter the recomputed active
31 duty service member exemption certified by the assessor on such roll.

32 (e) "Latest class ratio" means the latest final class ratio estab-
33 lished by the commissioner pursuant to title one of article twelve of
34 this chapter for use in a special assessing unit as defined in section
35 eighteen hundred one of this chapter.

36 2. (a) Each county, city, town or village may adopt a local law to
37 provide that qualifying residential real property shall be exempt from
38 taxation to the extent of fifteen percent of the assessed value of such
39 property; provided, however, that such exemption shall not exceed twelve
40 thousand dollars or the product of twelve thousand dollars multiplied by
41 the latest state equalization rate for the assessing unit, or in the
42 case of a special assessing unit, the latest class ratio, whichever is
43 less.

44 (b) In addition to the exemption provided by paragraph (a) of this
45 subdivision, each county, city, town or village may adopt a local law to
46 allow an active duty service member who served or is serving in a combat
47 theatre or combat zone of operations, as documented by the award of a
48 United States campaign ribbon or service medal, or the armed forces
49 expeditionary medal, navy expeditionary medal, marine corps expedition-
50 ary medal, or global war on terrorism expeditionary medal, an exemption
51 from taxation of qualifying residential real property to the extent of
52 ten percent of the assessed value of such property; provided, however,
53 that such exemption shall not exceed eight thousand dollars or the prod-
54 uct of eight thousand dollars multiplied by the latest state equaliza-
55 tion rate for the assessing unit, or in the case of a special assessing
56 unit, the class ratio, whichever is less.

1 (c) Limitations. (i) The exemption from taxation provided by this
2 subdivision shall be applicable to county, city, town, and village taxa-
3 tion, but shall not be applicable to taxes levied for school purposes.

4 (ii) Each county, city, town or village may adopt a local law to
5 reduce the maximum exemption allowable in paragraphs (a) and (b) of this
6 subdivision to nine thousand dollars and six thousand dollars, respec-
7 tively, or six thousand dollars and four thousand dollars, respectively.
8 Each county, city, town, or village is also authorized to adopt a local
9 law to increase the maximum exemption allowable in paragraphs (a) and
10 (b) in this subdivision to fifteen thousand dollars and ten thousand
11 dollars, respectively; eighteen thousand dollars and twelve thousand
12 dollars, respectively; twenty-one thousand dollars and fourteen thousand
13 dollars, respectively; twenty-four thousand dollars and sixteen thousand
14 dollars, respectively; twenty-seven thousand dollars and eighteen thou-
15 sand dollars, respectively; thirty thousand dollars and twenty thousand
16 dollars, respectively; thirty-three thousand dollars and twenty-two
17 thousand dollars, respectively; or thirty-six thousand dollars and twen-
18 ty-four thousand dollars, respectively. In addition, a county, city,
19 town or village which is a "high appreciation municipality" as defined
20 in this subparagraph is authorized to adopt a local law to increase the
21 maximum exemption allowable in paragraphs (a) and (b) of this subdivi-
22 sion to thirty-nine thousand dollars and twenty-six thousand dollars,
23 respectively; forty-two thousand dollars and twenty-eight thousand
24 dollars, respectively; forty-five thousand dollars and thirty thousand
25 dollars, respectively; forty-eight thousand dollars and thirty-two thou-
26 sand dollars respectively; fifty-one thousand dollars and thirty-four
27 thousand dollars, respectively; or fifty-four thousand dollars and thir-
28 ty-six thousand dollars, respectively. For purposes of this subpara-
29 graph, a "high-appreciation municipality" means: (A) a special assessing
30 unit that is a city, (B) a county for which the commissioner has estab-
31 lished a sales price differential factor for purposes of the STAR
32 exemption authorized by section four hundred twenty-five of this title
33 in three consecutive years, and (C) a city, town or village which is
34 wholly or partly located within such a county.

35 (iii) A local law adopted pursuant to this section may be repealed by
36 the governing body of the applicable county, city, town, or village.

37 3. Application for exemption must be made by the owner, or all of the
38 owners, of the property on a form prescribed by the commissioner. The
39 owner or owners shall file the completed form in the assessor's office
40 on or before the appropriate taxable status date. The exemption shall
41 continue in full force and effect for one tax year. Applicants shall be
42 required to refile on or before the appropriate taxable status date if
43 changes have occurred which affect qualification for or an increased or
44 decreased amount of exemption. Any applicant convicted of making any
45 willful false statement in the application for such exemption shall be
46 subject to the penalties prescribed in the penal law.

47 4. A county, city, town or village that adopts a local law to provide
48 for the exemptions allowable in paragraphs (a) and (b) of subdivision
49 two of this section shall take all reasonable efforts to ensure that all
50 qualifying residential real property is eligible for exemption from
51 taxation.

52 5. Notwithstanding the provisions of this section or any other
53 provision of law, in a city having a population of one million or more,
54 applications for the exemption authorized pursuant to this section shall
55 be considered timely filed if they are filed on or before the fifteenth
56 day of March of the appropriate year.

1 6. Notwithstanding any other provision of law to the contrary, the
2 provisions of this section shall apply to any real property held in
3 trust solely for the benefit of a person or persons who would otherwise
4 be eligible for a real property tax exemption, pursuant to this section,
5 were such person or persons the owner or owners of such real property.

6 7. (a) For the purposes of this section, title to that portion of real
7 property owned by a cooperative apartment corporation in which a
8 tenant-stockholder of such corporation resides and which is represented
9 by his or her share or shares of stock in such corporation as determined
10 by its or their proportional relationship to the total outstanding stock
11 of the corporation, including that owned by the corporation, shall be
12 deemed to be vested in such tenant-stockholder.

13 (b) Provided that all other eligibility criteria of this section are
14 met, that proportion of the assessment of such real property owned by a
15 cooperative apartment corporation determined by the relationship of such
16 real property vested in such tenant-stockholder to such real property
17 owned by such cooperative apartment corporation in which such tenant-
18 stockholder resides shall be subject to exemption from taxation pursuant
19 to this section and any exemption so granted shall be credited by the
20 appropriate taxing authority against the assessed valuation of such real
21 property; the reduction in real property taxes realized thereby shall be
22 credited by the cooperative apartment corporation against the amount of
23 such taxes otherwise payable by or chargeable to such tenant-stockhold-
24 er.

25 (c) Notwithstanding paragraph (b) of this subdivision, a tenant-stock-
26 holder who resided in a dwelling that is subject to the provisions of
27 either article two, four, five or eleven of the private housing finance
28 law shall not be eligible for an exemption pursuant to this section.

29 (d) Notwithstanding paragraph (b) of this subdivision, real property
30 owned by a cooperative corporation may be exempt from taxation pursuant
31 to this section by a municipality in which such property is located only
32 if the governing body of such municipality, after public hearing, adopts
33 a local law, ordinance or resolution providing therefor.

34 8. Notwithstanding the provisions of paragraph (c) of subdivision one
35 and subdivision three of this section, the governing body of any municipi-
36 ality may, after public hearing, adopt a local law, ordinance or resol-
37 ution providing that where an active duty service member, the spouse of
38 the active duty service member or unremarried surviving spouse already
39 receiving an exemption pursuant to this section sells the property
40 receiving the exemption and purchases property within the same city,
41 town or village, the assessor shall transfer and prorate, for the
42 remainder of the fiscal year, the exemption received. The prorated
43 exemption shall be based upon the date the active duty service member,
44 the spouse of the active duty service member or unremarried surviving
45 spouse obtains title to the new property and shall be calculated by
46 multiplying the tax rate or rates for each municipal corporation which
47 levied taxes, or for which taxes were levied, on the appropriate tax
48 roll used for the fiscal year or years during which the transfer
49 occurred times the previously granted exempt amount times the fraction
50 of each fiscal year or years remaining subsequent to the transfer of
51 title. Nothing in this section shall be construed to remove the require-
52 ment that any such active duty service member, the spouse of the active
53 duty service member or unremarried surviving spouse transferring an
54 exemption pursuant to this subdivision shall reapply for the exemption
55 authorized pursuant to this section on or before the following taxable
56 status date, in the event such active duty service member, the spouse of

1 the active duty service member or unremarried surviving spouse wishes to
2 receive the exemption in future fiscal years.

3 § 2. This act shall take effect on the first of January next succeed-
4 ing the date on which it shall have become a law and shall apply to
5 assessment rolls prepared on the basis of taxable status dates occurring
6 on or after such date.