

STATE OF NEW YORK

2911--A

2019-2020 Regular Sessions

IN SENATE

January 30, 2019

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- 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 combined household income limit for eligibility for a senior citizen rent increase exemption (SCRIE), disability rent increase exemption (DRIE), senior citizen homeowners' exemption (SCHE), and disabled homeowners' exemption (DHE) on the basis of the consumer price index; and in relation to local laws, ordinances or resolutions providing for the abatement of taxes in a city with a population of one million or more persons

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

1 Section 1. Paragraph a of subdivision 1 and paragraphs a and b of
2 subdivision 3 of section 467-b of the real property tax law, paragraph a
3 of subdivision 1 as amended by chapter 576 of the laws of 1974, para-
4 graph a of subdivision 3 as amended by section 1 of part U of chapter 55
5 of the laws of 2014 and paragraph b of subdivision 3 as amended by
6 section 1 of chapter 129 of the laws of 2014, are amended to read as
7 follows:

8 a. "Dwelling unit" means that part of a dwelling in which a head of
9 the household resides and which is subject to either the emergency hous-
10 ing rent control law or to the rent and rehabilitation law of the city
11 of New York enacted pursuant to the local emergency housing rent control
12 law, or to the emergency tenant protection act of nineteen seventy-four
13 or is a dwelling unit contained in real property described in subdivi-
14 sion fourteen of this section;

15 a. for a dwelling unit where the head of the household is a person
16 sixty-two years of age or older, no tax abatement shall be granted if
17 the combined income of all members of the household for the income tax

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

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1 year immediately preceding the date of making application exceeds four
2 thousand dollars, or such other sum not more than twenty-five thousand
3 dollars beginning July first, two thousand five, twenty-six thousand
4 dollars beginning July first, two thousand six, twenty-seven thousand
5 dollars beginning July first, two thousand seven, twenty-eight thousand
6 dollars beginning July first, two thousand eight, twenty-nine thousand
7 dollars beginning July first, two thousand nine, and fifty thousand
8 dollars beginning July first, two thousand fourteen, as may be provided
9 by the local law, ordinance or resolution adopted pursuant to this
10 section, provided that when the head of the household retires before the
11 commencement of such income tax year and the date of filing the applica-
12 tion, the income for such year may be adjusted by excluding salary or
13 earnings and projecting his or her retirement income over the entire
14 period of such year. The maximum income threshold provided for herein
15 shall be increased by order of the commissioner of the state division of
16 housing and community renewal on January first of each year to reflect
17 any increase in the regional consumer price index for the N.Y.,
18 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
19 ers (CPI-U) during the preceding twelve month period.

20 b. for a dwelling unit where the head of the household qualifies as a
21 person with a disability pursuant to subdivision five of this section,
22 no tax abatement shall be granted if the combined income for all members
23 of the household for the current income tax year exceeds fifty thousand
24 dollars beginning July first, two thousand fourteen, as may be provided
25 by the local law, ordinance or resolution adopted pursuant to this
26 section. The maximum income threshold provided for herein shall be
27 increased by order of the commissioner of the state division of housing
28 and community renewal on January first of each year to reflect any
29 increase in the regional consumer price index for the N.Y.,
30 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
31 ers (CPI-U) during the preceding twelve month period.

32 § 1-a. Paragraph a of subdivision 1 of section 467-b of the real prop-
33 erty tax law, as added by chapter 689 of the laws of 1972, is amended to
34 read as follows:

35 a. "Dwelling unit" means that part of a dwelling in which a head of
36 the household resides and which is subject to either emergency housing
37 rent control law or to rent and rehabilitation law of the city of New
38 York enacted pursuant to the local law enacted pursuant to the local
39 emergency housing rent control law or is a dwelling unit contained in
40 real property described in subdivision fourteen of this section;

41 § 1-b. Section 467-b of the real property tax law is amended by adding
42 a new subdivision 14 to read as follows:

43 14. In a city with a population of one million or more, any such local
44 law, ordinance or resolution may provide for the abatement of taxes of
45 such city imposed on:

46 (a) real property originally organized pursuant to article two of the
47 private housing finance law containing dwelling units in which the qual-
48 ifying head of household or their qualifying successor in interest: (i)
49 has a signed agreement with the landlord to limit increases in maximum
50 rent to an amount based on what is ordered by the rent guidelines board
51 for the lifetime of the tenancy, which amount may be less than, equal
52 to, or greater than the amount so ordered by the rent guidelines board,
53 and (ii) is otherwise eligible for the tax abatement provided in this
54 section, regardless of whether such real property is still subject to
55 the regulations of said article; or

1 (b) real property containing dwelling units in which the qualifying
2 head of household or their qualifying successor in interest: (i) has a
3 signed agreement with the landlord to limit increases in maximum rent
4 to an amount equal to or less than those ordered by the rent guidelines
5 board for the lifetime of the tenancy, and (ii) is otherwise eligible
6 for the tax abatement provided in this section;

7 (c) provided, however, that the application for any abatement pursuant
8 to this subdivision shall be subject to the approval of the New York
9 city department of housing preservation and development, in such depart-
10 ment's discretion.

11 § 2. Paragraphs b, d and m of subdivision 1 of section 467-c of the
12 real property tax law, paragraph b as amended by chapter 420 of the laws
13 of 1991, paragraph d as separately amended by chapters 188 and 205 of
14 the laws of 2005, subparagraph 1 of paragraph d as amended by section 2
15 of part U of chapter 55 of the laws of 2014 and paragraph m as amended
16 by chapter 129 of the laws of 2014, are amended to read as follows:

17 b. "Dwelling unit" means that part of a dwelling in which an eligible
18 head of the household resides and which is subject to the provisions of
19 either Article II, IV, V, or XI of the private housing finance law; or
20 that part of a dwelling which was or continues to be subject to a mort-
21 gage insured or initially insured by the federal government pursuant to
22 section two hundred thirteen of the National Housing Act, as amended, in
23 which an eligible head of the household resides or is a unit in a hous-
24 ing development described in subdivision thirteen of this section.

25 d. "Eligible head of the household" means (1) a person or his or her
26 spouse who is sixty-two years of age or older and is entitled to the
27 possession or to the use and occupancy of a dwelling unit, provided,
28 however, with respect to a dwelling which was subject to a mortgage
29 insured or initially insured by the federal government pursuant to
30 section two hundred thirteen of the National Housing Act, as amended
31 "eligible head of the household" shall be limited to that person or his
32 or her spouse who was entitled to possession or the use and occupancy of
33 such dwelling unit at the time of termination of such mortgage, and
34 whose income when combined with the income of all other members of the
35 household, does not exceed six thousand five hundred dollars for the
36 taxable period, or such other sum not less than sixty-five hundred
37 dollars nor more than twenty-five thousand dollars beginning July first,
38 two thousand five, twenty-six thousand dollars beginning July first, two
39 thousand six, twenty-seven thousand dollars beginning July first, two
40 thousand seven, twenty-eight thousand dollars beginning July first, two
41 thousand eight, twenty-nine thousand dollars beginning July first, two
42 thousand nine, and fifty thousand dollars beginning July first, two
43 thousand fourteen, as may be provided by local law; or (2) a person with
44 a disability as defined in this subdivision. The maximum income thresh-
45 old provided for herein shall be increased by order of the commissioner
46 of the state division of housing and community renewal on January first
47 of each year to reflect any increase in the regional consumer price
48 index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index
49 for all urban consumers (CPI-U) during the preceding twelve month peri-
50 od.

51 m. "Person with a disability" means an individual who is currently
52 receiving social security disability insurance (SSDI) or supplemental
53 security income (SSI) benefits under the federal social security act or
54 disability pension or disability compensation benefits provided by the
55 United States department of veterans affairs or those previously eligi-
56 ble by virtue of receiving disability benefits under the supplemental

1 security income program or the social security disability program and
2 currently receiving medical assistance benefits based on determination
3 of disability as provided in section three hundred sixty-six of the
4 social services law and whose income for the current income tax year,
5 together with the income of all members of such individual's household,
6 does not exceed fifty thousand dollars beginning July first, two thou-
7 sand fourteen, as may be provided by local law. The maximum income
8 threshold provided for herein shall be increased by order of the commis-
9 sioner of the state division of housing and community renewal on January
10 first of each year to reflect any increase in the regional consumer
11 price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the
12 index for all urban consumers (CPI-U) during the preceding twelve month
13 period.

14 § 2-a. Section 467-c of the real property tax law is amended by adding
15 a new subdivision 13 to read as follows:

16 13. In a city with a population of one million or more, any such local
17 law, ordinance or resolution may provide for the abatement of taxes of
18 such city imposed on:

19 (a) real property originally organized pursuant to article two of the
20 private housing finance law containing dwelling units in which the qual-
21 ifying head of household or their qualifying successor in interest: (i)
22 has a signed agreement with the landlord to limit increases in maximum
23 rent to an amount based on what is ordered by the rent guidelines board
24 for the lifetime of the tenancy, which amount may be less than, equal
25 to, or greater than the amount so ordered by the rent guidelines board,
26 and (ii) is otherwise eligible for the tax abatement provided in this
27 section, regardless of whether such real property is still subject to
28 the regulations of said article; or

29 (b) real property containing dwelling units in which the qualifying
30 head of household or their qualifying successor in interest: (i) has a
31 signed agreement with the landlord to limit increases in maximum rent to
32 an amount equal to or less than those ordered by the rent guidelines
33 board for the lifetime of the tenancy, and (ii) is otherwise eligible
34 for the tax abatement provided in this section;

35 (c) provided, however, that the application for any abatement pursuant
36 to this subdivision shall be subject to the approval of the New York
37 city department of housing preservation and development, in such depart-
38 ment's discretion.

39 § 3. Paragraph (a) of subdivision 3 of section 467 of the real proper-
40 ty tax law, as separately amended by chapters 131 and 279 of the laws of
41 2017, is amended to read as follows:

42 (a) if the income of the owner or the combined income of the owners of
43 the property for the income tax year immediately preceding the date of
44 making application for exemption exceeds the sum of three thousand
45 dollars, or such other sum not less than three thousand dollars nor more
46 than twenty-six thousand dollars beginning July first, two thousand six,
47 twenty-seven thousand dollars beginning July first, two thousand seven,
48 twenty-eight thousand dollars beginning July first, two thousand eight,
49 twenty-nine thousand dollars beginning July first, two thousand nine,
50 and in a city with a population of one million or more fifty thousand
51 dollars beginning July first, two thousand seventeen, as may be provided
52 by the local law, ordinance or resolution adopted pursuant to this
53 section. The maximum income threshold provided for herein shall be
54 increased by order of the commissioner on January first of each year to
55 reflect any increase in the regional consumer price index for the N.Y.,
56 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-

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

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

46 (a) if the income of the owner or the combined income of the owners of
47 the property for the income tax year immediately preceding the date of
48 making application for exemption exceeds the sum of three thousand
49 dollars, or such other sum not less than three thousand dollars nor more
50 than twenty-six thousand dollars beginning July first, two thousand six,
51 twenty-seven thousand dollars beginning July first, two thousand seven,
52 twenty-eight thousand dollars beginning July first, two thousand eight,
53 twenty-nine thousand dollars beginning July first, two thousand nine,
54 and in a city with a population of one million or more fifty thousand
55 dollars beginning July first, two thousand seventeen, as may be provided
56 by the local law or resolution adopted pursuant to this section. The

1 maximum income threshold provided for herein shall be increased by order
2 of the commissioner on January first of each year to reflect any
3 increase in the regional consumer price index for the N.Y.,
4 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
5 ers (CPI-U) during the preceding twelve month period. Income tax year

6 shall mean the twelve month period for which the owner or owners filed a
7 federal personal income tax return, or if no such return is filed, the
8 calendar year. Where title is vested in either the husband or the wife,
9 their combined income may not exceed such sum, except where the husband
10 or wife, or ex-husband or ex-wife is absent from the property due to
11 divorce, legal separation or abandonment, then only the income of the
12 spouse or ex-spouse residing on the property shall be considered and may
13 not exceed such sum. Such income shall include social security and
14 retirement benefits, interest, dividends, total gain from the sale or
15 exchange of a capital asset which may be offset by a loss from the sale
16 or exchange of a capital asset in the same income tax year, net rental
17 income, salary or earnings, and net income from self-employment, but
18 shall not include a return of capital, gifts, inheritances or monies
19 earned through employment in the federal foster grandparent program and
20 any such income shall be offset by all medical and prescription drug
21 expenses actually paid which were not reimbursed or paid for by insur-
22 ance, if the governing board of a municipality, after a public hearing,
23 adopts a local law or resolution providing therefor. In computing net
24 rental income and net income from self-employment no depreciation
25 deduction shall be allowed for the exhaustion, wear and tear of real or
26 personal property held for the production of income;

27 § 5. This act shall take effect immediately; provided that:

28 (a) the amendments to paragraph a of subdivision 3 of section 467-b of
29 the real property tax law made by section one of this act shall not
30 affect the expiration of such paragraph pursuant to section 4 of part U
31 of chapter 55 of the laws of 2014, as amended, or the expiration of such
32 section pursuant to section 17 of chapter 576 of the laws of 1974, as
33 amended, and shall be deemed to expire therewith;

34 (b) the amendments to paragraph b of subdivision 3 of section 467-b of
35 the real property tax law made by section one of this act shall not
36 affect the expiration of such section pursuant to section 17 of chapter
37 576 of the laws of 1974 and such paragraph pursuant to section 4 of
38 chapter 129 of the laws of 2014, as amended, and shall be deemed to
39 expire therewith;

40 (c) the amendments to subparagraph 1 of paragraph d of subdivision 1
41 of section 467-c of the real property tax law made by section two of
42 this act shall not affect the expiration of such subparagraph pursuant
43 to section 4 of part U of chapter 55 of the laws of 2014, as amended,
44 and shall be deemed expired therewith;

45 (d) the amendments to paragraph m of subdivision 1 of section 467-c of
46 the real property tax law made by section two of this act shall not
47 affect the expiration of such paragraph pursuant to section 4 of chapter
48 129 of the laws of 2014, as amended, and shall be deemed expired there-
49 with;

50 (e) the amendments to paragraph a of subdivision 1 of section 467-b of
51 the real property tax law made by section one of this act shall be
52 subject to the expiration and reversion of such section pursuant to
53 section 17 of chapter 576 of the laws of 1974, as amended, when upon
54 such date the provisions of section 1-a of this act shall take effect;
55 and

1 (f) the amendments to section 467-b of the real property tax law made
2 by section 1-b of this act shall survive the expiration and reversion of
3 such section as provided in section 17 of chapter 576 of the laws of
4 1974, as amended.