

# STATE OF NEW YORK

8850

2019-2020 Regular Sessions

## IN ASSEMBLY

December 18, 2019

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

AN ACT to amend the real property tax law, in relation to the taxable status date

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

Section 1. Paragraph (a) of subdivision 3 of section 467 of the real property tax law, as separately amended by chapters 131 and 279 of the laws of 2017, is amended to read as follows:

(a) if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of three thousand dollars, or such other sum not less than three thousand dollars nor more than twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and in a city with a population of one million or more fifty thousand dollars beginning July first, two thousand seventeen, as may be provided by the local law, ordinance or resolution adopted pursuant to this section. [~~Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year.~~] Where the taxable status date is on or before April fourteenth, income tax year shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return for the year before the income tax year immediately preceding the date of application and where the taxable status date is on or after April fifteenth, income tax year shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return for the income tax year immediately preceding the date of application. Where title is vested in either the husband or the wife, their

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

LBD14123-01-9

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

38 § 2. This act shall take effect immediately.