

# STATE OF NEW YORK

3085

2021-2022 Regular Sessions

## IN ASSEMBLY

January 22, 2021

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

AN ACT to amend the real property tax law, in relation to qualifying income for a property tax exemption for persons sixty-five years of age or over

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

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

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