

# STATE OF NEW YORK

3956--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 29, 2021

Introduced by M. of A. ABINANTI, ZEBROWSKI, PAULIN, STERN -- read once and referred to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Assembly Rule 3, sec. 2 -- 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 amount of income property owners may earn for the purpose of eligibility for the property tax exemption for persons sixty-five years of age or over and for persons with disabilities and limited income

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 amended by chapter 558 of the laws of 2021, is  
3 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 fifty thousand dollars beginning July first, two thousand twenty-two,  
13 and in a city with a population of one million or more fifty thousand  
14 dollars beginning July first, two thousand seventeen, as may be provided  
15 by the local law, ordinance or resolution adopted pursuant to this  
16 section. Where the taxable status date is on or before April fourteenth,  
17 income tax year shall mean the twelve-month period for which the owner  
18 or owners filed a federal personal income tax return for the year before  
19 the income tax year immediately preceding the date of application and  
20 where the taxable status date is on or after April fifteenth, income tax

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

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

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

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

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

23 § 3. This act shall take effect immediately.