

# STATE OF NEW YORK

5100

2021-2022 Regular Sessions

## IN ASSEMBLY

February 11, 2021

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

AN ACT to amend the real property tax law, in relation to increasing the allowable maximum income of certain persons otherwise eligible for tax abatement in certain cases

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 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 [~~and~~] in a city with a population of one million or more fifty thousand  
13 dollars beginning July first, two thousand seventeen, and in a county  
14 with a population of between one million and one million four hundred  
15 thousand as of the last decennial census fifty thousand dollars begin-  
16 ning July first, two thousand twenty-two, as may be provided by the  
17 local law, ordinance or resolution adopted pursuant to this section.  
18 Income tax year shall mean the twelve month period for which the owner  
19 or owners filed a federal personal income tax return, or if no such  
20 return is filed, the calendar year. Where title is vested in either the  
21 husband or the wife, their combined income may not exceed such sum,  
22 except where the husband or wife, or ex-husband or ex-wife is absent  
23 from the property as provided in subparagraph (ii) of paragraph (d) of  
24 this subdivision, then only the income of the spouse or ex-spouse resid-

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

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

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

38 (a) if the income of the owner or the combined income of the owners of  
39 the property for the income tax year immediately preceding the date of  
40 making application for exemption exceeds the sum of three thousand  
41 dollars, or such other sum not less than three thousand dollars nor more  
42 than twenty-six thousand dollars beginning July first, two thousand six,  
43 twenty-seven thousand dollars beginning July first, two thousand seven,  
44 twenty-eight thousand dollars beginning July first, two thousand eight,  
45 twenty-nine thousand dollars beginning July first, two thousand nine,  
46 [~~and~~] in a city with a population of one million or more fifty thousand  
47 dollars beginning July first, two thousand seventeen, and in a county  
48 with a population of between one million and one million four hundred  
49 thousand as of the last decennial census fifty thousand dollars begin-  
50 ning July first, two thousand twenty-two, as may be provided by the  
51 local law or resolution adopted pursuant to this section. Income tax  
52 year shall mean the twelve month period for which the owner or owners  
53 filed a federal personal income tax return, or if no such return is  
54 filed, the calendar year. Where title is vested in either the husband or  
55 the wife, their combined income may not exceed such sum, except where  
56 the husband or wife, or ex-husband or ex-wife is absent from the proper-

1 ty due to divorce, legal separation or abandonment, then only the income  
2 of the spouse or ex-spouse residing on the property shall be considered  
3 and may not exceed such sum. Such income shall include social security  
4 and retirement benefits, interest, dividends, total gain from the sale  
5 or exchange of a capital asset which may be offset by a loss from the  
6 sale or exchange of a capital asset in the same income tax year, net  
7 rental income, salary or earnings, and net income from self-employment,  
8 but shall not include a return of capital, gifts, inheritances or monies  
9 earned through employment in the federal foster grandparent program and  
10 any such income shall be offset by all medical and prescription drug  
11 expenses actually paid which were not reimbursed or paid for by insur-  
12 ance, if the governing board of a municipality, after a public hearing,  
13 adopts a local law or resolution providing therefor. In computing net  
14 rental income and net income from self-employment no depreciation  
15 deduction shall be allowed for the exhaustion, wear and tear of real or  
16 personal property held for the production of income;

17 § 3. This act shall take effect immediately and shall apply to appli-  
18 cations made for an exemption pursuant to this act for the county fiscal  
19 year commencing in 2022 and all county fiscal years thereafter. Appli-  
20 cations received for the county fiscal year commencing in 2022 shall be  
21 considered timely if they are filed on or before the one hundred twenti-  
22 eth day following the effective date of the local law implementing the  
23 provisions of this act.