

# STATE OF NEW YORK

5100--A

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 -- 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 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 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 [~~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 Where the taxable status date is on or before April fourteenth, income  
19 tax year shall mean the twelve-month period for which the owner or  
20 owners filed a federal personal income tax return for the year before  
21 the income tax year immediately preceding the date of application and

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

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1 where the taxable status date is on or after April fifteenth, income tax  
2 year shall mean the twelve-month period for which the owner or owners  
3 filed a federal personal income tax return for the income tax year imme-  
4 diately preceding the date of application. Where title is vested in  
5 either the husband or the wife, their combined income may not exceed  
6 such sum, except where the husband or wife, or ex-husband or ex-wife is  
7 absent from the property as provided in subparagraph (ii) of paragraph  
8 (d) of this subdivision, then only the income of the spouse or ex-spouse  
9 residing on the property shall be considered and may not exceed such  
10 sum. Such income shall include social security and retirement benefits,  
11 interest, dividends, total gain from the sale or exchange of a capital  
12 asset which may be offset by a loss from the sale or exchange of a capi-  
13 tal asset in the same income tax year, net rental income, salary or  
14 earnings, and net income from self-employment, but shall not include a  
15 return of capital, gifts, inheritances, payments made to individuals  
16 because of their status as victims of Nazi persecution, as defined in  
17 P.L. 103-286 or monies earned through employment in the federal foster  
18 grandparent program and any such income shall be offset by all medical  
19 and prescription drug expenses actually paid which were not reimbursed  
20 or paid for by insurance, if the governing board of a municipality,  
21 after a public hearing, adopts a local law, ordinance or resolution  
22 providing therefor. In addition, an exchange of an annuity for an annui-  
23 ty contract, which resulted in non-taxable gain, as determined in  
24 section one thousand thirty-five of the internal revenue code, shall be  
25 excluded from such income. Provided that such exclusion shall be based  
26 on satisfactory proof that such an exchange was solely an exchange of an  
27 annuity for an annuity contract that resulted in a non-taxable transfer  
28 determined by such section of the internal revenue code. Furthermore,  
29 such income shall not include the proceeds of a reverse mortgage, as  
30 authorized 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 § 2. 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, and in a county  
56 with a population of between one million and one million four hundred

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

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