

STATE OF NEW YORK

7665

2023-2024 Regular Sessions

IN ASSEMBLY

May 31, 2023

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

AN ACT to amend the real property tax law, in relation to income requirements for certain real property tax exemptions in a city with a population of one million or more

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

1 Section 1. Paragraph (a) of subdivision 5 of section 459-c of the real
2 property tax law is amended by adding a new subparagraph (v) to read as
3 follows:

4 (v) Notwithstanding subparagraph (iv) of this paragraph, in a city
5 having a population of one million persons or more:

6 (1) except as provided in clause two of this subparagraph, the term
7 "income" as used in this section shall mean the "adjusted gross income"
8 for federal income tax purposes as reported on the applicant's federal
9 or state income tax return for the income tax year immediately preceding
10 the date of application, subject to any subsequent amendments or
11 revisions, minus any distributions, to the extent included in federal
12 adjusted gross income, received from an individual retirement account
13 and an individual retirement annuity; provided that if no such return
14 was filed for such income tax year, the applicant's income shall be
15 determined based on the amounts that would have so been reported if such
16 a return had been filed; and

17 (2) if an owner who has received an exemption pursuant to this section
18 for a property on an assessment roll for a tax year ending on or before
19 June thirtieth, two thousand twenty-four, would receive a greater
20 exemption for any tax year ending on or after June thirtieth, two thou-
21 sand twenty-five, the term "income" shall include social security and
22 retirement benefits, interest, dividends, total gain from the sale or
23 exchange of a capital asset which may be offset by a loss from the sale
24 or exchange of a capital asset in the same income tax year, net rental

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

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1 income, salary or earnings, and net income from self-employment, but
2 shall not include a return of capital, gifts, inheritances or monies
3 earned through employment in the federal foster grandparent program and
4 any such income shall be offset by all medical and prescription drug
5 expenses actually paid which were not reimbursed or paid for by insur-
6 ance, if the governing board of a municipality, after a public hearing,
7 adopts a local law or resolution providing therefor. In computing net
8 rental income and net income from self-employment for the purposes of
9 this item, no depreciation deduction shall be allowed for the
10 exhaustion, wear and tear of real or personal property held for the
11 production of income.

12 § 2. Paragraph (a) of subdivision 3 of section 467 of the real proper-
13 ty tax law is amended by adding a new subparagraph (v) to read as
14 follows:

15 (v) Notwithstanding subparagraph (iv) of this paragraph, in a city
16 having a population of one million persons or more:

17 (1) Except as provided in clause two of this subparagraph, the term
18 "income" as used in this section shall mean the "adjusted gross income"
19 for federal income tax purposes as reported on the applicant's federal
20 or state income tax return for the income tax year immediately preceding
21 the date of application, subject to any subsequent amendments or
22 revisions, minus any distributions, to the extent included in federal
23 adjusted gross income, received from an individual retirement account
24 and an individual retirement annuity; provided that if no such return
25 was filed for such income tax year, the applicant's income shall be
26 determined based on the amounts that would have so been reported if such
27 a return had been filed; and

28 (2) If an owner who has received an exemption pursuant to this section
29 for a property on an assessment roll for a tax year ending on or before
30 June thirtieth, two thousand twenty-four would receive a greater
31 exemption for any tax year ending on or after June thirtieth, two thou-
32 sand twenty-five, the term "income" shall include social security and
33 retirement benefits, interest, dividends, total gain from the sale or
34 exchange of a capital asset which may be offset by a loss from the sale
35 or exchange of a capital asset in the same income tax year, net rental
36 income, salary or earnings, and net income from self-employment, but
37 shall not include a return of capital, gifts, inheritances, payments
38 made to individuals because of their status as victims of Nazi perse-
39 cutation, as defined in P.L. 103-286 or monies earned through employment
40 in the federal foster grandparent program and any such income shall be
41 offset by all medical and prescription drug expenses actually paid which
42 were not reimbursed or paid for by insurance, if the governing board of
43 a municipality, a public hearing, adopts a local law or resolution
44 providing therefor. In addition, an exchange of an annuity for an annu-
45 ity contract, which resulted in non-taxable gain, as determined in
46 section one thousand thirty-five of the internal revenue code, shall be
47 excluded from such income. Provided that such exclusion shall be based
48 on satisfactory proof that such an exchange was solely an exchange of an
49 annuity for an annuity contract that resulted in a non-taxable transfer
50 determined by such section of the internal revenue code. Furthermore,
51 such income shall not include the proceeds of a reverse mortgage, as
52 authorized by section six-h of the banking law, and sections two hundred
53 eighty and two hundred eighty-a of the real property law; provided,
54 however, that monies used to repay a reverse mortgage may not be
55 deducted from income, and provided additionally that any interest or
56 dividends realized from the investment of reverse mortgage proceeds

1 shall be considered income. The provisions of this paragraph notwith-
2 standing, such income shall not include veterans disability compen-
3 sation, as defined in Title 38 of the United States Code provided the
4 governing board of such municipality, after public hearing, adopts a
5 local law, ordinance or resolution providing therefor. In computing net
6 rental income and net income from self-employment no depreciation
7 deduction shall be allowed for the exhaustion, wear and tear of real or
8 personal property held for the production of income.

9 § 3. Paragraph c of subdivision 1 of section 467-b of the real proper-
10 ty tax law, as amended by section 10 of part K of chapter 59 of the laws
11 of 2023, is amended to read as follows:

12 c. "Income" means:

13 (i) the "adjusted gross income" for federal income tax purposes as
14 reported on the applicant's federal or state income tax return for the
15 applicable income tax year, subject to any subsequent amendments or
16 revisions, plus any social security benefits not included in such feder-
17 al adjusted gross income; provided that if no such return was filed for
18 the applicable income tax year, the applicant's income shall be deter-
19 mined based on the amounts that would have so been reported if such a
20 return had been filed; and provided further, that when determining
21 income for purposes of this section, the following conditions shall be
22 applicable:

23 [~~(i)~~] (A) the governing body of a municipal corporation, after a
24 public hearing, may adopt a local law, ordinance or resolution providing
25 that any social security benefits that were not included in the appli-
26 cant's federal adjusted gross income shall not be considered income;

27 [~~(ii)~~] (B) distributions received from an individual retirement
28 account or individual retirement annuity that were included in the
29 applicant's federal adjusted gross income shall not be considered income
30 unless the governing body of a municipal corporation, after a public
31 hearing, adopts a local law, ordinance or resolution providing other-
32 wise;

33 [~~(iii)~~] (C) the applicant's income shall be offset by all medical and
34 prescription drug expenses actually paid that were not reimbursed or
35 paid for by insurance, if the governing body of a municipal corporation,
36 after a public hearing, adopts a local law, ordinance or resolution
37 providing therefor;

38 [~~(iv)~~] (D) any tax-exempt interest or dividends that were excluded
39 from the applicant's federal adjusted gross income shall be considered
40 income; and

41 [~~(v)~~] (E) any losses that were applied to reduce the applicant's
42 federal adjusted gross income shall be subject to the following limita-
43 tions:

44 [~~(A)~~] (1) the net amount of loss reported on federal Schedule C, D, E,
45 or F shall not exceed three thousand dollars per schedule,

46 [~~(B)~~] (2) the net amount of any other separate category of loss shall
47 not exceed three thousand dollars, and

48 [~~(C)~~] (3) the aggregate amount of all losses shall not exceed fifteen
49 thousand dollars; or

50 (ii) notwithstanding subparagraph (i) of this paragraph, in a city
51 with a population of one million or more persons:

52 (A) the sum of the adjusted gross incomes reported on the federal
53 income tax returns of the applicant and all other members of the appli-
54 cant's household for the income tax year immediately preceding the date
55 of application, subject to any subsequent amendments or revisions, less
56 any distributions, to the extent included in each such adjusted gross

1 income, received from an individual retirement account or retirement
2 annuity; provided that if no such income tax return was filed by any
3 member of the applicant's household for such income tax year, the income
4 of such applicant or member of the applicant's household shall be deter-
5 mined as if such a return had been filed;

6 (B) provided, however, that income may be calculated as the income
7 from all sources after deduction of all income and social security taxes
8 and includes social security and retirement benefits, supplemental secu-
9 rity income and additional state payments, public assistance benefits,
10 interest, dividends, net rental income, salary or earnings, and net
11 income from self-employment, but shall not include gifts or inheritanc-
12 es, payments made to individuals because of their status as victims of
13 Nazi persecution, as defined in federal P.L. 103-286, or increases in
14 benefits accorded pursuant to the social security act or a public or
15 private pension paid to any member of the household which increase, in
16 any given year, does not exceed the consumer price index (all items
17 United States city average) for such year which take effect after the
18 date of eligibility of head of the household receiving benefits here-
19 under whether received by the head of the household or any other member
20 of the household, when the following conditions are met:

21 (1) a rent increase exemption order was granted to the head of house-
22 hold prior to July first, two thousand twenty-four;

23 (2) such rent increase exemption order is either renewed after each
24 benefit period or granted pursuant to paragraph (d) of subdivision two
25 of this section to account for a temporary increase in income;

26 (3) income calculated as described in this subparagraph would yield a
27 lower amount than income calculated as described in subparagraph (i) of
28 this paragraph; and

29 (C) provided, further, that a change in the method of calculating
30 income pursuant to this paragraph shall not affect eligibility to file a
31 short-form renewal application in accordance with subparagraph two of
32 paragraph a of subdivision four of this section;

33 § 4. Paragraph f of subdivision 1 of section 467-c of the real proper-
34 ty tax law, as amended by section 11 of part K of chapter 59 of the laws
35 of 2023, is amended to read as follows:

36 f. "Income" means:

37 (1) the "adjusted gross income" for federal income tax purposes as
38 reported on the applicant's federal or state income tax return for the
39 applicable income tax year, subject to any subsequent amendments or
40 revisions, plus any social security benefits not included in such feder-
41 al adjusted gross income; provided that if no such return was filed for
42 the applicable income tax year, the applicant's income shall be deter-
43 mined based on the amounts that would have so been reported if such a
44 return had been filed; and provided further, that when determining
45 income for purposes of this section, the following conditions shall be
46 applicable:

47 [~~(i)~~] (i) the governing body of a municipal corporation, after a
48 public hearing, may adopt a local law, ordinance or resolution providing
49 that any social security benefits that were not included in the appli-
50 cant's adjusted gross income shall not be considered income;

51 [~~(ii)~~] (ii) distributions received from an individual retirement
52 account or individual retirement annuity that were included in the
53 applicant's federal adjusted gross income shall not be considered income
54 unless the governing body of a municipal corporation, after a public
55 hearing, adopts a local law, ordinance or resolution providing other-
56 wise;

1 [~~(3)~~] (iii) the applicant's income shall be offset by all medical and
2 prescription drug expenses actually paid that were not reimbursed or
3 paid for by insurance, if the governing body of a municipal corporation,
4 after a public hearing, adopts a local law, ordinance or resolution
5 providing therefor;

6 [~~(4)~~] (iv) any tax-exempt interest or dividends that were excluded
7 from the applicant's federal adjusted gross income shall be considered
8 income; and

9 [~~(5)~~] (v) any losses that were applied to reduce the applicant's
10 federal adjusted gross income shall be subject to the following limita-
11 tions:

12 [~~(i)~~] (A) the net amount of loss reported on federal Schedule C, D, E,
13 or F shall not exceed three thousand dollars per schedule,

14 [~~(ii)~~] (B) the net amount of any other separate category of loss shall
15 not exceed three thousand dollars, and

16 [~~(iii)~~] (C) the aggregate amount of all losses shall not exceed
17 fifteen thousand dollars~~[-]~~; and

18 [~~(6)~~] (vi) When the eligible head of the household has retired on or
19 after the commencement of the taxable period and prior to the date of
20 making an application for a rent increase exemption order/tax abatement
21 certificate pursuant to this section, such person's income shall be
22 adjusted by excluding salary or earnings and projecting such person's
23 retirement income over the entire taxable period~~[-]~~; or

24 (2) notwithstanding subparagraph one of this paragraph, in a city with
25 a population of one million or more persons:

26 (i) the sum of the adjusted gross incomes reported on the federal
27 income tax returns of the applicant and all other members of the appli-
28 cant's household for the income tax year immediately preceding the date
29 of application, subject to any subsequent amendments or revisions, less
30 any distributions, to the extent included in each such adjusted gross
31 income, received from an individual retirement account or retirement
32 annuity; provided that if no such income tax return was filed by any
33 member of the applicant's household for such income tax year, the income
34 of such applicant or member of the applicant's household shall be deter-
35 mined as if such a return had been filed;

36 (ii) provided, however, that income may be calculated as the income
37 received by the eligible head of the household combined with the income
38 of all other members of the household from all sources after deduction
39 of all income and social security taxes and includes without limitation,
40 social security and retirement benefits, supplemental security income
41 and additional state payments, public assistance benefits, interest,
42 dividends, net rental income, salary and earnings, and net income from
43 self employment, but shall not include gifts or inheritances, payments
44 made to individuals because of their status as victims of Nazi perse-
45 cution as defined in federal P.L. 103-286, nor increases in benefits
46 accorded pursuant to the social security act or a public or private
47 pension paid to any member of the household which increase, in any given
48 year, does not exceed the consumer price index (all items United States
49 city average) for such year which take effect after the eligibility date
50 of an eligible head of the household receiving benefits hereunder wheth-
51 er received by the eligible head of the household or any other member of
52 the household, when the following conditions are met:

53 (A) a rent increase exemption order was granted to the head of house-
54 hold prior to July first, two thousand twenty-four;

55 (B) such rent increase exemption order is either renewed after each
56 benefit period or granted pursuant to subparagraph four of paragraph a

1 of subdivision three of this section to account for a temporary increase
2 in income;

3 (C) income calculated as described in this clause would yield a lower
4 amount than income calculated as described in clause (i) of this subpar-
5 agraph; and

6 (iii) provided, further, that a change in the method of calculating
7 income pursuant to this subparagraph shall not affect eligibility to
8 file a short-form renewal application in accordance with subparagraph
9 two of paragraph a of subdivision four of this section.

10 § 5. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after May 3, 2023.