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:

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

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

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

(2) if an owner who has received an exemption pursuant to this section for a property on an assessment roll for a tax year ending on or before June thirtieth, two thousand twenty-four, would receive a greater exemption for any tax year ending on or after June thirtieth, two thousand twenty-five, the term "income" shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale 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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income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law or resolution providing therefor. In computing net rental income and net income from self-employment for the purposes of this item, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

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

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

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

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

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

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

c. "Income" means**:**

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

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

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

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

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

[~~**(v)**~~] **(E)** any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:

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

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

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

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

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

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

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

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

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

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

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

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

f. "Income" means:

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

[~~(1)~~] (i) the governing body of a municipal corporation, after a public hearing, may adopt a local law, ordinance or resolution providing that any social security benefits that were not included in the applicant's adjusted gross income shall not be considered income;

[~~(2)~~] (ii) distributions received from an individual retirement account or individual retirement annuity that were included in the applicant's federal adjusted gross income shall not be considered income unless the governing body of a municipal corporation, after a public hearing, adopts a local law, ordinance or resolution providing otherwise;

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

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

[~~(5)~~] (v) any losses that were applied to reduce the applicant's federal adjusted gross income shall be subject to the following limitations:

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

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

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

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

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

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

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

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

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

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

(C) income calculated as described in this clause would yield a lower amount than income calculated as described in clause (i) of this subparagraph; and

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

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