

STATE OF NEW YORK

7384--A

2023-2024 Regular Sessions

IN SENATE

May 22, 2023

Introduced by Sen. KRUEGER -- (at request of the NYC Finance) -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1 -- 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 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

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

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

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

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

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

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

~~[(+)]~~ (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;

~~[(+)]~~ (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;

~~[(+)]~~ (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;

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

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

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

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

~~[(+)]~~ (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

1 of application, subject to any subsequent amendments or revisions, less
2 any distributions, to the extent included in each such adjusted gross
3 income, received from an individual retirement account or retirement
4 annuity; provided that if no such income tax return was filed by any
5 member of the applicant's household for such income tax year, the income
6 of such applicant or member of the applicant's household shall be deter-
7 mined as if such a return had been filed;

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

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

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

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

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

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

38 f. "Income" means:

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

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

53 [~~(2)~~] (ii) distributions received from an individual retirement
54 account or individual retirement annuity that were included in the
55 applicant's federal adjusted gross income shall not be considered income
56 unless the governing body of a municipal corporation, after a public

1 hearing, adopts a local law, ordinance or resolution providing other-
2 wise;

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

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

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

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

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

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

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

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

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

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

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

1 (B) such rent increase exemption order is either renewed after each
2 benefit period or granted pursuant to subparagraph four of paragraph a
3 of subdivision three of this section to account for a temporary increase
4 in income;

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

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

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