

STATE OF NEW YORK

3085--A

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sen. STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- 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 amount of income property owners may earn for the purpose of eligibility for the property tax exemption for persons sixty-five years of age or over and for persons with disabilities and limited income

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 fifty thousand dollars beginning July first, two thousand twenty-two,
13 and in a city with a population of one million or more fifty thousand
14 dollars beginning July first, two thousand seventeen, as may be provided
15 by the local law, ordinance or resolution adopted pursuant to this
16 section. Where the taxable status date is on or before April fourteenth,
17 income tax year shall mean the twelve-month period for which the owner
18 or owners filed a federal personal income tax return for the year before
19 the income tax year immediately preceding the date of application and
20 where the taxable status date is on or after April fifteenth, income tax

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

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

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

45 (a) if the income of the owner or the combined income of the owners of
46 the property for the income tax year immediately preceding the date of
47 making application for exemption exceeds the sum of three thousand
48 dollars, or such other sum not less than three thousand dollars nor more
49 than twenty-six thousand dollars beginning July first, two thousand six,
50 twenty-seven thousand dollars beginning July first, two thousand seven,
51 twenty-eight thousand dollars beginning July first, two thousand eight,
52 twenty-nine thousand dollars beginning July first, two thousand nine,
53 and fifty thousand dollars beginning July first, two thousand twenty-
54 two, and in a city with a population of one million or more fifty thou-
55 sand dollars beginning July first, two thousand seventeen, as may be
56 provided by the local law or resolution adopted pursuant to this

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

23 § 3. This act shall take effect immediately.