

Local Law 1 of 2024

A Local Law amending Chapter 128 Article IV of the Code of the Town of Rochester, Senior Citizens Tax Exemption

BE IT ENACTED by the Town Board of the Town of Rochester as follows:

Section 1. Title and Legislative Findings.

§ 128-Article IV of the Code of the Town of Rochester shall be deleted in its entirety and replaced to read as follows:

§128-9 Partial Tax Exemption Granted Under RPTL §467

Real property owned by one or more persons, each of whom is sixty-five (65) years of age or over, or real property owned by husband and wife or by siblings, one of whom is sixty-five years of age or over, shall be exempt from taxation for county purposes up to a maximum of fifty per cent (50%) of the assessed value provided the owner(s) meet the qualifications set forth below. For the purposes of this local law, sibling shall mean a brother or a sister, whether related through half blood, whole blood or adoption. Any person otherwise qualifying under this section shall not be denied the exemption under this section if they become sixty-five years of age after the appropriate taxable status date and on or before December thirty-first (31st) of the same year, in accordance with the following schedule:

Annual Income	Percentage Assessed Valuation Exempt from Taxation
More than \$0 but less than \$37,000	50%
\$37,000 or more but less than \$38,000	45%
\$38,000 or more but less than \$39,000	40%
\$39,000 or more but less than \$40,000	35%
\$40,000 or more but less than \$40,900	30%
\$40,900 or more but less than \$41,800	25%
\$41,800 or more but less than \$42,700	20%
\$42,700 or more but less than \$43,600	15%
\$43,600 or more but less than \$44,500	10%
\$44,500 or more but less than \$45,400	5%

§128-10 Income Qualifications.

(A) The “applicable income tax year” as used herein shall mean the second most recent calendar year.

(B) The term “income” as defined herein shall mean “adjusted gross income” for federal income tax purposes as reported on an applicant’s federal or state income tax return for the applicable income tax year, as defined in and as is subject to any subsequent amendments to Real Property Tax Law § 467(3)(iv), *et seq.*; provided, however, if no such tax 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) any Social Security benefits not included in such federal adjusted gross income shall be considered income;

(2) distributions received from an individual retirement account or individual retirement annuity that were included in the applicant's federal adjusted gross income shall be considered income and shall not be excluded;

(3) any tax-exempt interest or dividends that were excluded from the applicant's federal adjusted gross income shall be considered income;

(4) any losses that were applied to reduce the applicant's federal adjusted gross income (AGI) shall be subject to the following limitations:

(a) the net amount of loss reported on federal schedules C, D, E, or F shall not exceed three thousand dollars (\$3,000) per any given schedule,

(b) the net amount of any other separate category of loss shall not exceed three thousand dollars (\$3,000), and

(c) the aggregate amount of all losses shall not exceed fifteen thousand dollars (\$15,000).

(C) Where title is vested in a married person, the combined income of such person and such person's spouse may not exceed such sum, except where one spouse or ex-spouse is absent from the property as provided in subparagraph (c)(2) of Section 4 of this local law, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum.

(D) No exemption shall be granted hereunder if the income of the owner or the combined income of the owners of the property for the applicable income tax year exceeds the sum provided in Section 2 of this local law.

128-11 Additional Qualifications.

No exemption shall be granted hereunder unless:

(A) the owner shall have held an exemption under this section for his previous residence or unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months, In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods

of ownership shall be deemed to be consecutive for purposes of this section, Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exemption. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months shall be deemed satisfied;

(B) the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;

(C) the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property: except where,

(1) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or,

(2) the real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be sixty-two years of age or over.

(D) the real property otherwise meets the qualifications contained in Real Property Tax Law§ 467, as the same may be amended from time to time.

Section 128-12. Administration.

A. Application for such exemption must be made by the owner, or all of the owners of the property upon such forms as may be prescribed from time to time by the NYS Office of Real Property Services. Such applications must be filed with the assessor of the town or city in which the real property is located on or before the taxable status date. Nothing herein shall impair a partial exemption presently enjoyed by an eligible property owner.

B. Extension of deadline.

- (1) Where a renewal application for the exemption authorized by this section has not been filed on or before the taxable status date, and the owner believes that good cause existed for the failure to file the renewal application by that date, the owner may, no later than the last day for paying taxes without incurring interest or penalty, submit a written request to the assessor asking him or her to extend the filing deadline and grant the exemption. Such request shall contain an explanation of why the deadline was missed and shall be accompanied by a renewal application, reflecting the facts and circumstances as they existed on the taxable status date.
- (2) The assessor may extend the filing deadline and grant the exemption if he or she is satisfied that:
 - (a) Good cause existed for the failure to file the renewal application by the taxable status date; and
 - (b) The applicant is otherwise entitled to the exemption.
 - (c) The assessor shall mail notice of his or her determination to the owner.
 - (d) If the determination states that the assessor has granted the exemption, he or she shall thereupon be authorized and directed to correct the assessment roll accordingly, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections.
 - (e) If the correction is not made before taxes are levied, the failure to take the exemption into account in the computation of the tax shall be deemed a "clerical error" for purposes of Title 3 of Article 5 of the New York State Real Property Tax Law and shall be corrected accordingly.

Section 2. Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

Section 3. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.