

ADOPTED: September 6, 2023
EFFECTIVE DATE: October 5, 2023

Pursuant to the provisions of the New York State Constitution and the Municipal Home Rule Law of the State of New York, as amended, the Town Board of the Town of Hempstead, Nassau County, New York, has hereby enacted the following Local Law:

A LOCAL LAW AMENDING SECTION 10-4 AND SECTION 10-5 OF CHAPTER 10 OF THE HEMPSTEAD TOWN CODE ENTITLED "TAXATION: PARTIAL EXEMPTION OF REAL PROPERTY FOR CERTAIN PERSONS WITH LIMITED INCOME"

Section 1. To accord with recent amendments to N.Y. RPTL §467, Section 10-4 of Chapter 10 of the Hempstead Town Code entitled "Taxation: Partial Exemption of Real Property for Certain Persons with Limited Income" is hereby amended to read as follows:

Chapter 10

Taxation: Partial Exemption of Real Property for Certain Persons with Limited Income

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§ 10-4. Conditions of exemption.

No exemption shall be granted unless an annual application is made therefor as hereinafter set forth, and:

A. (i) If the income of the owner or combined income of the owners of the property for the applicable tax year exceeds the sum of \$58,400;

(ii) When the taxable status date is on or before April fourteenth, the applicable income tax year shall be the second most recent calendar year. When the taxable status date is on or after April fifteenth, the applicable income tax year shall be the most recent calendar year. Provided, however, that for taxpayers whose income tax returns are filed on the basis of a fiscal year rather than a calendar year, the applicable income tax year shall be the most recent fiscal year for which an income tax return has been filed;

(iii) 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 this section, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum; and

(iv) The term "income" as used herein 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 applicable income tax year, subject to any subsequent amendments or revisions; 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) any social security benefits that were not included in the applicant's federal adjusted gross income shall not 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 not be considered income;

(3) 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;

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

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

(a) the net amount of loss reported on federal Schedule C, D, E, or F shall not exceed three thousand dollars per schedule;

(b) the net amount of any other separate category of loss shall not exceed three thousand dollars; and

(c) the aggregate amount of all losses shall not exceed fifteen thousand dollars; and

B. Unless the owner shall have held an exemption under this chapter for the owner's 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 a married person in whose name title of the property shall have been vested at the time of death and then becomes vested solely in such person's surviving spouse by virtue of devise or by descent from the deceased spouse, the time of ownership of the property by the deceased spouse shall be deemed also a time of ownership by the surviving spouse 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 a married person to such person's 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 required to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary preceding, 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 chapter. 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. 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 chapter, 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 subsection 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 subsection 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;

C. Unless 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 chapter; and,

D. Unless 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, (i) 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, (ii) the real property is owned by a married person or a married couple, or by a formerly married person or a formerly married couple, and one spouse or ex-spouse 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.

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Section 2.

To accord with recent amendments to N.Y. RPTL §467, Section 10-5 of Chapter 10 of the Hempstead Town Code entitled "Taxation: Partial Exemption of Real Property for Certain Persons with Limited Income" is hereby amended to read as follows:

Chapter 10

Taxation: Partial Exemption of Real Property for Certain Persons with Limited Income

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§ 10-5. Application for Exemption.

Application for the annual exemption shall be made by the owner, or all of the owners of the property, on forms prescribed by the New York State Commissioner of Taxation and Finance, to be furnished by the Nassau County Assessor's office and shall furnish the information and be executed in the manner required or prescribed in such forms, and shall be filed in the Nassau County Assessor's Office on or before the appropriate taxable status date. Notwithstanding any other provision of law, any person otherwise qualifying under this chapter shall not be denied the exemption under this chapter if such person becomes sixty-five years of age after the appropriate taxable status date and on or before December thirty-first of the same year.

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Section 3.

This local law shall take effect twenty days after adoption, upon filing with the Secretary of State, posting on the bulletin board in the Town Hall, and publication.

I, Kate Murray, Town Clerk of the Town of Hempstead, do hereby certify that the foregoing is a true and correct transcript of the above local law enacted by Local Law No. 64-2023 effective October 5, 2023

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Hempstead on this 17th day of October, 2023

**KATE MURRAY
TOWN CLERK
TOWN OF HEMPSTEAD, N.Y.**

(S E A L)