

# SCHOOL LAW

## INFORMATION MEMO

OCTOBER 19, 2023

## **New York State Legislature Amends Statutes Governing Property Tax Exemptions for Seniors and Persons with Disabilities and Limited Incomes**

In Chapter 59 of the Laws of 2023, the New York State Legislature amended three aspects of the senior citizens exemption (Real Property Tax Law §467) and the exemption for persons with disabilities and limited incomes (RPTL §459-c). Firstly, they redefined what is considered income for purposes of the exemptions. Secondly, they clarified which income tax year applies when determining income eligibility. Finally, they replaced gender-specific language with gender-neutral language (i.e., they changed “husband and wife” to “married couple”). These changes will take effect for the 2024 assessment cycle.

### **Income Definition**

The new income definition is meant to simplify the application and administration of these exemptions. Beginning with the 2024 assessment rolls, the starting point for the new income definition will be the Federal Adjusted Gross Income (FAGI) reported on the applicant’s income tax return. This new definition is similar (though not identical) to that of the New York State School Tax Relief (STAR) program. Though the base definition is the FAGI, there are five possible adjustments, three of which are optional at the local level. The adjustments are as follows:

- Deduction of Taxable IRA Distributions (Local Option: Not to Deduct)
- Addition of Social Security Benefits not included in FAGI (Local Option: Not to Add)
- Deduction of Medical and Prescription Drug Expenses Not Covered by Insurance (Local Option: Option to Deduct [same as the current definition])
- Addition of Tax Exempt Interest and Dividends (Local Option: None)
- Addition of Loss Limitations (Local Option: None)

As noted above, the STAR definition of income includes the deduction of taxable IRA distributions from the applicant’s FAGI.

The main exception is for unreimbursed medical and prescription drug expenses. In localities that have opted to allow a deduction for reimbursed medical and prescription drug expenses, an applicant who wishes to claim the deduction will have to document the amounts paid and the offsetting insurance coverage, or the lack thereof.

The New York State Department of Taxation and Finance is currently developing an income worksheet similar to the STAR worksheet for those individuals who do not file income tax returns, but it is not yet available.

Regarding Loss Limitations, if an applicant’s FAGI was reduced by business or other losses, those losses may be limited for exemption purposes, though the applicant cannot include more than \$3,000 for any category of loss (e.g., Form 1040, Schedules C, D, E or F) with a maximum of \$15,000 in total losses.

The provision regarding nursing home expenses, which states that *any income accruing to an owner* who is absent from his/her/their residence while receiving health-related care as an inpatient of a residential health care facility shall be counted *only to the extent that it exceeds the amount paid* by such owner, spouse, or co-owner *for care in the facility*, remains in effect.

### **Income Tax Year Changes**

The Legislature also clarified the income tax year requirement in these amendments. When determining eligibility for the senior exemption and the exemption for persons with disabilities and limited incomes, the applicable income tax year depends on when the taxable status date (TSD) occurs. That is, if the TSD is before April 15, the second-latest calendar year should be used. If the TSD is on or after April 15, the latest calendar year should be used. For example, for 2024 eligibility, if the TSD is before April 15<sup>th</sup>, the applicant's 2022 income should be used. If the TSD is on or after April 15<sup>th</sup>, the applicant's 2023 income should be used.

The new rule also clarifies the rule for fiscal year filers—those that file income tax returns based on a year that starts on a date other than January 1. Those filers must use the latest return.

### **Implications for School Districts**

As a reminder, senior citizens and persons with disabilities are not eligible for the exemption if they have children living in their home and attending public school. However, school districts can adopt a resolution granting a reduction on the amount of property taxes paid by qualifying individuals after conducting a public hearing. Such resolution shall condition any exemption upon satisfactory proof that the child was not brought into the residence primarily for the purpose of attending a particular school within a district.

If you would like more information about or have any questions regarding the information contained in this client alert, please contact [Kristin Warner](#) or the attorney at the firm with whom you are regularly in contact.

