



NYSAA

LEGISLATION SPOTLIGHT

RPTL 467: Senior Income Calculation Webinar Q & As

The definition of what is income for RPTL 467 was modified in the 2023-2024 Executive Budget. The New York State Assessors Association (NYSAA) hosted a webinar on June 21, 2023 to help assessors understand the changes; however, it was clear that there were still unanswered questions. NYSAA compiled all of the questions posed during the webinar, and experienced assessors provided answers (in red).

The information provided herein is for educational purposes only and are not legal conclusions or provided to take precedence over an assessor's, jurisdiction's, or other professional's discretion. The statements are non-binding on the New York State Assessors Association, Inc. and if you have any questions on the applicability of any statements made herein, you should consult your attorney to determine the correct application moving forward.

NYSAA will offer a three-hour class this fall to discuss these changes in detail.

Webinar Chat Questions

Will the max income level be increased significantly this year?

BEGINNING JULY 1, 2022, THE INCOME LIMITS ARE \$3,000 TO \$50,000 FOR A 50% EXEMPTION, UP TO \$58,400 BASED ON SLIDING SCALE BY LOCAL OPTION. THIS LAW PERTAINS TO THE CALCULATION OF INCOME FOR 467 PURPOSES ADOPTED WITH THE 2023 BUDGET (PART K) NOT AN INCREASE IN THE INCOME LIMITS.

Has the, or is the, income limit going to change to qualify for the exemption due to these changes?

THIS LAW PERTAINS TO THE CALCULATION OF INCOME FOR 467 PURPOSES ADOPTED WITH THE 2023 BUDGET (PART K) NOT AN INCREASE IN THE LIMITS.

DTF INDICATED THAT NEW FORMS WILL BE AVAILABLE BY SEPTEMBER 2023.

When does this new law take effect? Our taxable status date is October 1, 2023, our tentative roll is November 1, 2023, and our final is January 1, 2024, are we to use the new law for income?

THIS ACT SHALL TAKE EFFECT IMMEDIATELY AND SHALL APPLY TO ALL APPLICATIONS FOR EXEMPTIONS PURSUANT TO SECTIONS 467, 459-C, 467-B AND 467-C OF THE REAL PROPERTY TAX LAW ON ASSESSMENT ROLLS THAT ARE BASED ON TAXABLE STATUS DATES OCCURRING ON AND AFTER OCTOBER 1, 2023.

As the law stands now, what do we have to provide our town boards as options? IRAs, as the law stands now, are they subtracted? As the law stands now, are we adding non-taxable Social Security? I know there was a third line with an option, what was that?

BEGINNING WITH 2024 ASSESSMENT ROLLS, THE STARTING POINT FOR THE NEW INCOME DEFINITION IS THE FEDERAL ADJUSTED GROSS INCOME (FAGI) REPORTED ON THE APPLICANT'S TAX RETURN (OR INCOME CALCULATION FOR NON- FILERS) WITH 5 POSSIBLE ADJUSTMENTS. THREE OF WHICH ARE LOCAL OPTIONS:

ADJUSTMENTS:

1. TAXABLE IRA DISTRIBUTIONS: DEDUCTION FROM FAGI (LOCAL OPTION **NOT TO DEDUCT**)
2. SOCIAL SECURITY BENEFITS NOT INCLUDED IN FAGI: ADD BACK TO FAGI (LOCAL OPTION **NOT TO ADD**)
3. UNREIMBURSED MEDICAL AND PRESCRIPTION DRUG EXPENSES (LOCAL OPTION **TO DEDUCT FROM FAGI**)
4. TAX EXEMPT INTEREST AND DIVIDENDS: ADD BACK TO FAGI (MANDATORY, NO LOCAL OPTION AVAILABLE)
5. LOSS LIMITATIONS: ADD BACK TO FAGI (MANDATORY, NO LOCAL OPTION AVAILABLE)

Do these same laws apply to the disability exemption as well? YES

Will we need to update our local law with the new income qualifications?

PART K APPLIES TO CALCULATION OF INCOME FOR 467 PURPOSES, NOT THE INCOME LIMITS. MUNICIPALITIES WILL NEED TO ADOPT LOCAL LAWS IF UPDATING/AMENDING THE INCOME LIMITS. THE OPTIONS UNDER THE CURRENT LAW PERTAIN TO NON-TAXABLE SOCIAL SECURITY BENEFITS, TAXABLE IRA DISTRIBUTIONS AND UNREIMBURSED MEDICAL EXPENSES.

Who makes the decision to opt out?

MUNICIPALITIES CANNOT OPT OUT OF THIS INCOME CALCULATION.

Assessors are not taking in IRA distribution or is that a local option?

THE LAW DIRECTS US TO EXCLUDE THE TAXABLE IRA DISTRIBUTION. MUNICIPALITIES MAY CHOSE TO LEAVE IN BASED ON LOCAL OPTION.

If my town doesn't count the medical, do they need to opt out again?

NO, UNREIMBURSED MEDICAL EXPENSES ARE NOT CONSIDERED. THERE IS A LOCAL OPTION TO INCLUDE IN THE CALCULATION OF INCOME.

We have seniors that itemized medical expenses on NYS tax return but not on the Federal. Can we ask for the NYS Income Tax Return, or do we need something else?

WE BELIEVE THAT THE ASSESSOR HAS THE RIGHT TO REQUEST ANY DOCUMENTATION THEY NEED TO MAKE A DETERMINATION REGARDING THE EXEMPTION APPLICATION.

If we request the source documents but they [THE APPLICANT] don't have them OR don't provide them, can we deny the application?

IT IS ENCUMBERT ON THE ASSESSOR TO APPROVE OR DENY THE APPLICATION. WE BELIEVE THAT THE APPLICANT HAS THE RIGHT TO APPEAL THE ASSESSOR'S DECISION BY FILING A GRIEVANCE APPLICATION DURING THE GRIEVANCE PERIOD.

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 TAXPAYERS ITEMIZE THEIR DEDUCTIONS, THE UNREIMBURSED MEDICAL EXPENSES ARE INCLUDED IN SCHEDULE A.

LINK TO IRS PUBLICATION RE: UNREIMBURSED MEDICAL EXPENSES. <https://www.irs.gov/publications/p502>

If taxable status date is January 2024, do we use 2022 income tax? As usual

PARK K OF CHAPTER 59 OF THE LAWS OF 2023 CLARIFIED THE INCOME TAX YEAR APPLICABLE WHEN DETERMINING INCOME ELIGIBILITY AS FOLLOWS:

MUNICIPALITIES WITH TAXABLE STATUS DATES BEFORE APRIL 15TH, USE THE SECOND LATEST CALENDAR YEAR (E.G., 2024 APPLICATIONS USE 2022 INCOME TAX RETURNS).

MUNICIPALITIES WITH TAXABLE STATUS DATES AFTER APRIL 15TH, USE THE LATEST CALENDAR YEAR INCOME (E.G., 2024 APPLICATION USE 2023 INCOME TAX RETURNS).

Income tax return Filing requirements – DTF IS COMING UP WITH A WORKSHEET FOR NON-FILERS TO COMPLETE.

How long does it generally take to receive a transcript from the IRS?

ABOUT 3 WEEKS.

FYI, form 4506 has a fee of \$43 per request for a transcript.

4506-T IS FREE.

Tax Exempt Income (interest income, pension, other payments – calculation and supporting documentation)

Do we disregard any amount in 2b?

2B IS ALREADY INCLUDED IN FAGI.

Regarding tax exempt interest AND DIVIDENDS, would we need to refer to line 3a?

NO – JUST 3B WHICH IS ALREADY INCLUDED TO FAGI.

If 2b is already added into line 11 and you add your full 2a isn't that double dipping for interest?

NO 2A IS A TOTALLY DIFFERENT TYPE OF INTEREST AND IS NOT INCLUDED IN 2B.

When people file their own income tax returns many don't list tax exempt interest and dividend income. CAN WE REQUEST SOURCE DOCUMENTS?

WE BELIEVE THE ASSESSOR CAN REQUEST ANY DOCUMENTATION THEY NEED TO MAKE A DETERMINATION REGARDING THE EXEMPTION APPLICATION.

Do we still need the 1099s to match them up to the tax return?

WE BELIEVE THE ASSESSOR CAN REQUEST ANY DOCUMENTATION THEY NEED TO MAKE A DETERMINATION REGARDING THE EXEMPTION APPLICATION.

Also, what if there are more than one Schedule C filed? If they have more than one business?

ALL SCHEDULES ARE SUMMARIZED ON SCHEDULE 1, FORM 1040.

Since 1120-S is business income wouldn't that be the same category as Sched C? Different lines on Sched 1

-SCHED C LOSSES ARE REPORTED ON SCHED C WHICH FLOW TO SCHEDULE 1, LINE 3.

-1120-S LOSSES ARE REPORTED ON SCHED E WHICH FLOW TO SCHEDULE 1, LINE 5.

Losses, Net losses, loss carryover and depreciation –

So "each schedule" is each Schedule 1?

EACH SCHEDULE (C, D, E, F) FLOWS TO SCHEDULE 1.

Miscellaneous Questions/Comment

If you are adding in the difference between 6a and 6b why are we not doing the same for 5a and 5b?

THE NEW LAW ONLY MENTIONS INTEREST (2A) and ALL SOCIAL SECURITY (6A-6B).

WE WOULD LIKE TO SEE AN EXAMPLE OF A MORE COMPLEX INCOME CALCULATION.

See the one provided with the responses from ORPTS document included with this Q&A.

We're adding lines 7 and 8?? (Not subtracting them?)

WE ARE LOOKING AT LINES 7 & 8 TO DETERMINE IF THERE ARE LOSSES THAT MUST BE ADDED BACK TO FAGI BECAUSE EXCEED THE LOSS LIMITATIONS. IF NOT, THE INCOME FROM LINES 7 AND 8 IS ALREADY PART OF FAGI.

Regarding previous mention of 3a vs 3b, since the description includes the word "dividends," we'll need to deal with 3a.

NO 3A IS ALREADY INCLUDED IN 3B FOR FAGI.

Do we have a right to deny an applicant FOR failing to report that they own a business or another property?

How much "wobble room" do Local Municipalities have for crafting their Local Laws regarding exemptions? Can the Town write in requirements for the Income Worksheets, etc....??

We have a sovereign citizen, so they don't file. How will that work? We had them do a notarized statement in the past.

THE ANSWERS WOULD BE SIMILAR TO THOSE APPLICANTS THAT DO NOT HAVE A FILING REQUIREMENT. WE SUGGEST THAT THESE APPLICANTS PRODUCE SOURCE DOCUMENTS AND AUTHORIZE A REQUEST FOR A TRANSCRIPT.

If Social Security is not taxable some [TAXPAYERS] don't list it on their [INCOME TAX] return?

WE BELIEVE THE ASSESSOR CAN REQUEST ANY DOCUMENTATION THEY NEED TO MAKE A DETERMINATION REGARDING THE EXEMPTION APPLICATION.

Can we require that anyone applying for this exemption MUST FILE A RETURN?

MOST LIKELY, NO! DTF IS DEVELOPING A WORKSHEET FOR NON-FILERS.

If a senior [CITIZEN] receives IRA distributions, are they required to file a tax return?

A FILING REQUIREMENT IS BASED ON AN INCOME THRESHHOLD. IF THE DISTRIBUTION IS UNDER THE THRESHHOLD THEN THE ANSWER IS NO.

Many senior [CITIZENS} who don't file taxes, submit social security statements as income. What other questions do they need to be asked?

THE STATE IS DEVELOPING A FORM FOR NON – FILERS TO USE.

How do we handle line 5a [PENSIONS AND ANNUITIES]?

THE LAW IS SILENT WITH RESPECT TO AMOUNTS REPORTED ON LINE 5A (PENSIONS AND ANNUITIES). IN OTHERWORDS, THESE INCOME ITEMS ARE NOT LISTED AS AN ADJUSTMENT TO FAGI.

How is depreciation accounted for?

PART K OF CHAPTER 59 OF THE LAWS OF 2023 DOES NOT LIST DEPRECIATION AS AN ADJUSTMENT TO FAGI (LINE 11, FORM 1040). THE LAW LISTS THE FOLLOWING FIVE POSSIBLE ADJUSTMENTS TO FAGI:

1. TAXABLE IRA DISTRIBUTIONS (LOCAL OPTION)
2. SOCIAL SECURITY BENEFITS NOT INCLUDED IN FAGI (LOCAL OPTION)
3. MEDICAL AND PRESCRIPTION DRUG EXPENSES NOT COVERED BY INSURANCE (LOCAL OPTION)
4. TAX EXEMPT INTEREST AND DIVIDENDS IS ADDED BACK TO FAGI
5. LOSS LIMATIIONS ARE ADDED BACK TO FAGI

Are we going to be using the net number for each line item in schedule 1 that has a limit of \$3,000 loss or do we need to look into each schedule to set a limit of loss to \$3000 within each schedule before they are totaled?

IF THE APPLICANT'S FAGI WAS REDUCED BY BUSINESS OR OTHER LOSSES, THOSE LOSSES MAY BE LIMITED FOR EXEMPTION PURPOSES.

-THE APPLICANT CANNOT INCLUDE MORE THAN \$3,000 FOR ANY CATEGORY OF LOSS (E.G. FORM 1040, SCHEDULES C, D, E OR F – SCHEDULE 1, FORM 1040)

-IN ADDITION, THE APPLICANT CANNOT INCLUDE MORE THAN \$15,000 IN TOTAL LOSS

Do we include 1120-S losses as part of the business Schedule C losses?

-SCHED C LOSSES ARE REPORTED ON SCHED C WHICH FLOW TO SCHEDULE 1, LINE 3

-1120-S LOSSES ARE REPORTED ON SCHED E WHICH FLOW TO SCHEDULE 1, LINE 5

EACH WOULD BE CONSIDERED A SEPARATE CATEGORY FOR LOSS WITH \$3,000 BEING THE MAX NET LOSS FOR EACH CATEGORY.

As nursing home expenses are no longer part of the mix for income, has the Law been changed to reflect this?

DTF WEBSITE 459C-467 CHANGES ANSWER: WHEN AN OWNER IS ABSENT FROM THE RESIDENCE WHILE RECEIVING HEALTH RELATED CARE AS AN INPATIENT OF A RESIDENTIAL HEALTH CARE FACILITY, ANY INCOME ACCURING TO THAT PERSON 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. THIS RESTRICTION IS NOT SUBJECT TO THE LOCAL OPTION.

If [A] senior does not file an income tax return, we could take IRA interest so we would have to get their statements?

THE STATE IS DEVELOPING A WORKSHEET TO BE USED FOR NON-FILERS. THE CALCULATION OF INCOME FOR NON- FILERS WOULD BE SIMILAR TO THAT OF APPLICANTS FILING A TAX RETURN. BEGINNING WITH 2024 ASSESSMENT ROLLS, THE NEW LAW REPLACES THE PRIOR DEFINITION OF INCOME WITH ONE THAT IS SIMILAR TO (BUT NOT THE SAME AS) STAR. WE BELIEVE THAT IRA INTEREST WOULD BE EXCLUDED REGARDLESS OF THE FILING REQUIREMENT.

Do we still handle a deceased spouse's income as we have in the past...see below:

ACCORDING TO LAW CHANGE FOR THIS EXEMPTION "....IF THE APPLICANT'S SPOUSE DIED PRIOR TO TAXABLE STATUS DATE, WE BELIEVE THE ELIGIBILITY DETERMINATION WOULD STILL BE BASED ONLY ON THE SURVIVING SPOUSE'S INCOME, NOT THE DECEASED SPOUSE'S INCOME. ELIGIBILITY FOR THE EXEMPTION IS BASED UPON THE INCOME OF THE OWNERS OF THE PROPERTY, AND A DECEASED SPOUSE WHO DIED BEFORE THE 2022 TAXABLE STATUS DATE WOULD NOT HAVE BEEN AN OWNER AS OF THAT TAXABLE STATUS DATE (SEE 1 OP. COUNSEL SBEA NO. 70)

A senior with gambling winnings - on deduction Sched A of the 1040 they show losses of the same amount of winnings. Is Sched A subject to reducing FAGI?

NO – FAGI IS FOUND ON LINE 11 OF FORM 1040, DEDUCTIONS FROM FAGI ARE FOUND ON LINE 12.

When requesting the transcript, 4560T does the assessor do it or the homeowner? Who pays?

FORM 4560T MUST BE SIGNED BY THE TAXPAYER BUT CAN BE MAILED OR FAXED TO THE IRS BY THE ASSESSOR (OR ANYONE ELSE). THERE IS NO MENTION OF A FEE ON THE FORM INSTRUCTIONS.

Link to Form 4506 T and instructions <https://www.irs.gov/pub/irs-pdf/f4506t.pdf>

PURPOSE OF FORM. USE FORM 4506-T TO REQUEST TAX RETURN INFORMATION. TAXPAYERS USING A TAX YEAR BEGINNING IN ONE CALENDAR YEAR AND ENDING IN THE FOLLOWING YEAR (FISCAL TAX YEAR) MUST FILE FORM 4506-T TO REQUEST A RETURN TRANSCRIPT.

WHERE TO FILE. MAIL OR FAX FORM 4506-T TO THE ADDRESS BELOW FOR THE STATE YOU LIVED IN, OR THE STATE YOUR BUSINESS WAS IN, WHEN THAT RETURN WAS FILED. THERE ARE TWO ADDRESS CHARTS: ONE FOR INDIVIDUAL TRANSCRIPTS (FORM 1040 SERIES AND FORM W-2) AND ONE FOR ALL OTHER TRANSCRIPTS.

If you filed an individual return and lived in:

Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Minnesota, Missouri,

New Hampshire, New Jersey, **New York**, North Carolina, Oklahoma, South Carolina, Tennessee, Vermont, Virginia

Mail or Fax to:

Wisconsin Internal Revenue Service RAIVS Team Stop 6705 S-2 Kansas City, MO 64999 855-821-0094

Signature and date. Form 4506-T must be signed and dated by the taxpayer listed on line 1a or 2a. The IRS must receive Form 4506-T within 120 days of the date signed by the taxpayer, or it will be rejected. Ensure that all applicable lines are completed before signing.