

LOCAL LAW 9-2018 (Adopted)

NOTICE IS HEREBY GIVEN that at the Regularly scheduled meeting of the Village Board of Trustees of the Village of Ossining, which was held on Wednesday, December 19, 2018, the Village Board did adopt Local Law # 11-2018 as Local Law # 9-2018.

A Local Law amending Chapter 241 (Taxation) of the Village of Ossining Code.

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 241 Article VI ("Tax Abatement for Rent-Controlled and Rent-Regulated Property Occupied by Certain Senior Citizens or Persons with Disabilities") is added with new matter underlined.

§ 241-26 Legislative findings and intent.

The Board of Trustees of the Village of Ossining finds that it is in the public interest to adopt legislation in accordance with Real Property Tax Law § 467-b, the enabling legislation enacted by the State Legislature with respect to abatements of real property taxes where rent-controlled and rent-regulated property is occupied by persons 62 years of age or older and of limited means, or persons with disabilities.

§ 241-27 Definitions.

As used in this article, the following terms shall have the meanings indicated:

DWELLING UNIT

That part of a dwelling in which a head of the household resides and that is subject to either the Emergency Housing Rent Control Law or the Emergency Tenant Protection Act of 1974.

HEAD OF THE HOUSEHOLD

A person (i) who is 62 years of age or older, or (ii) who qualifies as a person with a disability pursuant to subdivision 5 of Real Property Tax Law § 467-b, and is entitled to the possession or to the use or occupancy of a dwelling unit.

INCOME

Income from all sources after deduction of all income and social security taxes, and includes social security and retirement benefits, supplemental security income and additional state payments, public assistance benefits, interest, dividends, net rental income, salary or earnings, and net income from self-employment, but shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the Social Security Act or a public or private pension paid to any member of the household which increases, in any given year, do not exceed the consumer price index (all items United States city average) for such year, that take effect after the date of eligibility of the head of the household or any other member of the household.

INCOME TAX YEAR

A twelve-month period for which the head of the household filed a federal personal income tax return or, if no such return is filed, the calendar year.

INCREASE IN MAXIMUM RENT OR LEGAL REGULATED RENT

Any increase in the maximum rent or the legal regulated rent for the dwelling unit in question pursuant to the applicable rent control law or to the Emergency Tenant Protection Act of 1974, respectively, or such classes of increase thereunder as may be specified in a local law, ordinance, or resolution enacted pursuant to Real Property Tax Law § 467-b, over such base period rent as shall be provided therein or an exemption from the maximum rent or legal regulated rent as specified in §§ **241-28(B)** and **241-30** of this article.

MEMBERS OF THE HOUSEHOLD

The head of the household and any person, other than a bona fide roomer, boarder, or subtenant who is not related to the head of the household, permanently residing in the dwelling unit.

§ 241-28 Abatement of taxes; deductions.

A. All taxes of the Village of Ossining imposed on real property containing a dwelling unit are hereby abated by one of the following amounts:

- (1) Where the head of household does not receive a monthly allowance for shelter pursuant to the Social Services Law, the taxes shall be abated by an amount not in excess of that portion of any increase in maximum rent or legal regulated rent that causes such maximum rent or legal regulated rent to exceed 1/3 of the combined income of all members of the household; or
- (2) Where the head of the household receives a monthly allowance for shelter pursuant to the Social Services Law, the taxes shall be abated by an amount not in excess of that portion of any increase in maximum rent or legal regulated rent that is not covered by the maximum allowance for shelter that such person is entitled to receive pursuant to the Social Services Law.

B. Upon issuance of a tax abatement certificate as hereinafter provided, the amount of increase in maximum rent or legal regulated rent set forth in said certificate shall be deducted from the legal maximum rent or legal regulated rent chargeable for the dwelling unit of a head of the household.

§ 241-29 Exceptions.

A. For a dwelling unit where the head of the household is a person 62 years of age or older, no tax abatement shall be granted if the combined income of all members of the household for the income tax year immediately preceding the date of making application exceeds the maximum allowable income of \$50,000 beginning July 1, 2014; provided,

however, that when the head of the household retires before the commencement of such income tax year and the date of filing the application, the income for such year may be adjusted by excluding salary or earnings and projecting his or her retirement income over the entire period of such year.

- B. For a dwelling unit where the head of the household qualifies as a person with a disability under this article, no tax abatement shall be granted if the combined income of all members of the household for the current income tax exceeds \$50,000 beginning July 1, 2014.
- C. Notwithstanding the foregoing Subsections A and B, in the event the maximum allowable incomes established under Real Property Tax Law § 467-b for dwelling units where the head of the household is a person 62 years of age or older or a qualified person with a disability is reduced or increased, by operation of law or by action of the State Legislature, to an amount less or more than \$50,000, the maximum allowable incomes under this § 241-29 shall automatically reduce or increase to said statutory maximum allowable incomes.

§ 241-30 Change in principal residence.

- A. Notwithstanding any other provision of law, when a head of the household to whom a then current, valid tax abatement certificate has been issued moves his or her principal residence from one dwelling unit to a subsequent dwelling unit located within the Village, the head of the household may apply for a tax abatement certificate relating to the subsequent dwelling unit, and such certificate may provide that the head of the household shall be exempt from paying that portion of the maximum rent or legal regulated rent for the subsequent dwelling unit that is the least of the following:
- (1) The amount by which the rent for the subsequent dwelling unit exceeds the last rent, as reduced, that the head of the household was required to actually pay in the original dwelling unit;
 - (2) The last amount deducted from the maximum rent or legal regulated rent pursuant to this section in the original dwelling unit; or
 - (3) Where the head of the household does not receive a monthly allowance for shelter pursuant to the Social Services Law, the amount by which the maximum rent or legal regulated rent of the subsequent dwelling unit exceeds one-third of the combined income of all members of the household.

B. Notwithstanding any other provision of law, when a head of the household to whom a then current, valid tax abatement certificate has been issued moves his or her principal residence from one dwelling unit subject to the provisions of Articles II, IV, V or XI of the Private Housing Finance Law to a subsequent dwelling unit subject to either the Local Emergency Housing Rent Control Law or to the Emergency Tenant Protection Act of 1974 that is located within the Village, the head of the household may apply for a tax abatement certificate relating to the subsequent dwelling unit, and such certificate may provide that the head of the household shall be exempt from paying that portion of the maximum rent or legal regulated rent for the subsequent dwelling unit that is the least of the following:

- (1) the amount by which the rent for the subsequent dwelling unit exceeds the last rent, as so reduced, that the head of the household was required to actually pay in the original dwelling unit;
- (2) the most recent amount so deducted from the maximum rent or legal regulated rent in the original dwelling unit; or
- (3) where the head of the household does not receive a monthly allowance for shelter pursuant to the Social Services Law, the amount by which the maximum rent or legal regulated rent of the subsequent dwelling unit exceeds 1/3 of the combined income of all members of the household.

§ 241-31 Application for redetermination in case of decrease in income.

Notwithstanding any other provision of law to the contrary, where a head of the household holds a current, valid tax abatement certificate and, after the effective date of this section, there is a permanent decrease in the combined income of all members of the household in an amount that exceeds 20% of such income as represented in such head of the household's last approved application for a tax abatement certificate or for renewal thereof, such head of the household may apply for a redetermination of the amount set forth therein. Upon application, such amount shall be redetermined so as to reestablish the ratio of adjusted rent to income that existed at the time of approval of such head of the household's last application for a tax abatement certificate or for renewal thereof; provided, however, that in no event shall the amount of the adjusted rent be redetermined to be, in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the Social Services Law, less than 1/3 of the combined income of all members of the household; or, in the case of a head of the household who receives a monthly allowance for shelter pursuant to the Social Services Law, less than the maximum allowance for shelter which such head of the household is entitled to receive pursuant to such law. For purposes of this section, a decrease in the combined income of all members of the household shall not include any decrease in such income resulting from the manner in which income is calculated pursuant to any amendment to Paragraph c of Subdivision 1 of Real Property Tax Law § 467-b made on or after April 1, 1987. For purposes of this section, "adjusted rent" shall mean maximum rent or legal regulated rent less the amount set forth in a tax abatement certificate.

§ 241-32 Second dwelling unit.

- A. Notwithstanding any other provision of law, a head of the household who is at least 62 years of age and otherwise eligible under this article for a tax abatement certificate shall be issued a tax abatement certificate applicable to a second dwelling unit when such person occupies two contiguous and connected dwelling units, both of which are eligible for a tax abatement certificate when occupied by the head of the household at least 62 years of age, as a combined residence and such person has occupied and paid rent for both units for at least two years. Only one head of household shall be issued a tax abatement certificate for each eligible contiguous and connected dwelling unit pursuant to this section.
- B. If the appropriate rent control agency or administrative agency determines that there was a material misstatement in an application filed by a head of household for a second tax abatement certificate pursuant to this section and that such misstatement provided the basis for the granting of such second certificate, the rent control agency or administrative agency shall proceed to impose a penalty on the applicant of \$1,000, in addition to recovering the amount of any prior exemption erroneously granted. For purposes of this section, "contiguous" shall mean adjacent or next to.

§ 241-33 Application for certificate.

The head of the household must apply every two years to the Office of Rent Administration, Division of Homes and Community Renewal of the State of New York, for a tax abatement certificate, on a form prescribed by said agency. A tax abatement certificate setting forth an amount not in excess of the increase in maximum rent or legal regulated rent for the taxable period shall be issued by said agency to each head of the household who is found to be eligible under this article on or before the last date prescribed by law for the payment of the Village's real property taxes or the first installment thereof. Copies of such certificate shall be issued to the owner of the real property containing the dwelling unit of the head of the household and to the Village Treasurer.

§ 241-34 Eligibility; eligibility date.

- A. To qualify as a person with a disability for the purposes of this section, an individual shall submit to the Office of Rent Administration, Division of Homes and Community Renewal of the State of New York, proof sufficient to such agency that such individual is currently receiving social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the Federal Social Security Act or disability pension or disability compensation benefits provided by the United States Department of Veterans Affairs or those previously eligible by virtue of receiving disability benefits under the supplemental security income program or the social security disability program and currently receiving medical assistance benefits based on determination of disability as provided in § 366 of the New York Social Services Law.
- B. Eligibility shall be determined as of the date of receipt in the Office of Rent Administration of a properly completed form. A pro rata share of taxes paid prior to such eligibility date

shall be credited against the next succeeding Village tax period.

§ 241-35 Portion of taxes deducted or remitted.

The amount set forth in a tax abatement certificate shall be deducted from the total taxes levied by the Village of Ossining on real property containing the dwelling unit of a head of household to whom the certificate has been issued, effective the beginning of the next fiscal year after the application has been filed, provided that the application has been filed no later than October 1 of each year.

§ 241-36 Vacancy of dwelling unit.

Upon the vacancy of a dwelling unit for which a tax abatement certificate has been issued, the owner thereof shall remit a pro rata portion of the tax abatement to the collecting officer of the Village of Ossining, and any amount due by reason of such vacancy shall be a lien upon the property on and after the date of such vacancy.

§ 241-37 Overcharges.

Where a tax abatement certificate has been issued to a head of the household as authorized by this article and the landlord collects or attempts to collect all or part of the amount covered by such tax abatement certificate, the amount of such abatement shall be deemed a rent overcharge under the applicable rent control or rent regulation law.

BY ORDER OF THE VILLAGE BOARD OF TRUSTEES
OF THE
VILLAGE OF OSSINING

Victoria Cafarelli
Interim Village Clerk
December 20, 2018