

**TAXATION**

**Chapter 118**

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**§118-1. Exemption stated.**

**§118-2. Exception.**

**§118-3. Eligibility for exemption.**

**§118-4. Notice of provisions.**

**§118-5. Application for exemption.**

**§118-6. Time for making application.**

**§118-7. Offenses; disqualification.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Cold Spring: Art. 1, 11-7-77 as L.L. No. 5-1977. Amendments noted where applicable.]**

**ARTICLE I**

**Senior Citizens' Tax Exemption**

**[Adopted 11-7-77 as L.L. No. 5-1977]**

**§ 118-1. Exemption stated.**

- A. Pursuant to the provisions of § 467 of the Real Property Tax Law and as therein provided, the real property owned by one (1) or more persons, each of whom is sixty-five (65) years of age or over, or real property owned by husband and wife, one (1) of whom is sixty-five (65) years of age or over, shall be exempt from taxation to the extent of fifty percent (50%) of the assessed valuation thereof, as hereinafter provided. Such exemption shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.
- B. The real property tax exemption on real property owned by husband and wife, one (one) of whom is sixty-five (65) years of age or over, once granted, shall not be rescinded by any municipal corporation solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two (62) years of age.

### **§ 118-2. Exception.**

Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school within the school district.

### **§ 118-3. Eligibility for exemption.**

No exemption shall be granted:

- A.** If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of fifteen thousand dollars (\$15,000). "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar-year period. Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interests, dividends, total gain from the sale or exchange of capital assets, which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings and net income from self-employment, but shall not include a return of capital, gifts or inheritances. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real and personal property held for the production of income. **[Amended 10-9-79 by L.L. No. 7-1979; 11-30-82 by L.L. No. 3-1982]**
- B.** Unless the title of the property shall have been vested in the owner or one (1) of the owners of the property for at least twenty-four (24) 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 twenty-four (24) consecutive months; provided further that in the event of a transfer by either 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 twenty-four (24) consecutive months, and provided further

that 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 by another within one (1) year and is in the same assessing unit or municipality, the period of ownership of the former property shall be combined with the period of ownership of the replacement residence and deemed consecutive for exemption from taxation by each such assessing unit or municipality; provided, however, that where the replacement property is in the same assessing unit but in another school district, the periods of ownership of both properties shall also be deemed consecutive for purposes of the exemption from taxation by such school district. Notwithstanding any other provision of law, where a residence is sold and replaced by another within one (1) 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.

- C. Unless the property is used exclusively for residential purposes.
- 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.

#### **§118-4. Notice of provisions.**

The municipality in which such real property is located shall notify or cause to be notified each person owning residential real property in such municipality of the provisions of this Article. The provisions of this section may be met by a notice or legend sent on or with each tax bill to such persons, reading: "You may be eligible for senior citizen tax exemptions. For information please call or write ...," followed by the name, telephone number and/or address of a person or department selected by the municipality to explain the provisions of this Article. Failure to notify or cause to be notified any person who is, in fact, eligible to receive the exemption provided by this Article, or the failure of such person to receive the same, shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

#### **§ 118-5. Application for exemption.**

Application for such exemption must be made by the owner or all of the owners of the property on forms prescribed by the State Board, to be furnished by the appropriate assessing authority, and shall furnish the information and be executed in the manner

required or prescribed in such forms and shall be filed in such Assessor's Office on or before the appropriate taxable status date.

**§ 118-6. Time for making application.**

At least sixty (60) days prior to the appropriate taxable status date, the assessing authority shall mail to each person who was granted exemption pursuant to this Article on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to be granted. Failure to mail any such application form and notice or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

**§ 118-7. Offenses; disqualification.**

Any conviction of having made any willfully false statement in the application for such exemption shall be punishable by a fine of not more than one hundred dollars (\$100) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.