

AN ACT PROVIDING A PARTIAL EXEMPTION FROM TAXATION BY THE TOWN TO PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER

CHAPTER 61

TAX EXEMPTION, PERSONS 65 YEARS OF AGE AND OLDER

TOWN OF GORHAM

- 61.100 Title
- 61.200 Exemption Provided
- 61.300 Application for Exemption
- 61.400 Penalties
- 61.500 Separability
- 61.600 Inconsistency

[History: Adopted by the Town Board of the Town of Gorham, Local Law #1, 1997, adopted January 1997.]

61.100 Title

This Local Law shall be known and cited as "An Act Providing a Partial Exemption from Taxation to Persons Sixty-Five Years of Age or Older Pursuant to the Provisions of Section 467 of the Real Property Tax Law of the State of New York."

61.200 Exemption Provided

a. Real property situate within the bounds of the Town of Gorham, Ontario County, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation for real estate taxes to be levied by the Town of Gorham for the year 1998 and thereafter by the percentage of exemption specified for the annual income ranges listed below. Such exemption shall be based upon the assessed valuation of the exempt real property and shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

Annual Income Ranges	Exemption Percentage
1) \$12,499.99 or less	50%
2) \$12,500 to \$13,499.99	45%
3) \$13,500 to \$14,499.99	40%
4) \$14,500 to \$15,499.99	35%
5) \$15,500 to \$16,399.99	30%
6) \$16,400 to \$17,299.99	25%
7) \$17,300 to \$18,199.99	20%
8) \$18,200 or more	00%

b. Annual income shall include the income of the owner or the combined income of the owners of the property for the income year immediately preceding the date of making an application for

exemption. Income tax year shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return, or if not such return is filed, the calendar year. 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, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental 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 from self-employment, no depreciation shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income. Further, such income may be offset by all medical and prescription drug expenses which were actually paid and which were not reimbursed or paid by insurance, pursuant to Real Property Tax Law Section 313.

c. No exemption shall be granted:

(1) unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twenty-four 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 consecutive months. In the event of a transfer by either a 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 consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and 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 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 by a municipality within the state granting such exception;

(2) 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 section;

(3) 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 who 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, and provided that any income accruing to that person shall 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 husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence, and an exemption was previously granted when both resided in the residence, provided the person remaining on the real property is sixty-two years of age or over and all other provisions of this section are met;

(4) unless the applicant also meets the other requirements of the Real Property Tax Law

d. The real property tax exemption on real property owned by husband and wife, one of whom is sixty-five years of age or over, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.

61.300 Application for Exemption

a. Application for such exemption must be made by the owner or all of the owners of the property on forms to be furnished by the Assessor's Office; such applications shall furnish the information and the forms are to be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's Office on or before the date for hearing of complainant in the Town of Gorham. Any person otherwise qualifying under the section shall not be denied the exemption under this section if he becomes sixty-five years of age after the appropriate taxable status date on or before December thirty-first of the same year.

b. At least sixty days prior to the appropriate taxable status date, the assessor shall mail to each person who was granted exemption pursuant to this section 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. The assessor shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with this application at least one self-addressed, pre-paid envelope, of the approval or denial of the application; provided, however, that the assessors shall, upon the receipt and filing of the application, send mail notification of receipt to any applicant who has included two such envelopes with the application.

61.300

61.600

Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

c. Any person who has been granted exemption pursuant hereto on five (5) consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by a husband and/or wife while both resided in such property, shall not be subject to the requirements set forth in paragraph (b) of this Section; however, said person shall be mailed an application form and a notice informing him of his rights. Such exemption shall be automatically granted on each subsequent assessment roll, provided, however, that when tax payment is made by such person a sworn affidavit must be included with such payment which shall state that such person continues to be eligible for such exemption. Such affidavit shall be on a form prescribed by the State Board of Equalization and Assessment. If such affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to section five hundred fifty-one-a of this chapter.

61.400 Penalties

The making of any willful false statement in the application for an exemption under this ordinance shall be a violation thereof, and a conviction for any such violation shall be punishable by a fine of not more than \$100.00 and shall disqualify the applicant or applicants from further exemption for a period of five years.

61.500 Separability

Should any section, paragraph, sentence, clause or phrase of this local law be declared unconstitutional or unjust for any reason by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

61.600 Inconsistency

All resolutions, ordinances or local laws or portions thereof of the Town of Gorham not consistent with this ordinance in whole or in part shall be repealed.

SECTION 2. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State which was done February 26, 1997.