

Chapter 133

TAXATION

[HISTORY: Adopted by the Town Board of the Town of Liberty as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Nonprofit Organizations

[Adopted 12-30-1971 by L.L. No. 1-1971]

§ 133-1. Purpose.

The purpose of this article is to subject to taxation real property owned by nonprofit corporations or associations specified in § 133-2 of this article as authorized by Paragraph (b) of Subdivision 1 of Section 420-b of the Real Property Tax Law.

§ 133-2. Organizations affected.

Real property owned by a corporation or association which is not organized or conducted exclusively for religious, charitable, hospital, educational or cemetery purposes or for two or more such purposes, but is organized or conducted exclusively for the following purposes or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes, shall be taxable: moral or mental improvement of men and women, Bible, tract or missionary, benevolent, infirmary, scientific, literary, bar association buildings, medical societies, public playground, patriotic or historical, societies for the enforcement of laws relating to children or animals.

§ 133-3. Special levies and assessments.

Real property which is taxable pursuant to this article shall be subject to special ad valorem levies and special assessments which are imposed to defray the costs of improvements or services furnished by the Town of Liberty or by a special district established therein.

ARTICLE II

Exemption on Improvements for the Physically Disabled

[Adopted 2-12-1992 by L.L. No. 1-1992]

§ 133-4. Findings.

Recognizing that home improvements made by physically impaired residents to accommodate their disabilities are made out of necessity in order to achieve a functional living environment, the Town Board of the Town of Liberty finds it to be in the public interest to enact a local law which would grant exemptions on such home improvements.

§ 133-5. Exemption granted; statutory authority.

Pursuant to § 459 of the Real Property Tax Law, any real property used solely for residential purposes as a one-, two- or three-family residence shall be exempt from taxation to the extent of any increase in value attributable to any improvement that is made for the purpose of facilitating and accommodating the use and accessibility of such real property by:

- A. A resident owner of the real property who is physically disabled; or
- B. A member of the resident owner's household who is physically disabled, if such household member resides at the subject real property.

§ 133-6. Qualifications for exemption.

To qualify as physically disabled for purposes of this article, the resident owner shall submit to the Town Assessor a certified statement from a physician licensed to practice in the State of New York on a form prescribed and made available by the State Board which states that the individual or a member of the individual's household has a permanent physical impairment which substantially limits one or more of such individual's major life activities; except that an individual who has obtained a certificate from the State Commission for the Blind and Visually Handicapped stating that such individual is legally blind may submit such certificate in lieu of a physician's certified statement.

§ 133-7. Application for exemption.

Such exemption shall be granted only upon application by the owner or all of the owners of the real property on a form prescribed and made available by the State Board. The applicant or applicants shall furnish such information as the Board shall require. The application shall be filed, together with the appropriate certified statement of physical disability or certificate of blindness, with the Town Assessor on or before the first day of May.

§ 133-8. Approval of application.

If the Town Assessor is satisfied that the improvement is necessary to facilitate and accommodate the use and accessibility by a resident who is physically disabled and the applicant is entitled to an exemption, the Town Assessor shall approve the application and enter the taxable assessed value of the parcel for which an exemption has been granted on the assessment roll with the taxable property, indicating the amount of the exemption as determined by the Town Assessor. Said exemption shall continue on the subject real property until the improvement ceases to be necessary to facilitate and accommodate the use and accessibility of said real property by the resident who is physically disabled.

§ 133-9. Renewal of application required.

To enable the Town Assessor to ascertain that the improvement continues to be necessary to facilitate and accommodate the use and accessibility by the physically disabled, the applicant owner or owners shall be required to renew their application for the exemption at three-year intervals. Said renewal procedure shall involve a resubmission of the original application and an updated physician's certificate.

§ 133-10. Applicability to existing improvements.

Said exemption shall also apply to improvements constructed prior to the effective date of this article.

ARTICLE III
Senior Citizens' Exemption
[Adopted 2-8-1995; amended in its entirety 11-10-2003 by L.L. No. 4-2003]

§ 133-11. Partial exemption granted; conditions.

By resolution of the Town Board adopted pursuant to § 467 of the Real Property Tax Law, an exemption may be granted to persons 65 years of age or older in compliance with the procedures as set forth in such section based upon the following schedule:

| Annual Income | Assessed Valuation Exempt from Taxation |
|---|--|
| \$17,500 or less | 50% |
| More than \$17,500 but less than \$18,500 | 45% |
| More than \$18,500 but less than \$19,500 | 40% |
| More than \$19,500 but less than \$20,500 | 35% |
| More than \$20,500 but less than \$21,400 | 30% |
| More than \$21,400 but less than \$22,300 | 25% |
| More than \$22,300 but less than \$23,200 | 20% |

ARTICLE IV
Residential Capital Improvement Exemption
[Adopted 12-29-1997 by L.L. No. 6-1997]

§ 133-12. Purpose.

This article is adopted pursuant to § 421-f of the Real Property Tax Law for the purpose of exempting capital improvements to residential buildings from taxation and special ad valorem levies and shall be applied in accordance with that statute, as amended from time to time.

§ 133-13. Definitions.

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

RESIDENTIAL BUILDING — Any building or structure designed and occupied exclusively for residential purposes by not more than two families.

RECONSTRUCTION, ALTERATION AND IMPROVEMENT — Shall not include ordinary maintenance and repairs.

§ 133-14. Exemption granted; conditions.

A. Residential buildings reconstructed, altered or improved subsequent to the effective date of this article shall be exempt from taxation and special ad valorem levies to the extent

provided herein.

- B. No such exemption shall be granted for reconstruction, alterations or improvements unless:
- (1) Such reconstruction, alteration or improvement was commenced subsequent to the effective date of this article.
 - (2) The value of such reconstruction, alteration or improvement exceeds \$3,000.
 - (3) The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

§ 133-15. Calculation of exemption.

The buildings described in § 133-14 shall be exempt for a period of eight years to the extent of the following percentages of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement:

Year Exemption Percentage

| | |
|---|-------|
| 1 | 100.0 |
| 2 | 87.5 |
| 3 | 75.0 |
| 4 | 62.5 |
| 5 | 50.0 |
| 6 | 37.5 |
| 7 | 25.0 |
| 8 | 12.5 |

§ 133-16. Application; grant of exemption.

- A. An exemption shall be granted only upon application by the owner of the building on a form prescribed by the State Board of Real Property Services. The application shall be filed with the Assessor of the Town of Liberty on or before the appropriate taxable status date.
- B. If satisfied that the applicant is entitled to an exemption pursuant to this article, the Assessor shall approve the application, and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date. The assessed value of any exemption granted pursuant to this article shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§ 133-17. Termination of exemption.

In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption shall cease.

ARTICLE V
Veterans' Exemption
[Adopted 5-2-2005 by L.L. No. 4-2005]

§ 133-18. Purpose.

This article is adopted pursuant to Real Property Tax Law § 458-a for the purpose of the maximum exemption allowable to veterans who own residential real property in the Town of Liberty.

§ 133-19. Increase of maximum exemptions.

Notwithstanding the basic statutory maximum exemptions set forth in Subdivisions 2(a), (b) and (c) of § 458-a of the Real Property Tax Law, pursuant to the authority provided by Subdivision 2(d) of § 458-a of the Real Property Tax Law, the maximum exemptions allowable in the Town of Liberty under Subdivisions 2(a), (b) and (c) of § 458-a of the Real Property Tax Law are hereby increased to \$27,000 (wartime), \$18,000 (combat zone) and \$90,000 (disability), respectively.

ARTICLE VI
Condominiums
[Adopted 5-2-2005 by L.L. No. 5-2005]

§ 133-20. Purpose.

This article is adopted pursuant to Real Property Law § 339-y(1)(f) and Real Property Tax Law § 581(1)(c) for the purpose of preventing converted condominiums from obtaining preferential property tax treatment in the Town of Liberty.

§ 133-21. Inapplicability of statutory provisions regarding converted condominium units.

The provisions of Real Property Law § 339-y(1)(b) and Real Property Tax Law § 581(1)(a) shall not apply to converted condominium units within the Town of Liberty.

ARTICLE VII
Exemption for First-Time Home Buyers of Newly Constructed Homes
[Adopted 8-5-2013 by L.L. No. 2-2013]

§ 133-22. Exemption provided; statutory authority.

This article is adopted pursuant to Real Property Tax Law § 457 for the purpose of providing a partial exemption from Town of Liberty real property tax for qualified first-time home buyers as specified below.

§ 133-23. Qualifications; regulations.

- A. Subject to the qualifications and regulations set forth herein, a partial exemption from real property taxes is hereby granted to qualified first-time home buyers of primary property within the Town of Liberty.
- B. Newly constructed primary residential property purchased by one or more persons, each of

whom is a first-time home buyer and has not been married to homeowner in the three years prior to applying for this first-time home buyer's exemption, shall be exempt from taxation levied by or on behalf of the Town of Liberty, when such newly constructed residential property is located within the Town of Liberty. Such exemption, to be for a period of five years, shall be computed in accordance with the following table:

| Year of Exemption | Percentage of Assessed Valuation Exempt From Tax |
|--------------------------|---|
| 1 | 50% |
| 2 | 40% |
| 3 | 30% |
| 4 | 20% |
| 5 | 10% |
| 6 or more | 0% |

C. Eligibility for exemption; exception.

- (1) Any newly constructed primary residential property within the 125% of the purchase price limits as defined by the State of New York Mortgage Agency low-interest rate mortgage program in the nontarget, one-family new category for Sullivan County and in effect on the contract date for the purchase and sale of such property shall be eligible for the exemption allowed pursuant to this article.
- (2) A first-time home buyer who either as part of the written contract for sale of the primary residential property, or who enters into a written contract within 90 days after closing of the sale of the primary residence for reconstruction, alteration or improvements, the value of which exceeds \$3,000, to the primary residential property shall be exempt from taxation to the extent provided by this article. Such exemption shall apply solely to the increase in assessed value thereof attributable to such reconstruction, alteration, or improvement, provided that the assessed value after reconstruction, alteration or improvements does not exceed 15% more than the purchase price limits as defined in Subsection C(1) above. For purposes hereof, the terms "reconstruction," "alteration" and "improvement" shall not include ordinary maintenance and repairs.
- (3) A first-time home buyer shall not qualify for the exemption authorized pursuant to this article if the household income exceeds 125% of income limits defined by the State of New York Mortgage Agency low-interest rate mortgage program in the nontarget, one- and two-person household category for Sullivan County and in effect on the contract date for the purchase and sale of such property.

D. Newly constructed primary residential property purchased by first-time home buyers at a sales price greater than the maximum eligible sales price shall qualify for the exemption allowed pursuant to this article for that portion of the sales price of such newly constructed primary residential property equal to the maximum eligible sales price; provided, however,

that any newly constructed primary residential property purchased at a sales price greater than 25% above the maximum eligible sales price shall not be allowed any exemption.

- E. No exemption shall be allowed pursuant to this article for any newly constructed primary residential property purchased by a first-time home buyer on or after December 31, 2016, unless such purchase is pursuant to a binding written contract entered into prior to December 31, 2016; provided, however, that any first-time home buyer who is allowed an exemption pursuant to this article prior to such date shall continue to be allowed further exemptions pursuant to Subsection B above.
- F. This exemption shall apply to newly constructed primary residential property purchased on or after January 1, 2013.

§ 133-24. Definitions.

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

FIRST-TIME HOME BUYER — A person who has not owned a primary residential property and is not married to a person who has owned a primary residential property during the three-year period prior to his or her purchase of the primary residential property and who does not own a vacation or investment home.

HOUSEHOLD INCOME — The total combined income of all the owners, and of any owners' spouses residing on the premises, for the income tax year preceding the date of making application for the exemption.

INCOME — The adjusted gross income for federal income tax purposes as reported on the applicant's latest available tax return, subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity, provided that if no such return was filed within the one-year period preceding taxable status date, "income" shall mean the adjusted gross income that would have been so reported if such return had been filed. For purposes of this definition, "latest available return" shall mean the federal or state income tax return for the year immediately preceding the date of making application; provided, however, that if the tax return for such tax year has not been filed, then the income tax return for the tax year two years preceding the date of making application shall be considered the latest available.

NEWLY CONSTRUCTED — An improvement to real property which was constructed as a primary residential property and which has never been occupied and was constructed after November 28, 2001. "Newly constructed" shall also mean that portion of a primary residential property that is altered, improved or reconstructed.

PRIMARY RESIDENTIAL PROPERTY — Any one- or two-family house, townhouse or condominium located in the Town of Liberty which is owner occupied by such home buyer.

§ 133-25. Prohibitions.

- A. No portion of a single-family newly constructed primary residential property shall be leased during the period of time when the first-time home buyer exemption shall apply to the residence. If any portion of the single-family newly constructed primary residential

property is found to be the subject of a lease agreement, the Assessor shall discontinue any exemption granted pursuant to this article.

- B. In the event that a primary residential property granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this article shall be discontinued.
- C. Upon determining that an exemption granted pursuant to this article should be discontinued, the Town of Liberty Assessor shall mail a notice so stating to the owner or owners thereof at the time and in the manner provided in Real Property Tax Law § 510. Such owner or owners shall be entitled to seek administrative and judicial review of such action in the manner provided by law, provided that the burden shall be on such owner or owners to establish eligibility for the exemption.

§ 133-26. Application process.

- A. Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the Commissioner of the New York State Department of Taxation and Finance. The application shall be filed with the Town of Liberty Assessor on or before the taxable status date of the Town of Liberty.
- B. If satisfied that the applicant is entitled to an exemption pursuant to this article, the Town of Liberty Assessor shall approve the application, and such primary residential property shall thereafter be exempt from taxation and special ad valorem levies as provided in this article, commencing with the assessment roll prepared on the basis of the taxable status date referred to in Subsection A above. The assessed value of any exemption granted pursuant to this article shall be entered by the Town of Liberty Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§ 133-27. Severability.

If any clause, sentence, paragraph, subdivision, section or other part of this article shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder of this article, and it shall be construed to have been the legislative intent to enact this article without such unconstitutional or invalid parts therein.