

RESOLUTION #___ (2023) – ADOPT RESOLUTION INCREASING PARTIAL TAX EXEMPTION FOR PERSONS OVER SIXTY-FIVE YEARS OF AGE

_____ offered the following resolution and asked for its adoption:

WHEREAS, Real Property Tax Law §467 permits the Town Board to adopt a resolution partially exempting from taxation by the Town certain real property within the Town owned by persons sixty-five (65) years of age or over, and

WHEREAS, the Real Property Tax Law provides an option for the Town to set the income eligibility levels,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

1. Real property owned by one or more persons each of whom is 65 years of age or over, or real property owned by a husband and wife, one of whom is 65 years of age or over, shall be exempt by taxation by the Town of Dryden to the extent set forth in the following formula:

ANNUAL INCOME	PERCENTAGE ASSESSED VALUATION EXEMPT FROM TAXATION
Equal to or less than \$35,000	50 percent
\$35,001 or more but less than \$36,000	45 percent
\$36,001 or more but less than \$37,000	40 percent
\$37,001 or more but less than \$38,000	35 percent
\$38,001 or more but less than \$38,900	30 percent
\$38,901 or more but less than \$39,800	25 percent
\$39,801 or more but less than \$40,700	20 percent
\$40,701 or more but less than \$41,600	15 percent
\$41,601 or more but less than \$42,500	10 percent
\$42,501 or more but less than \$43,400	5 percent
More than \$43,400	0 percent

2. Any exemption provided in this resolution shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

3. The real property tax exemption on real property owned by a husband and wife, one of whom is 65 years of age or over, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least 62 years of age.

4. 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 amounts set forth in the formula in this resolution. 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. 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 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 shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

(b) Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve (12) 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 twelve (12) 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 twelve (12) consecutive months. 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 proceedings, 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 purpose of this section. Where a residence is sold and replaced with 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 this resolution. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provision of this resolution, the reacquisition of title by such owner or owners within nine (9) months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve (12) consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine (9) months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve (12) consecutive months shall be deemed satisfied;

(c) 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;

(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, provided that an owner who is absent while receiving health-related care as an inpatient of a residential health care facility, as defined in Section 2801 of the Public Health Law, shall be deemed to remain a legal resident and an occupant of the property while so confined and 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.

5. The Town shall notify or cause to be notified, each person owning residential real property in the Town of the provisions of this resolution. This may be met by a notice or legend set on or with each tax bill to such persons reading "You may be eligible for senior citizen tax exemptions. Senior citizens have until

(month) _____(day) _____(year) _ to apply for such exemptions. For information please call or write _____, followed by the name, telephone number and/or address of a person or department selected to explain the provisions of this resolution. Failure to notify, or cause to be notified any person who is, in fact, eligible to receive the exemption provided by this resolution 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.

6. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the Office of Real Property Services 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 taxable status date.

7. At least sixty (60) days prior to the taxable status date, there shall be mailed to each person who was granted an aged exemption on the latest completed assessment roll an application form and a notice that such application must be filed on or before the taxable status date and be approved in order for the exemption to be granted. Within three (3) days of the completion and filing of the tentative assessment roll, notice by mail shall be given to any applicant who has included with his application at least one self-addressed, pre-paid envelope, of the approval or denial of the application; provided, however, that upon the receipt and filing of the application there shall be sent by mail notification of receipt of the same to any applicant who has included two (2) of such envelopes with the application. Where an applicant is entitled to a notice of denial such notice shall be on a form prescribed by the State Board of Equalization and Assessment and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. 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.

8. Any conviction of having made any willful false statement in the application for such exemption shall be punishable as set forth in Real Property Tax Law Section 467(7).

9. This resolution shall be applicable to the Town tax for assessment rolls based on taxable status dates occurring on and after January 1, 2010 and the provisions of said resolution shall govern the granting of an exemption under Section 467 notwithstanding any contrary provisions of that section.