

TAX EXEMPTION - DISABLED

LOCAL LAW NO. 1 OF THE YEAR 1998

A Local Law of the Town of Kirkwood Providing a Partial Exemption From Taxation by the Town to Persons with Disabilities and Limited Incomes

Adopted January 6, 1998

Be it enacted by the Town Board of the Town of Kirkwood as follows:

SECTION 1. Purpose

This Local Law is enacted pursuant to the provisions of Section 459-C of the Real Property Tax Law of the State of New York to grant a partial exemption from taxation to certain resident property owners of the Town with disabilities who have limited incomes.

SECTION 2. Definitions

For purposes of this Local Law:

A. Sibling shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

B. A person with a disability is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who (i) is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal Social Security Act, or (ii) is certified to receive Railroad Retirement Disability benefits under the federal railroad Retirement Act, or (iii) has received a certificate from the state commission for the blind and visually handicapped stating that such person is legally blind, or (iv) is certified to receive a United States Postal Service disability pension.

An award letter from the Social Security Administration or the Railroad Retirement Board or a certificate from the state commission for the blind and visually handicapped, or an award letter from the United States Postal Service shall be submitted as proof of disability.
(Amended Dec. 26, 2000 by LL No. 11-2000)

C. 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.

SECTION 3. Exemption

(Amended: Dec. 2000 by LL No. 11-2000, Dec. 2002 by LL No. 9-2002, Feb. 2004 by LL No. 3-2004, Jan. 2006 by LL No. 2-2006, July 2008 by LL No. 6-2008)

A. Real property situate within the bounds of the Town of Kirkwood, Broome County, New York, owned by husband and wife or both, or siblings, i.e. a brother or sister whether related through half blood, whole blood or adoption, at least one of whom has a disability, or real property owned by one or more persons, some of whom qualify under Section 459-C of the Real Property Tax Law of the State of New York and the others of whom qualify under Section 467 of the Real Property Tax Law, and whose income, as hereinafter defined, is limited by reason of such disability, shall be exempt from taxation for real estate taxes to be levied by the Town of Kirkwood for the year 2009 and thereafter by the percentage of exemption hereinafter specified for the annual income ranges listed below to the extent of 50 per centum of the assessed valuation thereof. Such exemption shall be based upon the assessed value of the exempt real property and shall be computed after all other partial exemptions allowed by law, excluding the school tax relief (STAR) exemption authorized by Section 475 of the Real Property Tax Law, have been subtracted from the total amount assessed:

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<u>Annual Income Ranges</u>	<u>Exemption Percentage</u>
1) \$24,500 or less	50%
2) More than \$24,500 but less than \$25,500	45%
3) \$25,500 or more but less than \$26,500	40%
4) \$26,500 or more but less than \$27,500	35%
5) \$27,500 or more but less than \$28,400	30%
6) \$28,400 or more but less than \$29,300	25%
7) \$29,300 or more but less than \$30,200	20%
8) \$30,200 or more but less than \$31,100	15%
9) \$31,200 or more but less than \$32,000	10%
10) \$32,000 or more but less than \$32,900	5%

B. No exemption shall be granted if:

1. 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 \$32,900.00. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and 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 or monies earned through employment in the federal foster grandparent program. 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 or personal property held for the production of income;

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 disabled person, except where, (i) the disabled person 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 only be considered income for the purposes of this section only to the extent that it exceeds the amount paid by such person or spouse, or sibling of such person for care in the facility.

C. No parcel may receive an exemption for the same municipal tax purpose pursuant to both this Local Law and an Ordinance of the Town of Kirkwood Providing a Partial Exemption from Taxation by the Town to Persons Sixty-five Years of Age or Older adopted November 14, 1992 as amended.

D. Notwithstanding any other provision of law to the contrary, the provisions of this Local Law shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to this Local Law, were such person or persons the owner or owners of such real property.

SECTION 4. Application for Exemption

A. Application for such exemption must be made annually by the owner or all of the owners of the property on forms to be furnished by the Town 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 taxable status date, provided, however, proof of a permanent disability need be

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submitted only in the year exemption pursuant to this section is first sought or the disability is first determined to be permanent.

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. 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.

SECTION 5. Penalties

The making of any willful false statement in the application for an exemption under this Local Law shall be a violation thereof and a conviction for any such violation shall be punishable by a fine of not more than \$100.00.

SECTION 6. 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 Local Law shall not be affected thereby.

SECTION 7. Inconsistency

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 8. Effective Date

This Local Law shall take effect immediately.