

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

~~Town~~

~~Village~~

of DELAWARE

Local Law No. 2<sup>nd</sup> of the year 2003

A local law providing a partial real property tax exemption to certain  
(Insert Title)  
persons over 65 years of age.

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

~~County~~

~~City~~

~~Town~~

~~Village~~

DELAWARE

as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**SECTION I. A partial real property tax exemption for certain persons over 65 years of age**

A. Real property in the Town of Delaware 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 by the Town to the extent of fifty per centum of the assessed valuation thereof. 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on real property owned by husband and wife, one of whom is 65 years of age or over, once granted, shall not be rescinded by the Town solely because of the death of the older spouse so long as the surviving spouse is at least 62 years of age.

**SECTION 2. Limitations on exemptions**

No exemptions shall be granted:

A. Unless the income of the owner or the combined income of the owners for the income tax year immediately preceding the date of making of the application for exemption conforms with one of the following thresholds and then the exemption granted shall only be to the extent of the percentage corresponding to the applicable income threshold:

Annual Income	Percentage of Assessed Value Exempt from Taxation
0 but Less than \$17,500.00	50%
\$17,500 or more but less than \$18,500.00	45%
\$18,500 or more but less than \$19,500.00	40%
\$19,500 or more but less than \$20,500.00	35%
\$20,500 or more but less than \$21,500.00	30%
\$21,500 or more but less than \$22,500.00	25%
\$22,500 or more but less than \$23,500.00	20%

Income tax year shall mean a twelve (12) 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. Income shall include social security and retirement benefits, interest, dividends, total gain 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 or personal property held for the production of income.

B. Unless the title of the property shall have been vested in the owner or all 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 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 (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, and further provided that where a residence is sold and replaced with another within one year and is in the same assessment unit, 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. Notwithstanding any other provision of law, 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 as provided in this Local Law.

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

D. Unless the 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.

### **SECTION III. Notice of eligibility**

The Town shall notify or cause to be notified, each person owning residential real property in the Town of the provisions of this Local Law. 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. 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 the person or department selected by the Town to explain the provisions of this Local Law. Failure to notify, or cause to be notified any person who is in fact, eligible to receive the exemption provided by this Local Law 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.

### **SECTION IV. Annual application required**

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 of Equalization and Assessment to be furnished by the Town Assessor's office and shall be filed in the Assessor's office on or before the taxable status date of the Town.

### **SECTION V. Notice to applicants**

At least sixty (60) days prior to the appropriate taxable status date, the Town Assessor shall mail to each person who was granted exemption pursuant to this Chapter 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. The assessing authority shall, within three (3) days of the completion and filing of the tentative

assessment roll, notify by mail any applicant who has included with his or her other application at least one self-addressed prepaid envelope, of the approval or denial of the application; provided, however, that the assessing authority shall, upon the receipt and filing of the application, send by mail notification of receipt to any applicant who has included two of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subdivision, 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 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.

#### **SECTION VI. Penalties and forfeiture**

Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than Two Hundred Fifty Dollars (\$250.00) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.

#### **SECTION VII. Effect of invalidity.**

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be adjusted finally by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby intended to be the legislative intent that the remainder of this Local Law would have been adopted had any such provisions not been included.

#### **SECTION VIII. Effective date.**

This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. § 2 (b) of 2003 of the (County)(City)(Town)(Village) of DELAWARE was duly passed by the September 17, on October 15, 2003, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
Town of Delaware Town Board

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_; in accordance with the applicable provisions of law.~~  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.~~

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body  
TESS MCBEATH, TOWN CLERK

Date: October  
September 15, 2003

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF SULLIVAN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature KENNETH C. KLEIN

Title TOWN ATTORNEY

~~County~~  
~~City~~ of DELAWARE  
~~Town~~  
~~Village~~

Date: \_\_\_\_\_