

Chapter 192

TAXATION

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[HISTORY: Adopted by the Board of Trustees of the Village of Caledonia as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Assessments — See Ch. 5.

ARTICLE I

Utilities Tax

[Adopted 10-6-1981 by L.L. No. 2-1981 as Ch. 93, Art. I, of the 1981 Code]

§ 192-1. Tax imposed.

Pursuant to the authority granted by the Village Law of the State of New York, a tax equal to 1% is hereby imposed upon every utility doing business in the Village of Caledonia, New York, which is subject to the supervision of the State Department of Public Service, which has a gross income for 12 months ending May 31 in excess of \$500, except motor carriers of property subject to such supervision under the Transportation Law of the State of New York, and a tax equal to 1% of its gross operating income from and after the first day of April 1969 is hereby imposed upon every other utility doing business in the Village of Caledonia, New York, which has a gross operating income for 12 months ending May 31 in excess of \$500, which taxes shall have application only within the territorial limits of the Village of Caledonia and shall be in addition to any and all other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Caledonia, notwithstanding that some acts be necessarily performed with respect to such transaction within such limits.

§ 192-2. Definitions. [Amended 11-15-1994 by L.L. No. 1-1994]

The words and terms used in this article shall have the meanings assigned to them in § 186-a, Subdivision 2, of the Tax Law.

§ 192-3. Records.

Every utility subject to tax under this article shall keep such records of its business and in such form as the Village Treasurer may require or as the Village Board may require, and such records shall be preserved for a period of three years, except that the Village Treasurer or the Village Board may consent to their destruction within that period or may require that they be kept longer.

§ 192-4. Filing returns. [Amended 11-15-1994 by L.L. No. 1-1994]

Every utility subject to tax hereunder shall file annually on or before March 15 of each year a return for the 12 calendar months or part thereof ending the prior December 31; provided, however, in lieu of an annual return, any utility may file quarterly on or before the 25th day of April, July, October and January for the calendar quarter preceding each such return date. Every return shall state the gross income or gross operating income for the period covered thereby. Returns shall be filed with the Village Treasurer on a form to be furnished by him

for such purpose and shall contain such other data, information or matter as he may require to be included therein. The Village Treasurer, in order to ensure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by him, and he may require any utility doing business in the Village of Caledonia, New York, to file an annual return, which shall contain any data specified by him. Every return shall have annexed thereto an affidavit of the head of the utility making the same or of the owner or of the copartner thereof or of a principal officer of the corporation, if such business is conducted by a corporation, to the effect that the statements contained therein are true.

§ 192-5. Payment of tax.

At the time of filing a return, each utility shall pay to the Village of Caledonia the tax imposed by this article for the period covered by such return. Such tax shall be due and

payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

§ 192-6. Sufficiency of returns.

- A. In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Village Treasurer and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indexes or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Village Treasurer for a hearing or unless the Village Treasurer, of his own motion, shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax.
- B. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding is dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.
- C. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as required by this article, the tax may be assessed at any time.

§ 192-7. Service of notice.

Any notice authorized or required under the provisions of this article may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him under this article or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.

§ 192-8. Failure to file.

Any person failing to file a return or corrected return or to pay any tax or any portion thereof within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month's delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the Village Treasurer, for cause shown, may extend the time for filing any return and, satisfied that the delay was excusable, may remit all or any portion of the penalty by the foregoing provisions of this section.

§ 192-9. Refund.

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided or of his own motion, shall have reduced the tax or penalty, or unless it shall have been established in a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this article. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of the tax or penalty complained of, and the Village Treasurer may receive additional evidence with respect thereto. After making his determination, the Village Treasurer shall give notice thereof to the person interested, who shall be entitled to an order to review such determination under said Article 78 of the Civil Practice Law and Rules of the State of New York, subject to the provisions hereinbefore contained relating to the granting of such order.

§ 192-10. Responsibility for tax.

The tax imposed by this article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others, but shall constitute a part of the operating costs of such utility.

§ 192-11. Failure to pay tax.

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Village Attorney shall, upon request of the Village Board, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent as the tax and penalty imposed by § 186 of the Tax Law are made a lien.

§ 192-12. Rules and regulations of Treasurer.

In the administration of this article, the Treasurer shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks and reports relating to the administration of the tax; to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this article; and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§ 192-13. Disposition of moneys collected.

All taxes and penalties received by the Village Treasurer under this article shall be paid into the treasury of the Village of Caledonia and shall be credited to and deposited in the general fund of the Village.

ARTICLE II**Senior Citizens Exemption**

[Adopted 10-6-1981 by L.L. No. 2-1981 as Ch. 93, Art. II, of the 1981 Code]

§ 192-14. Exemption granted.

The Village Board of the Village of Caledonia does hereby give and grant an exemption from taxation, to the extent of 50% of the assessed valuation thereof, on the real property within the municipality 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.

§ 192-15. Application.

The exemption shall be granted to such owner or owners who, as provided by § 467 of the Real Property Tax Law of the State of New York, make proper and timely application to the Village Assessors of the Village of Caledonia.

§ 192-16. Qualifications.

The exemption shall be granted only to those persons who qualify, with the conditions and limitations as provided by § 467 of the Real Property Tax Law of the State of New York.

§ 192-17. Income eligibility. [Amended 11-15-1994 by L.L. No. 1-1994; 12-6-1994; 2-27-1996; 1-5-1999; 1-2-2001; 1-8-2002; 11-7-2006 by L.L. No. 6-2006]

- A. The schedule of income limits and exemption percentages to be applied to real property owned by eligible persons shall be the same schedule as that adopted each year by the County of Livingston.
- B. The aforesaid schedule shall automatically apply and take effect upon its receipt from the County of Livingston by the Village Clerk, without public hearing, unless in any subsequent year the Board of Trustees shall resolve to adopt a different schedule.

C. This section shall take effect immediately and shall remain in effect unless amended by local law.

§ 192-18. False statements. [Added 11-15-1994 by L.L. No. 1-1994]

Any person convicted of a willful false statement shall be punished by a fine of not more than \$100, and such conviction shall disqualify the applicant from further exemption for a period of five years, pursuant to the provisions of § 467, Subdivision 7, of the Real Property Tax Law.

ARTICLE III

Alternative Veterans Exemption

[Adopted 2-3-1998 by L.L. No. 2-1998]

§ 192-19. Legislative authority.

Section 458-a, Subdivision 2, Paragraph (d), Subparagraph (ii) of the Real Property Tax Law authorizes a village to increase the maximum allowable exemption granted to veterans for real property tax purposes.

§ 192-20. Maximum exemption increase. [Amended 2-20-2007 by L.L. No. 1-2007]

The Village of Caledonia, pursuant to the authority granted by § 458-a(2)(d)(ii) of the Real Property Tax Law, increases the maximum allowable exemption granted under Subparagraphs (a), (b) and (c) of Subdivision 2 of § 458-a of the Real Property Tax Law to \$21,000, \$14,000 and \$70,000, respectively. This increase shall be effective with the 2007 assessment roll.

ARTICLE IV

Persons With Disabilities and Limited Incomes Exemption

[Adopted 3-31-1998 by L.L. No. 4-1998]

§ 192-21. Legislative authority.

This article is adopted pursuant to the authority granted by Real Property Tax Law § 459-c. All definitions, terms and conditions of such statute shall apply to this article.

§ 192-22. Exemption granted.

Real property owned by a person with disabilities, whose income is limited by such disabilities, and used as the legal residence of such person, shall be entitled to a partial exemption from taxation to the extent of 50% of the assessed valuation.

§ 192-23. Income eligibility. [Amended 1-5-1999; 1-2-2001; 1-8-2002; 1-7-2003; 11-7-2006 by L.L. No. 7-2006]

- A. The schedule of income limits and exemption percentages to be applied to real property owned by eligible persons shall be the same schedule as that adopted each year by the County of Livingston.
- B. The aforesaid schedule shall automatically apply and take effect upon its receipt from the County of Livingston by the Village Clerk, without public hearing, unless in any subsequent year the Board of Trustees shall resolve to adopt a different schedule.
- C. This section shall take effect immediately and shall remain in effect unless amended by local law.

ARTICLE V

Cold War Veterans Exemption

[Adopted 12-2-2008 by L.L. No. 1-2008]

§ 192-24. Statutory authority.

This article is adopted pursuant to the authorization granted by Real Property Tax Law § 458-b. All definitions, terms and conditions of such statute shall apply to this article.

§ 192-25. Exemption established.

Qualifying residential real property owned by a Cold War veteran, or other qualified owner, shall be entitled to a partial exemption from taxation to the extent of 15% of the assessed valuation, not to exceed \$12,000 or the product of \$12,000 multiplied by the latest State equalization rate. Additionally, where the Cold War veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the Cold War veteran disability rating, not to exceed \$40,000 or the product of \$40,000 multiplied by the latest state equalization rate.

§ 192-26. When effective; limitation eliminated. [Amended 2-6-2018 by L.L. No. 2-2018]

- A. This article shall take effect immediately upon its filing in the Office of Secretary of State and be effective with the 2009 assessment roll.
- B. Pursuant to Subsection 2(c)(iii) of § 458-b of the NYS Real Property Tax Law, the exemption authorized shall apply to qualifying owners of qualifying real property for as long as they remain qualifying owners, without regard to such ten-year limitation.

ARTICLE VI

**Residential and Commercial Real Property Tax Exemption
[Adopted 7-7-2015 by L.L. No. 3-2015¹]****§ 192-27. Definitions.**

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

APPLICANT — Any person obligated to pay real property taxes on real property for which an exemption from taxes under this article is sought.

BENEFIT AREA — The area within the Village of Caledonia, to which an exemption, established pursuant to this article, applies.

COMMERCIAL CONSTRUCTION WORK — The modernization, rehabilitation expansion or other improvement of commercial use property or the portion of mixed-use property to be used for commercial purposes.

COMMERCIAL PURPOSE OR USE — The buying, selling or otherwise providing of goods or services, including hotel services, or other lawful business or commercial activities permitted upon mixed-use property.

COMMERCIAL USE PROPERTY — Real property on which will exist, after completion of commercial construction work, a building used for commercial purposes or use.

MIXED-USE PROPERTY — Real property on which will exist, after completion of residential construction work or a combination of residential construction work and commercial construction work, a building or structure used for both residential and commercial purposes.

MUNICIPALITY — The Village of Caledonia, which is located in a county having a population of not less than 65,390 and not more than 65,400 as determined by the federal decennial census for the year 2010.

RESIDENTIAL CONSTRUCTION WORK — The creation, modernization, rehabilitation, expansion or other improvement of dwelling units, other than dwelling units in a hotel, in the portion of mixed-use property to be used for residential purposes.

§ 192-28. Exemption; creation of Board.

- A. The Village of Caledonia hereby provides for the exemption of real property from taxation in a designated benefit area as provided in this article.
- B. The Mayor, subject to the approval of the Village Board, shall appoint a Commercial/Mixed-Use Incentive Board which shall be responsible for designating the benefit area to be exempt from taxation as provided in this article. The Commercial/Mixed-Use Incentive Board shall consist of three members.

1. Editor's Note: This local law also stated that it shall take effect upon its filing with the New York State Department of State and shall expire and be deemed repealed 12 years after such date.

- C. Duties of the Commercial/Mixed-Use Incentive Board. The Commercial/Mixed-Use Incentive Board shall present a plan to the Village Board concerning the various types of commercial and/or mixed use properties which may be granted an exemption pursuant to this article. In addition, such plan shall identify designated benefit areas, within which such exemption may be offered. In developing such plan, the Commercial/Mixed-Use Incentive Board shall consider the planning objectives of the Village of Caledonia and the necessity of the exemption to the attraction of commercial and mixed-use development as identified by the Village of Caledonia and the economic benefit to the area of providing exemptions to commercial and mixed-use properties. In instances where a municipality has previously designated a business district encompassing a defined area which was subject to public input and was approved by and received funding for economic development purposes from a state agency, the Village of Caledonia may utilize the defined boundaries of such previously defined area, or a combination of such boundaries subject to review by the Commercial/Mixed-Use Incentive Board.
- D. Upon the adoption of this article, the commercial use property or mixed-use property that was converted, created, modernized, rehabilitated, expanded or otherwise improved, shall be exempt from taxation and special ad valorem levies as provided for in § 192-29 of this article.

§ 192-29. Conditions.

A. Computation of exemption.

- (1) For a period of 12 years following the approval of an application, the increase in assessed value of such property attributable to such conversion, creation, modernization, rehabilitation, expansion or other improvement shall be exempt as provided in Subsection A(2) of this section. Such exemption shall be computed with respect to the "exemption base." The exemption base shall be determined for each year in which there is an increase in assessed value so attributable from that of the previous year's assessed value.
- (2) The following shall determine the computation of the tax exemption:

Year of Exemption	Percentage of Exemption
1 through 8	100% of exemption base
9	80% of exemption base
10	60% of exemption base
11	40% of exemption base
12	20% of exemption base

B. No such exemption shall be granted unless:

- (1) Such conversion, creation, modernization, rehabilitation, expansion or other improvement was commenced subsequent to the date on which this article took effect; and
 - (2) The cost of such conversion exceeds the sum of \$10,000.
- C. For purposes of this article the term "conversion, creation, modernization, rehabilitation, expansion or other improvement" shall not include ordinary maintenance and repairs.
- D. No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the Village of Caledonia in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this article. In such case, an exemption shall be granted for a number of years equal to the twelve-year exemption granted pursuant to this article less the number of years the property would have been previously exempt from real property taxes.

§ 192-30. Application required.

Such exemption shall be granted only upon application by the owner of the real property on a form prescribed by the NYS Commission of Taxation and Finance. Such application shall be filed with the Assessor of the municipality or county having the power to assess property for taxation on or before the appropriate taxable status date of such municipality or county.

§ 192-31. Approval of application.

If the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this article, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies as provided in this article commencing with the assessment roll prepared after the taxable status date referred to in § 192-30 of this article. 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.