



OFFICE OF COUNSEL

SUMMARY OF 2018 REAL PROPERTY TAX LEGISLATION

This publication summarizes noteworthy 2018 legislation related to real property tax administration. These descriptions are intended only as a source of general information about the key elements of the new laws. For a more complete and authoritative account of what these new laws do, the best resource is, of course, the laws themselves. As used herein, "RPTL" means the Real Property Tax Law and the "Tax Department" means the Department of Taxation and Finance.

ASSESSMENT ADMINISTRATION

Equalization; Notifications by Assessors

- Chapter 115 (S.6959) • RPTL § 1204(3)

Chapter **115** requires assessors to provide written notice to the local governing body of an affected municipal corporation whenever a tentative state equalization rate is not within five percentage points of the local level of assessment. The notice must be given within 10 days of the receipt of the tentative equalization rate, or within 10 days of the filing of the tentative assessment roll, whichever is later. The assessor is required to state the difference in the total full value estimates of the level of assessment and the tentative equalization rate for the taxable property within each affected municipal corporation.

Equalization; Certification of Final Rates

- Chapter 132 (A.8806) • RPTL § 1212

Chapter **132** requires the Tax Department to certify final State equalization rates, class ratios, and class equalization rates no later than thirty days prior to the last allowable tax levy date of cities, towns, and villages. In most cases, this will mean that the final rates will be certified by August 1 of each year.

State Lands in Certain Counties

- Chapter 222 (A.7402-a) • Unconsolidated

Chapter **222** requires the Tax Department to conduct a study of the fiscal impacts of making State-owned lands taxable in the counties of Westchester, Putnam, and Dutchess, and the municipalities within those counties. Specifically, it requires the Tax Department to: (1) "examine the methods of compensating counties, cities, towns, villages and school districts whose tax bases include state-owned land"; (2) examine the payments currently made pursuant to the RPTL and Environmental Conservation Law; and (3) provide the fiscal impact to the State and relevant municipalities if compensation were to be required. The study has been issued and may be viewed at <https://www.tax.ny.gov/pdf/publications/orpts/state-owned-lands-ch222.pdf>.

Telecommunications Mass Property Assessment Ceilings

□ Chapter 59 (S.7509-c), Part G • RPTL § 499-kkkk; L.2013, c.475, § 4

Chapter **59**, Part G, extends the telecommunications utility mass real property assessment ceiling program for four years, so that instead of expiring on January 1, 2019, it will expire on January 1, 2023. The legislation also gradually phases out the limits on the ceilings for each year until those limits are fully eliminated effective with ceilings for assessment rolls with taxable status dates in 2021.

Utility Mass Property Assessment Ceilings

□ Chapter 315 (S.7301) • Unconsolidated

Chapter **315** directs the Tax Department to prepare a report analyzing the economic, policy and legal objectives that would be served by establishing an assessment ceiling program for all public utility mass real property within the state. This directive implements the agreement described in 2017 Approval Message # 62. The report has been issued and may be viewed at <https://www.tax.ny.gov/pdf/publications/orpts/utility-ceiling-study-final.pdf>.

EXEMPTION ADMINISTRATION

Agricultural Buildings

□ Chapter 326 (A.10057) • RPTL § 483(1)

Chapter **326** extends the availability of RPTL § 483(1), which provides a ten-year exemption for certain farm structures and buildings. As a result, the exemption now applies to qualifying buildings constructed prior to January 1, 2029. Previously, the exemption only applied to qualifying buildings constructed prior to January 1, 2019.

Agriculture; Newly Planted Hopyards

□ Chapter 192 (A.10097) • Ag. & Mkts. Law §§ 301(4) and 305(7)

Chapter **192** provides that land used to produce hops qualifies as “land used in agricultural production” without having to meet the \$10,000 annual gross sales requirement that generally applies to crops, so long as the hopyard is newly planted and is owned or rented by a newly established farm operation in its first, second, third, or fourth year of agricultural production. Chapter 192 also provides that replanted or expanded hopyards may be exempt for six years under AML § 305(7). That exemption was previously limited to replanted or expanded orchards and vineyards.

Energy Systems; Fuel-flexible Linear Generators

□ Chapter 325 (A.9651-b) • RPTL § 487

Chapter **325** amends RPTL § 487 to add “fuel-flexible linear generator electric generating equipment and systems” to the list of systems that may qualify for the exemption. Those terms are defined by the law as follows: A fuel-flexible linear generator electric generating equipment is “an integrated system consisting of oscillators, cylinders, electricity conversion equipment and associated balance of plant components that directly convert the linear motion of the oscillators into electricity and which has a combined rated capacity of not more than two thousand kilowatts.” A fuel-flexible linear generator electric generating system is “an arrangement or combination of fuel-flexible linear generator electric generating equipment designed to produce electrical energy from linear motion created by the reaction of gaseous or liquid fuels, including but not limited to biogas and natural gas.” This amendment takes effect March 1, 2019.

Land Banks; Taxable Status

□ Chapters 483, 508 (S.6967, S.8717) • Not-for-Profit Corporation Law §§ 1608(a), 1603(g)

Chapter **483** provides that the real property of a land bank becomes exempt upon the date of transfer of title to the land bank, notwithstanding the applicable taxable status date. In a related enactment, Chapter **508** increases the number of land banks that are authorized in the state from 25 to 35.

Non-profit Organizations; Acquisitions after Taxable Status Date

□ Chapter 358 (A.1647) • RPTL §§ 420-a(16), 420-b(8)

Chapter **358** gives municipal corporations the local option to pass a local law, ordinance or resolution permitting otherwise qualified non-profit organizations to apply for exemption pursuant to RPTL §§ 420-a or 420-b even when their acquisitions or filings occur after the municipality's taxable status date. It establishes procedures for the review of late applications, for notice to applicants and the relevant Board of Assessment Review (BAR) of the assessor's determination, for an assessor to petition the BAR for permission to "correct" a tentative or final assessment roll to reflect an approved exemption, for an applicant to challenge a denial before the BAR, and for judicial review of a BAR's decision. It also establishes a process for affected municipalities to "credit" the approved exemption to the property and to include appropriations in their next budgets to refund those credits. In addition to this general authorization, several laws authorizing exemptions for selected properties were also enacted, see "Retroactive Exemptions for Specific Properties," below.

STAR; Income Verification Program

□ Chapter 59 (S.7509-c), Parts B and E • RPTL § 425; Tax Law § 606(eee)

Chapter **59**, Part B, makes participation in the Income Verification Program mandatory for recipients of the Enhanced STAR exemption, effective with 2019 assessment rolls. It also revises the procedure to be followed when the Tax Department finds the income of an applicant to be above the Enhanced STAR limit. For more information about the revised IVP, see <https://www.tax.ny.gov/pit/property/star/ivpfag.htm>. Part E, § 8, clarifies that a married couple with two homes may only receive a STAR credit on one of them, unless living apart due to legal separation.

Superstorm Sandy Exemption

□ Chapter 130 (A.8724) • L.2015, c.122

Chapter **130** extends the deadline for exemption relief applicable to certain taxpayers affected by Superstorm Sandy. Under Chapter 122 of the Laws of 2015, municipalities affected by Superstorm Sandy were permitted to offer an exemption to owner-occupied residential property that was reconstructed, altered, or improved due to damage sustained during the storm. Originally, in municipalities that opted to offer this exemption, a post-reconstruction certificate of occupancy had to be received, and the exemption had to be applied for, on or before March 1, 2018. Chapter 130 changed this deadline to March 1, 2020.

Retroactive Exemptions for Specific Properties

In certain assessing units, the assessor has been authorized to accept an exemption application after taxable status date for a specific parcel owned by a named nonprofit or governmental entity that either acquired the parcel after taxable status date, or acquired title but failed to apply for the exemption by taxable status date. The details are in the 2018 Legislative Status Chart posted at <http://www.tax.ny.gov/research/property/legal/legis/18bills.htm>.

TAX COLLECTION AND ENFORCEMENT

Partial Payments of Taxes; Technical Amendments

□ Chapter 59 (S.7509-c), Part E, § 6 • RPTL § 928-a

Chapter **59**, Part E, makes two technical changes to the law that generally enables municipal corporations to permit property owners to make partial payments of property taxes (RPTL §928-a, as amended by L.2017, c.59, pt. F). The first change clarifies that where a county collects the taxes of a city, town, village, or school district, the county has sole authority to establish a partial payment program with respect to the taxes collected. The second change specifies that where a county does not collect the taxes of a city, town, village, or school district, but its tax bills are prepared by the county or its tax collection account software is provided by the county, then before it may implement a partial payment program, it must obtain written approval of the county's chief executive officer or director of real property tax services.

Tax Payment Extensions; Technical Amendments

□ Chapter 59 (S.7509-c), Part E, §§ 5 & 7 • RPTL § 925-b; Tax Law § 606(eee)(7)(B)

Chapter **59**, Part E, provides that in municipalities that have opted under RPTL § 925-b to give qualifying senior citizens five additional days to pay their taxes, recipients of the Enhanced STAR credit (Tax Law §606(eee)) would be eligible for this extension. Previously, the extension was limited to recipients of the Enhanced STAR and Senior Citizens exemptions authorized by §§ 425(4) and 467 of the RPTL. To facilitate the administration of the expanded tax payment extension program, the law also authorizes the Tax Department to disclose the names and addresses of STAR credit recipients to tax collecting officers.

Financing of Certiorari Refunds

□ Chapter 87 (A.10348) • Local Finance Law § 11.00(33-a); L.1980, c.719

Chapter **87** adds another five years to the effectiveness of the law that governs the bonding of refunds of taxes due as a result of RPTL Article 7 proceedings. Under §11.00(33-a) of the Local Finance Law, the prescribed bonding periods (referred to in the statute as "periods of probable usefulness") depend upon how large the accumulated tax refunds to be paid are as a percentage of the total tax levy. If the refunds to be paid are more than one percent of the tax levy but less than three percent, the bonding period is 10 years; if more than three percent but less than five percent, 15 years; if more than five percent, 20 years. These provisions had been set to expire on June 15, 2018, but this extension keeps them in effect until June 15, 2023.

Tax Lien Sales; Village Opt Out Extender

□ Chapter 416 (A.11006) • L.1993, c.602; L.1994, c.532

Chapter **416** extends for three years the ability of various villages to continue selling tax liens pursuant to former Title 3 of Article 14 of the RPTL, even though that Title was repealed as of January 1, 1995 (see L.1993, c.602, §§4 and 8). Those villages were previously permitted to conduct such sales for taxes that became liens prior to December 31, 2018; now they are permitted to conduct such sales for taxes that become liens prior to December 31, 2021.

MISCELLANEOUS

Real Property Tax Credits for Certain Charitable Gifts

□ Chapter 59 (S.7509-c), Part LL, §§ 5-9 • RPTL § 980-a

Chapter **59**, Part LL, allows a municipality or school district to provide a credit against real property taxes for contributions to a charitable gifts reserve fund established by the

municipality pursuant to § 6-t of the General Municipal Law, or to a charitable fund established by the school district pursuant to §§ 1604(44), 1709(12-b) or 2590-h of the Education Law. The credit may be equal to 95% of the amount contributed by the owner, unless the municipality or school district has set a lower limit. For more information about this program, see <https://www.tax.ny.gov/pdf/ORPTS/charitable-contributions-guidance.pdf>.

Property Tax Freeze Credit; Technical Amendments

□ Chapter 59 (S.7509-c), Part E • Tax Law §606(bbb); Gen. Muni. Law §3-d; Ed. Law §2023-b Chapter **59**, Part E, §§ 1-3, repealed various statutes that had authorized the property tax freeze credit, which was only available in the 2014, 2015 and 2016 tax years. The reporting requirements that had been contained in those statutes were preserved.

Citizen Empowerment Tax Credit

□ Chapter 55 (A.9505-d), Part CC • State Finance Law § 54 Chapter **55**, Part CC, specifies that the citizen empowerment tax credit applies to towns created on or before December 31, 2017, and to villages incorporated on or before December 31, 2017. It also limits the additional annual aid available to villages where a dissolution was approved by a majority of electors after December 31, 2017.

County Shared Services Panels

□ Chapter 55 (A.9505-d), Part EE • General Municipal Law § 239-bb Chapter **55**, Part EE, builds on Part BBB of Chapter 59 of the Laws of 2017 by adding a new Article 12-I to the General Municipal Law that directs county executives, managers, other chief executives, or chairs of county legislatures to establish shared services panels. The panel consists of the county's chief executive officer, and the chief executive officer of each city, town and village in the county. The county CEO may invite any school district, board of cooperative educational services, fire district, fire protection district, or other special district to designate a representative to serve on the panel. Each county CEO must annually convene the panel to revise and update a previously approved plan or develop a new plan through December 31, 2021. Plans shall contain new recurring property tax savings from actions such as the elimination of duplicative services and shared services arrangements. If a panel does not approve a plan, the county CEO must release a public statement explaining why the panel did not approve a plan, which must include the vote taken by each panel member and each member's explanation of their vote.

Firefighters and Police Officers

□ Chapter 476 (S.6542-b) • RPTL §§ 464, 466 Chapter **476** amends numerous provisions of law to replace the word "policeman" with "police officer" and to replace the word "fireman" with "firefighter." The amended laws include two exemption statutes, RPTL §§ 464 and 466, which pertain to volunteer firefighters.

Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- The City of Buffalo is authorized to pass a local law establishing a senior citizen longtime resident exemption (RPTL § 467-k; c.212).
- The City of Syracuse has been authorized to grant an exemption to certain residential properties with a federally back flood insurance policy through the national flood insurance program (RPTL §467-k; c.512).
- The cities of Syracuse and Buffalo have been authorized to add fines for unpaid housing code violations to their annual tax levies as a means to enforce payment of those fines (RPTL §§ 901, 905; c.123, 167).

- The assessor training program administered by the Tax Department has been expanded to apply to the assessor of the City of Albany (RPTL § 334(4); c.481).
- Three school districts partly located within the Town of Guilderland were guaranteed segment special equalization rates for 2018-19 (c.116).
- Certain state-owned land in Chenango County (RPTL § 532(k); c.58, pt. VV), Suffolk County (§ 536(e); c.58, pt. CC) and Washington County (§ 532(g); c.196) has been made taxable.
- The formula for determining current base proportions under RPTL § 1903(3)(a) in the towns of Clarkstown (c.146), Islip (c.186) and Orangetown (c.139) has been modified for one year.
- The Town of Neversink was authorized to rescind its 2018 tentative assessment roll and to direct its assessor to file a new tentative roll (c.111).
- The Town of Hempstead's authorization to pay PILOTs to the Long Beach City School District and the Lido Beach and Point Lookout Fire District moneys has been extended through June 30, 2023 (c.86).
- The following enactments primarily impact New York City:
 - Various actions must be taken to assist applicants with filling out forms relating to the tax abatement for rent-controlled and rent regulated property occupied by senior citizens or persons with disabilities under the SCRIE and DRIE programs (RPTL § 467-b; c.360).
 - A program for outreach initiatives to identify qualified individuals must be established for the tax abatement for rent-controlled and rent regulated property occupied by senior citizens or persons with disabilities under the SCRIE and DRIE programs (RPTL § 467-b; c.464)
 - The city's solar energy tax abatement program has been extended by two years, and now applies to systems placed in service by January 1, 2021. It has also been expanded to include electric energy storage equipment such as batteries, flywheels, electrochemical capacitors, compressed air storage and thermal storage devices (RPTL §§ 499-aaaa through 499-ffff; cc. 327, 412).
 - The formula for determining current base proportions in the city under RPTL § 1803-a(1) has been modified for one year (c.306).
- The following enactments primarily impact Nassau County:
 - The provisions that authorize the county's final assessment roll to be filed 15 months after the tentative assessment roll have been extended, and will now expire on June 30, 2020 instead of June 30, 2018 (c.84).
 - The provisions relating to the county's disputed assessment fund have been modified (c.114).

GOVERNOR'S DISAPPROVAL MESSAGES

VETO MESSAGE - No. 299

TO THE SENATE: I am returning herewith, without my approval, the following bill:

Senate Bill Number 7878-A, entitled: "AN ACT to amend the agriculture and markets law and the real property tax law, in relation to permitting agricultural assessment applications to be submitted electronically"

NOT APPROVED

This bill would authorize owners of agricultural land to file agricultural assessment renewal certifications through paper or electronic submission. Specifically, the bill would amend the Agriculture and Markets law to authorize paper or electronic submission of renewal certifications and would amend the Real Property Tax Law (RPTL) to add agricultural assessment applications to the list of tasks for which the Commissioner of the Department of Tax and Finance (Department) is authorized to develop standards for electronic real property tax administration.

The bill's stated goal to streamline the assessment process for landowners is a worthy one. However, this bill conflicts with the concept embodied in RPTL Section 104 that local assessors, who receive and process agricultural assessments, have the option to elect to use electronic tax administration and are not mandated to do so. In some communities, access to electronic reporting tools are not always available. Therefore, if a local assessor does not utilize electronic filings for other tax administration duties, this bill would authorize landowners to use electronic filings for this one form, but not other tax forms, in contradiction of RPTL Section 104.

Further, RPTL Section 104 authorizes, but does not mandate, the Department to develop statewide electronic reporting standards. While the Department is in favor of moving towards electronic reporting, standards must be developed in consultation with local government, the Office of the State Comptroller and the Office of Court Administration. Finding more expedient ways for taxpayers to submit forms to state and local tax departments is a worthy endeavor. Nevertheless, due to the need to respect local government choice in tax administration and the orderly transition to electronic reporting through the standards development process, and due to concerns over access to electronic reporting tools, I am constrained to veto this measure. However, the Department is committed to taking the steps necessary to develop electronic reporting standards for all the authorized tasks in the RPTL.

The bill is disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGE No. 314

TO THE SENATE: I am returning herewith, without my approval, the following bill:

Senate Bill Number 6269-A, entitled: "AN ACT to amend the real property tax law, in relation to subjecting certain state lands in Orange county to real property taxation"

NOT APPROVED

This bill would subject all land acquired for a public use by the commissioners of the Palisades Interstate Park in the towns of Blooming Grove and Chester to local real property taxation.

The stated intent of this bill to put Palisades Interstate Park lands in the towns of Blooming Grove and Chester on the same footing as those in other Hudson Valley towns, is understandable, but the bill continues a piecemeal approach to taxation of State-owned land that I cannot support. State-owned land may be subject to property taxes only when the State has statutorily expressly waived its immunity. Accordingly, many statutes have been enacted that subject some state land to local taxation, and others not. As such, piecemeal legislative amendments, focusing on some localities and not others, create inequities among localities, and creates additional state spending outside of the budget process that would only likely grow over time.

This bill would continue the current piecemeal approach to the taxation of State-owned land, while imposing or inviting additional State spending outside the context of State budget negotiations. Until a comprehensive plan is developed to address the taxation of State-owned land, piece-meal approaches will only serve to exacerbate inequities. For these reasons, I am constrained to veto this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGE - No. 359

TO THE SENATE: I am returning herewith, without my approval, the following bill:

Senate Bill Number 7730, entitled: "AN ACT to amend the education law, in relation to the component school districts' share of the capital expenditures of a board of cooperative educational services"

NOT APPROVED

This bill would exempt payments made for capital expenses of Boards of Cooperative Educational Services (BOCES) by component school districts from the calculation of the annual property tax levy limit of the component school districts.

When the Property Tax Cap was passed, careful consideration was given to protect taxpayers from further significant increases. Put quite simply, this bill would run counter to those efforts by exempting BOCES capital expenses from the Property Tax Cap calculation, thus allowing school districts to collect more property tax revenues from local property owners than currently allowable. In 2015, I signed legislation authorizing the Commissioner of Taxation and Finance to adopt regulations that could provide for an adjustment to a local school district's levy limit based upon BOCES capital expenses where appropriate. To date, the Commissioner of Taxation and Finance has not determined such an adjustment to be appropriate.

Further, this bill would have an impact on costs to the state's education system and should therefore be addressed within the context of the annual budget negotiations. This bill would violate existing agreements that were previously negotiated with the Legislature during the budget negotiation process.

I vetoed a similar bill in 2017 for these same reasons as well as lack of direct voter input (Veto No. 209). Although the sponsors have sought to correct the issue of voter input, the current bill does not accomplish this either, as it merely codifies existing law regarding component district budget votes. For these reasons, I am constrained to veto this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

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For the 2018 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/18bills.htm>.