



Department of Taxation and Finance

Report on Assessment Ceilings for Telecommunications Mass Property as Required by Chapter 475 of the Laws of 2013

Introduction

Chapter 475 of the Laws of 2013 required the New York State Department of Taxation and Finance (“the Department”) to establish assessment “ceilings” for telecommunications “mass property” that is located outside of the public way. This law, which is codified in Real Property Tax Law §§ 499-hhhh - 499-ssss, took effect on January 1, 2015 and its provisions are set to expire on January 1, 2019.

This chapter law requires the Department, in consultation with the owners of telecommunications mass property, to biennially evaluate and report on whether telecommunications mass property still constitutes “specialty” property; the Department issued the first such report in 2017.

The Department is also required to examine the program after it has been in place for three years and make recommendations as to whether this assessment ceilings program should be extended to owners of other types of public utility mass property.

Background

The assessment of all kinds of utility mass property situated within the public way – “special franchise property” – has been the responsibility of the State since 1899. The authority to determine special franchise assessments (which include both the value of tangible property located in the public way, and a value associated with the right to occupy the public way) was first exercised by the State Board of Tax Commissioners, and now rests with staff of the Office of Real Property Tax Services within the Department.

The assessment of utility mass property situated outside of the public way, however, has historically been the responsibility of the local assessor. While Chapter 475 of the Laws of 2013 has temporarily required the Department to set assessment ceilings on mass property used for telecommunication purposes, local assessors continue to be responsible for the assessment of all mass property outside of the public way in the first instance. With respect to telecommunication mass property only, the State’s determination of the ceiling value now sets a maximum limit on the assessment for local property tax purposes.

By all accounts, the implementation of this legislation has gone smoothly. Many of the owners of telecommunications mass property have written to the Department advocating for this program to be made permanent. Verizon Communications, the largest owner of telecommunications mass property

in the State, indicated that the program has essentially obviated the need for appeals of real property tax assessments on their telecommunications property.

Evaluation and Recommendations:

Chapter 475 of the Laws of 2013 established a four-year pilot program that took effect in 2015 and is scheduled to sunset in 2019. To mitigate any fiscal impact to local governments from the establishment of assessment ceilings, the law provides that the assessment ceilings established by the Department for telecommunications mass property must be no less than 90% and no more than 110% of the assessed value of such property on the 2014 local tax rolls. Although the Department's actual valuations of telecommunications mass property have been lower than locally-established valuations, these constraints have forced the Department to establish assessment ceilings that are artificially higher than its valuations.

The constraints on assessment ceilings applied only to the first three years of the program. Absent statutory amendments, the assessment ceilings for 2018 will drop to reflect the Department's actual valuations, causing a sharp reduction in the tax base and corresponding revenue loss for local governments. Localities would then likely revert to their higher local valuations if the assessment ceilings program is allowed to sunset in 2019.

Due to the constraints on assessment ceiling values in the original legislation, the Department cannot reasonably evaluate the success of the current program and make a recommendation as to whether the program should be extended to the owners of other types of public utility mass property. The Department instead recommends that the pilot program be extended for another four years and amended to allow for a phase-in of the Department's assessment ceilings over several years in order to mitigate the revenue impacts for local governments from the Department's lower valuations. The Department would then be positioned to evaluate whether the program should be extended to other owners of utility mass property.