

## ADMINISTRATIVE CORRECTION OF ERRORS

### Real Property Tax Law, Article 5, Title 3

#### § 559. Application of title.

No county charter or local law may be adopted which is inconsistent with the correction of errors provisions.

Correction of errors provisions apply to all municipal corporations except New York City.

#### § 550. Definitions.

1. "**Assessment roll**" means the assessment roll as it exists from the time of its tentative completion to the time of the annexation of a warrant for the collection of taxes.

6. "**Tax roll**" means a final assessment roll upon which taxes have been extended and to which a warrant has been annexed.

5. "**Tax levying body**" means the governing board of a municipal corporation which annexes a warrant for the collection of taxes to a final assessment roll.

4. "**Improvement**" means real property as defined in RPTL, §102(12)(b), and which has been separately described and valued on the property record card, field book or other final work product of the assessor.

2. "**Clerical error**" means:

(a) an incorrect entry of assessed valuation on an assessment roll or on a tax roll which, because of a mistake in transcription, does not conform to the entry for the same parcel which appears on the property record card, field book or other final work product of the assessor, or the final verified statement of the board of assessment review [BAR]; or

\* (b) an entry which is a mathematical error present in the computation of a partial exemption; or

(c) an incorrect entry of assessed valuation on an assessment roll or on a tax roll for a parcel which, except for a failure on the part of the assessor to act on a partial exemption, would be eligible for such partial exemption; or

\* (d) an entry which is a mathematical error present in the computation or extension of the tax; or

\* (e) an entry on a tax roll which is incorrect by reason of a mistake in the determination or transcription of a special assessment or other charge based on units of service provided by a special district; or

(f) a duplicate entry on an assessment roll or on a tax roll of the description or assessed valuation, or both, of an entire single parcel; or

(g) an entry on an assessment or tax roll which is incorrect by reason of an arithmetical mistake by the assessor appearing on the property record card, field book or other final work product of the assessor; or

(h) an incorrect entry on a tax roll of a releived school tax or releived village tax which has been previously paid; or

(i) an entry on a tax roll which is incorrect by reason of a mistake in the transcription of a releived school tax or releived village tax.

3. "**Error in essential fact**" means:

(a) an incorrect entry on the taxable portion of the assessment roll, or the tax roll, or both, of the assessed valuation of an improvement to real property which was destroyed or removed prior to taxable status date for such assessment roll; or

(b) an incorrect entry on the taxable portion of the assessment roll, or the tax roll, or both, of the assessed valuation of an improvement to real property which was not in existence or which was present on a different parcel; or

(c) an incorrect entry of acreage on the taxable portion of the assessment roll, or the tax roll, or both, which acreage was considered by the assessor in the valuation of the parcel and which resulted in an incorrect assessed valuation, where such acreage is shown to be incorrect on a survey submitted by the applicant; or

(d) the omission of the value of an improvement present on real property prior to taxable status date; or

(e) an incorrect entry of a partial exemption on an assessment roll for a parcel which is not eligible for such partial exemption; or

(f) an entry pursuant to RPTL, Article 19 on an assessment or tax roll which is incorrect by reason of a misclassification of property which is exclusively used for either residential or nonresidential purposes.

7. "**Unlawful entry**" means:

(a) an entry on the taxable portion of the assessment roll or the tax roll, or both, of the assessed valuation of real property which, except for the provisions of RPTL, §490, is wholly exempt from taxation; or

\* (b) an entry on an assessment roll or a tax roll, or both, of the assessed valuation of real property which is entirely outside the boundaries of the assessing unit, the school district or the special district in which the real property is designated as being located, but not an entry on an assessment roll or a tax roll, or both, of the assessed valuation of real property assessed pursuant to RPTL, §500 (2)-(5); or

(c) an entry of assessed valuation on an assessment roll or on a tax roll, or both, which has been made by a person or body without the authority to make such entry; or

(d) an entry of assessed valuation of state land subject to taxation on an assessment roll or on a tax roll, or both, which exceeds the assessment of such land approved by the Commissioner of Taxation and Finance; or

(e) an entry of assessed valuation of a special franchise on an assessment roll or on a tax roll, or both, which exceeds the final assessment thereof as determined by the

Commissioner of Taxation and Finance pursuant to RPTL, §606(1), or the full value of that special franchise as determined by the Commissioner pursuant to RPTL, §606(2) adjusted by the final State equalization rate established by the Commissioner for the assessment roll upon which that value appears.

4-a. "**Omission**" or "omitted real property" means a parcel wholly omitted from the assessment roll or tax roll, taxable real property entered on the roll as wholly exempt real property, or an error in essential fact as defined in paragraph (d) of subdivision three of this section. An omission also includes taxable real property for which no school district or special district tax was levied because of a failure to include the property within the appropriate taxing district. An "omission" or "omitted real property" does not include real property assessed pursuant to RPTL, §500, (2)-(5).

#### **§ 552. Correction of errors on tentative assessment rolls.**

- All clerical errors, unlawful entries and errors in essential fact
- Error appears on current year's tentative roll or post-taxable status date filed senior citizen renewal (per option in RPTL, §467(8))
- Assessor transmits **form RP-552 (1/06)** to the board of assessment review (for error in essential fact, must include: (i) copy of property record card, field book or other final work product on which incorrect assessment was based; and (ii) copy of any existing municipal record substantiating the error)

If the assessor acts on behalf of an owner or person with standing to complain about the assessment (i.e., correction will result in lower tax bill), the assessor provides such owner or other person with a copy of form RP-552. If RP-552 is filed too late for a grievance day hearing, the complainant may send the Board of Assessment Review his/her copy; The BAR will treat it as a petition filed pursuant to section 553 of the RPTL.

If the assessor wants to increase an assessment, the assessor sends form RP-552 to the BAR and to the owner. The owner's copy must be sent by certified mail at least five days before grievance day.

Changes ordered by the BAR as result of RP-552 are petitions to be included on a BAR verified statement to the assessor on or before final roll date (RPTL, §525(4)).

#### **§ 553. Correction of final assessment rolls.**

- (a) Clerical error on current or preceding year's assessment roll resulting in assessed value or special assessment or other unit of service charge less than that actually on assessor's record
- (b) Clerical error on current year's assessment roll resulting in assessed value or special assessment or other unit of service charge more than that actually on assessor's record or board of assessment review's [BAR] verified statement
- (c) Omission from assessment roll of preceding year of taxable real property
- (d) Omission from assessment roll of current year of taxable real property
- (e) Unlawful entry appearing on current assessment roll
- (f) Error in essential fact on current assessment roll
- (f-1) Incorrect partial exemption granted on preceding year's roll for parcel not eligible for exemption (provided no transfer of title since that roll was filed)
- (g) State land assessment for current or preceding year which is less than the assessment approved by the Commissioner

(h) Special franchise assessment for current or preceding year which is less than the final special franchise assessment determined by the Commissioner pursuant to RPTL, §606(1), or the full value of that special franchise as determined by the Commissioner pursuant to RPTL, §606(2) adjusted by the final State equalization rate established by the Commissioner for the assessment roll upon which that value appears.

Assessor may remove full or partial exemptions granted to properties that have been transferred to non-exempt owners - as omitted assessment (per RPTL, §520).

Assessor files **form RP-553 (1/06)** with the BAR at least 10 days before so-called second meeting of the BAR <sup>1</sup> for errors described in paragraphs (a), (c), (d), (f), (f-1), (g) and (h) and for section 520 correction. (For error in essential fact, assessor must include (i) copy of property record card, field book or other final work product on which incorrect assessment was based, and (ii) copy of existing municipal record substantiating error.) For errors described in paragraphs (b) and (e), five days filing is sufficient (and no notice to owner is required).

At least 10 days before a second meeting, the assessor must notify the owner by certified mail, return receipt, of petition to make correction described in paragraph (a), (c), (d), (f), (f-1), (g) or (h). Notice must include RP-553 and information when and where the BAR will meet.

The assessor should follow same notice schedule for section 520 correction. **Form RP-520-Ntc (rev. 9/01)** may be used to notify taxpayer.

If the BAR has any RP-553 petitions from assessor (and/or copies of RP-554 or RP-556 from county director), the BAR will meet on designated day to consider petitions. If no petitions are filed, the BAR chairperson may cancel meeting (with notice to the members of the BAR, assessor(s) and county director).

The BAR has the same powers and duties at a second meeting it has with respect to grievance day. The BAR will file a verified statement of changes with the tax levying body within five days of meeting; copy to assessor for filing with final assessment roll; copy retained in the city or town clerk's office. The assessor notifies tax levying body of §520 additions on **form RP-520/551 (1/95)**. The tax levying body incorporates changes into tax rate computations. For prior year corrections, property is taxed at corresponding fiscal years' tax rates.

#### **§ 551-a. Failure to extend tax.**

Where the tax has been levied by or on behalf of a municipal corporation or special district, but has not been extended against the final assessment of a parcel entered on the tax roll, the collecting officer may add the appropriate tax to the tax roll of the current year pursuant to the procedure set forth in §551-a.

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<sup>1</sup> The BAR is to schedule "second" meeting(s) at grievance day (RPTL, §525(2)(b)). Meeting must be at least 15 days after filing of final roll AND cannot be more than 90 days nor less than 20 days before issuance of tax warrant. Since there may be several separate warrants issued, there may be several "second" meetings. The BAR is to notify the assessor, tax levying bodies and county director of date(s).

The collecting officer extends the tax by applying the tax rate of the municipal corporation or special district for the preceding year or current year, as the case may be. For a tax not extended on the tax roll of the preceding year, the collecting officer enters on the tax roll of the current year the assessed value of the parcel as listed on the tax roll of the preceding year.

Upon extension of the tax, the collecting officer notifies the owner of such property, identifying the parcel by the description appearing on the tax roll, stating the municipal corporation or special district on behalf of which such tax is extended, the tax year in question, the assessed value of the parcel, the tax rate used, and the amount of the tax. The notice must also advise the owner of his right to review.

The owner of the property or other person who would be entitled to file a grievance may petition the county director within 10 days of the mailing of the notice to object to the addition of such extension on the tax roll. The county director immediately reports his findings with respect to the validity of the action of the collecting officer to the appropriate tax levying body.

The tax levying body examines the report of the county director and issues a determination, copies of which are to be served upon the complainant, the collecting officer and the county director.

If an owner objects to the extension of the tax in the manner provided, he or she will have 30 days from the determination of the tax levying body to pay such tax without interest. In any other case, the owner shall have 30 days from the date the notice was mailed to pay the tax without interest.

#### **§ 554. Correction of errors on tax rolls.**

The owner or person entitled to file a grievance may, at any time prior to expiration of the tax warrant, file **form RP-554 (9/04)** with the county director for correction of clerical error, error in essential fact, or unlawful entry on tax roll. (For error in essential fact, the application must include: (i) copy of property record card, field book or other final work product on which incorrect assessment was based, and (ii) copy of the existing municipal record substantiating error. For unlawful entry per RPTL, §550(7)(a), the application must include the assessor's statement that the property should have received wholly exempt status.)

Within 10 days, the county director will investigate the circumstances of the claimed error with any necessary assistance from municipal officials. Upon completion of investigation, the county director submits a written report and recommendation (with copies of RP-554 application) to the tax levying body. If the same error appears on current assessment roll, the county director also submits copy of RP-554 to the BAR which treats it as if it were form RP-553.

Tax levying body, at a regular or special meeting, examines application and reports and decides if error exists:

a) If it rejects the application, it makes a notation on RP-554 and notifies the applicant explaining the rejection.

b) If it approves the application, it makes notation on form RP-554 and enters the correct extension of taxes.

c) It notifies the officer having jurisdiction of tax roll of approved application and notifies taxpayer of approval.

d) Whether approved or denied, copies of all applications must be filed with the records of tax levying body.

An officer having jurisdiction of the tax roll, corrects the tax roll as per the order and collects the corrected tax. The Order and approved application shall be annexed to or filed with tax roll.

Applicants who file form RP-554 with the county director during the interest-free period may pay the corrected tax without interest within eight days of mailing of notice of approval. All others must pay usual interest, except no additional interest is imposed if corrected amount of tax is paid within eight days of date notice of approval is mailed to the taxpayer, unless the eight day period would end after the expiration of the warrant, in which case, the period for payment without additional interest ends upon expiration of the warrant.

The chief assessor or chair of the board of assessors performs the county director's duties in county assessing units. The village assessor performs the county director's duties in villages except the county director does so for non-assessing villages (RPTL, §1402(3)).

The tax levying body's duties may be delegated to the official empowered to authorize payment of bills without prior audit so long as correction does not exceed \$2,500 or lesser set amount.

#### **§ 555. Changes in descriptions of real property on final assessment rolls.**

The tax levying bodies, except school districts, are to examine the final assessment rolls submitted to them for tax levy purposes to ascertain if the descriptions of real property on such rolls are sufficient for purposes of possible tax enforcement by tax sale. If not, the tax levying body may change those descriptions. If the change cannot be accomplished in time for the levy, the change is to be made for the next succeeding levy. The property is not to be taxed until the adequate description is obtained. It is to be treated as omitted property if necessary.

#### **§ 556. Refunds and credits of taxes.**

The tax levying body may refund or apply credit against outstanding an tax (within three years) for clerical error, unlawful entry or error in essential fact (except error in essential fact per §550(3)(d)). Application on ***form RP-556 (1/06)*** must be filed by the person who paid the tax, or for which tax is outstanding, with the county director within three years of annexation of the warrant. (For an error in essential fact, the application must include (i) a copy of property record card, field book or other final work product on which incorrect assessment was based, and (ii) a copy of existing municipal record substantiating error. For unlawful entry per RPTL, §550(7)(a), application must include assessor's statement that property should have received wholly exempt status.)

Within 10 days, the county director is to investigate the claimed error with any necessary assistance from municipal officials. Upon completion of investigation, the county director submits a written report and recommendation (with copies of RP-556 application) to the tax levying body. If the same error appears on the current assessment roll, the county director also submits copy of RP-556 to the BAR which treats it as if it were form RP-553.

The tax levying body examines the application and report and decides if an error exists:

a) If it rejects the application, it makes a notation on RP-556 and notifies the applicant explaining the rejection.

b) If it approves application, it makes a notation on form RP-556, enters amount of refund or outstanding tax to be credited, and notifies taxpayer of the approval.

Amounts refunded or credited are charges upon municipal corporations or special districts. Amounts charged to cities, towns and special districts are to be included in next tax levy. School district will be charged back for relieved school tax.

For portions of outstanding taxes that are credited per RPTL, §556, interest and penalties are to be reduced to the extent that such interest and penalties were attributable to the credited portion of tax, and no additional interest and penalties are imposed if the corrected amount of the tax is paid within eight days of the date on which notice of approval is mailed.

The chief assessor or chair of the board of assessors performs the county director duties in county assessing units. The village assessor performs the county director duties in villages except county director does so for non-assessing villages (RPTL, §1402(3)).

Tax levying body duties may be delegated to the official empowered to authorize payment of bills without prior audit so long as correction does not exceed \$2,500 or lesser set amount.

**§ 556-b. Correction of certain errors, substantial in number and identical in nature.**

An expedited procedure may be applied if the same clerical error per RPTL, §550(2)(b), (d), or (e) or same unlawful entry per RPTL, §550(7)(b) [all noted by \* in §550 definitions above] occurs with respect to a substantial number of parcels in the preparation of a tax roll.

A single application (**form RP-556-b (9/04)**) filed with the county director on behalf of all owners of property affected by the same clerical error or unlawful entry.

Within 10 days of receiving the application, the county director investigates and issues a written report to the tax levying body. If the tax levying body determines that the claimed clerical error or unlawful entry has occurred, it shall immediately issue an order setting forth the corrected taxes and direct the officer having jurisdiction of the tax roll to correct the roll.

If the tax levying body approves the application, it orders the refund of any excess taxes paid with respect to said error or unlawful entry. The amount of any taxes, including relieved school taxes so refunded, are a charge upon each municipal corporation, special district or school district to the extent provided in RPTL, §556.

If form RP-556-b is filed during the interest-free period, the applicant and all owners of property affected by the clerical error or unlawful entry may pay the corrected tax as determined by the tax levying body without interest, if payment is made within eight days of the date on which the corrected tax bill is mailed. One copy of an approved application

and the order are to be annexed to the tax roll and warrant, or filed therewith by the officer having jurisdiction of the roll and shall become a part thereof.

If the tax levying body rejects application, it must notify the applicant.

**§ 557. Cancellations and rejections of certain delinquent taxes returned to county treasurer.**

After the return of unpaid taxes, if the county treasurer determines that a taxable property in a city or town has been assessed in duplicate for any year or years, assuming no tax sale of the property has yet occurred, the county treasurer may cancel one of the duplicate taxes. The treasurer then charges back and apportions the amount to the city or town as appropriate.

The county treasurer is to examine the accounts of tax arrears and may reject all taxes charged on real property so inaccurately described that the taxes cannot be enforced. The treasurer notifies the mayor or supervisor of the rejected taxes who is to cause an accurate description to be made and returned to the treasurer.

**§ 558. Cancellation of void taxes.**

The county legislature may cancel any unpaid tax levied or imposed by such county against property of New York State or the United States where it is determined that the lien of such tax cannot be enforced. The county legislature may also direct the cancellation of any unpaid tax levied or imposed by such county where the lien of such tax is rendered permanently unenforceable by operation of the provisions of any statute. The amount of any such cancelled tax is a charge upon the county to the extent of the county taxes that were so cancelled and upon the cities and towns or special districts thereof to the extent of the respective city, town or special district taxes that were so cancelled. Amounts so charged to cities, towns and special districts shall be included in the next ensuing tax levy.

The county legislature may cancel any unpaid school tax relevied by such county pursuant to RPTL, §1330(5) or §1332(5) or any unpaid village tax relevied by such county pursuant to RPTL, §1442(4) against property of the state or the United States where it is determined that the lien of such tax cannot be enforced, or where the lien of such tax is rendered permanently unenforceable by operation of the provisions of any statute. The amount of any tax so cancelled shall be charged against the school district or village which levied such tax. The amount so charged against a school district or village shall be withheld by the county treasurer from any moneys which shall become payable by him to such school district or village by reason of taxes which shall thereafter be returned to him as uncollected by such school district or village. No such cancellation of any unpaid school taxes or no such charge shall be made by the county legislature against any such school district or village unless ten days' notice thereof by mail shall be given to the school authorities thereof.

Where a city, town or village has the power to enforce the collection of delinquent taxes, such city, town or village shall have the same powers and duties concerning the cancellation of void taxes as is granted to counties pursuant to the foregoing provisions of this section. Void taxes may be cancelled and the amount of such cancelled taxes shall be apportioned and charged back to the appropriate county, village, school district or special district in the manner provided in the foregoing provisions of this section.

**§ 551. Entry by assessor of omitted real property on current assessment roll.**

The assessor, upon his or her own or upon request of a taxpayer, shall enter on the current assessment roll, prior to its tentative completion, any parcel shown to have been omitted from the preceding year's assessment roll at the valuation of that year, or if not then valued, at a valuation that the assessor determined for the preceding year.

The assessor may add parcels that received full or partial exemptions on prior roll but that were transferred to non-exempt owners (RPTL, §520). **Form RP-551-Ntc (10/00)** may be used to notify taxpayer.

A special franchise assessment after apportionment by the assessor, if necessary, or an assessment of state land subject to taxation for the preceding year which is less than the assessment thereof approved by the Commissioner, shall be entered at the valuation determined by the Commissioner.

Real property assessed pursuant to this section is to be taxed at the tax rate or tax rates for the preceding year. The amount of tax or taxes levied pursuant RPTL, §551 are to be deducted from the aggregate amount of taxes to be levied for the current year. **Form RP-520/551 (1/95)** may be used to notify the tax levying body.