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SUMMARY OF 2013 REAL PROPERTY TAX LEGISLATION

This document provides general summaries of the most noteworthy legislation enacted in 2013 related to real property tax administration. These descriptions are intended only as a source of basic information about the key elements of the new laws. For a fuller and more 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, “DTF” means the Department of Taxation and Finance, and “ORPTS” means the Office of Real Property Tax Services.

ASSESSMENT ADMINISTRATION

Assessment Ceilings for Telecommunications “Mass” Property

- Chapter **475** (A.5503) ▪ RPTL Article 4, Title 5

Chapter **475** directs DTF to establish assessment ceilings for telecommunications “mass” property (i.e., lines and wires) located in or on private property. The ceilings will first take effect for the 2015 assessment rolls. The ceilings cannot be more than 10% higher or lower than the assessments that had been established for the property for 2014, subject to certain exceptions. Telecommunications mass property in each assessing unit will still be assessed by the local assessor, but will be exempt from taxation to the extent its assessment exceeds its ceiling. DTF will be reimbursed by the owners of affected properties for the costs of determining these ceilings. This program is set to sunset after four years.

Superstorm Sandy

- Chapter **424** (A.8075) ▪ Unconsolidated
- Chapter **250** (S.3702-B) ▪ RPTL §467-g

Chapter **424** enacted the “Superstorm Sandy Assessment Relief Act.” This legislation provided for a real property tax exemption, at local option, in nine counties that were significantly impacted by Superstorm Sandy, namely, Greene, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester. Those counties and the municipalities therein could allow this relief to property owners by passing a resolution by December 6, 2013. Property owners could then submit a request to the assessor by January 21, 2014 for a reduction in assessed value, if their loss met or exceeded a prescribed threshold. To be eligible for relief, the improvements on the property generally had to have lost at least 50% of their value due to Superstorm Sandy, but this floor could be lowered at local option to allow relief to improvements

that lost 10%, 20%, 30% or 40% of their value. Loss of value was to be determined by assessors, but if there was such a determination by the Federal Emergency Management Agency (FEMA), it was controlling. Affected property owners were permitted to file a complaint with the Board of Assessment Review to challenge the assessor's findings. This tax relief was available with respect to taxes levied after October 28, 2012 on final tax rolls with taxable status dates prior to October 28, 2012. The measure also authorized bonding in connection with the loss of property tax funding and issuance of property tax refunds and credits. A separate measure, Chapter **250**, authorized real property tax rebates for New York City property owners whose properties were seriously damaged or destroyed by Superstorm Sandy (RPTL §467-g).

EXEMPTION ADMINISTRATION

STAR Registration and Anti-fraud Program

□ Chapter **57** (S.2607-D; Part J) ▪ RPTL §200-a & §425

Chapter **57**, Part J, requires all Basic STAR exemption recipients to register with DTF in order to continue receiving that exemption in 2014 and beyond. When DTF finds that Basic STAR recipients have not registered for STAR or have registered but fail to meet the eligibility requirements, DTF may direct the removal of those exemptions. Property owners may appeal the determination to the Commissioner of DTF, and thereafter, to the State Board of Real Property Tax Services; it may not be appealed to the Board of Assessment Review. Chapter **57** does not change the initial STAR application process, and initial applications will continue to be filed with the local assessor. Chapter **57** also increases the look-back period and penalties for property owners that had been receiving the exemption improperly or that had made a material misstatement on their STAR exemption application. The look-back period will be phased in from the current period of 3 years to a maximum period of 6 years; the penalties for a material misstatement in a STAR application will rise from \$100 to the greater of \$100 or 20% of the improperly received tax savings (up to a maximum penalty of \$2,500). The period of disqualification after a material misstatement increases from 5 years to 6 years.

START-UP NY

□ Chapter **68** (A.8113; Part A) ▪ RPTL §420-a

Chapter **68** enacted the "START-UP NY" program to transform upstate SUNY and private university campuses into tax-free regions for new and expanding businesses (the name stands for "SUNY Tax-free Areas to Revitalize and Transform Upstate New York"). With respect to real property tax administration, the law specifically provides that the real property tax exemption that generally applies to private colleges under RPTL § 420-a shall extend to the college-owned property that was leased to and used by a business operation under the START-UP NY program, if the property was owned by the college on June 1, 2013 and was exempt at that time. This exemption will apply to the specific portion of the property that is utilized by a START-UP NY qualified business, but not to any other portion of the property (e.g., any space in the building that is occupied by a business operation that does not qualify as an eligible START-UP NY business will be taxable). There are no specific provisions in the START-UP NY legislation relating to SUNY-owned property, but such a provision was not necessary since

SUNY-owned property is State-owned property, and State-owned property is wholly exempt from real property taxation under RPTL § 404 regardless of its use.

Agricultural Assessments; Limits on Annual Changes

□ Chapter **385** (S.1952) ▪ Agriculture & Markets Law §304(a)(4)(g)

Chapter **385** limits annual changes in the base agricultural assessment value established by ORPTS for mineral soil groups and organic soil groups. It specifically provides that the increase or decrease for any given year may not exceed two percent of the base agricultural assessment value of the preceding year. This limitation applies beginning with the 2014 base agricultural assessment values.

Agricultural Structures Exemption

□ Chapter **272** (S.4770-A) ▪ RPTL §483-a & §487

Chapter **272** adds anaerobic digester facilities located on agricultural land to the list of farm structures that are exempt from taxation under RPTL §483-a. Chapter **272** also broadens the scope of the farm waste energy system exemption in RPTL §487 by increasing the capacity limit of farm waste electric generating equipment eligible for that exemption from a rated capacity of 400 kilowatts to 1,000 kilowatts and allows livestock manure materials to make up a smaller percentage of the fuel for such equipment (50% by weight, as opposed to the prior 75%).

Alternative Veterans' Exemption; School District Opt-in

□ Chapter **518** (A.565) ▪ RPTL §458-a

Chapter **518** amends RPTL §458-a to allow school districts to offer the alternative veterans real property tax exemption, by adopting a resolution so providing after public hearings. Prior law precluded school districts from offering the exemption.

Veterans' Organizations; Rental to Non-Exempt Users

□ Chapter **243** (S.936) ▪ RPTL §452(2)(c)

Chapter **243** amends the exemption for veterans' organizations to allow municipalities to adopt a local law, ordinance or resolution authorizing an exemption for a portion of an eligible organization's real property that is used for non-qualifying purposes. Without such a law, real property owned by a veterans' organization is exempt only if such real property is: (1) used and occupied by the veterans' organization exclusively for the organization's purposes, or (2) used by or leased to another organization or association that would be entitled to a real property tax exemption if it owned the real property. Chapter **243** expands the exemption to allow a veterans' organization to obtain a full real property tax exemption on real property owned by the organization and leased for profit, if the municipality so elects.

Green Buildings Exemption

□ Chapter **14** (A.2080) ▪ RPTL §470

Chapter **14** amends the newly-enacted real property tax exemption for the construction of "green buildings." This local option exemption applies to improvements that meet Leadership in Energy and Environmental Design ("LEED") certification standards under one of the named rating systems or substantially equivalent standards, as such certification is determined by a

LEED accredited professional. Chapter **14** allows local governments to set a maximum tax exemption, to enable localities to tailor this program to fit the needs of their communities. Governor Cuomo had called for such an amendment when he signed the legislation that enacted §470 (*see* Approval Message # 4 of 2012, issued upon the signing of L.2012, c.188).

Redevelopment Companies

- Chapter **478** (A.5900-A) ▪ Private Housing Finance Law §125

Chapter **478** restructures the exemption formula included in chapter 415 of the laws of 2012 for the applicable extended exemption periods. The 2012 law authorized municipalities to grant additional tax exemption periods for qualified affordable housing projects for up to an additional fifty years. Chapter **478** restructures the exemption formula in a manner that is intended to be more favorable to the redevelopment company.

HFA-financed Multiple Dwellings

- Chapter **152** (S.4400)

Chapter **152** extends certain statutes pertaining to programs administered by the New York State Housing Finance Agency, State of New York Mortgage Agency and SONYMA Mortgage Insurance Fund. In so doing, the law also extends the effectiveness of the real property tax exemption authorized by RPTL §421-d for HFA-financed multiple dwellings.

Retroactive Exemptions for Specific Properties

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

TAX COLLECTION AND ENFORCEMENT

Installment Payments

- Chapter **429** (A.1324) ▪ Real Property Tax Law §1184

Chapter **429** temporarily extends the maximum allowable term over which delinquent real property taxes may be paid in installments under RPTL §1184. Tax districts which choose to offer installment programs have considerable flexibility as to how their programs may be structured, but prior to this amendment, the repayment term could not exceed 24 months. Under Chapter **429**, tax districts may establish installment terms of up to 36 months for agreements entered into before December 31, 2015. This authorization expires December 31, 2015.

Land Banks

- Chapter **372** (S.5167-A) ▪ Not-For-Profit Corporation Law Article 16

Chapter **372** made a number of technical amendments to the legislation that authorized the creation of “land banks” to foster the development of vacant and abandoned property and promote economic growth (L.2011, c. 257). One of the amendments expands the ability of land

banks to prevail at auctions of tax-delinquent properties by bidding the amount of the lien on the property. Originally, this bidding priority expressly applied only to auctions conducted under RPTL §1136; Chapter **372** clarifies that this bidding priority applies to auctions conducted both under RPTL Article 11 and under special, locally-applicable legislation.

MISCELLANEOUS

State Budget; Real Property Tax-Related Appropriations

- Chapters **50, 53** and **55** (S.2600-E, S.2603-E, A.2605-D)

Chapter **50** enacts the 2013-14 State Operations Budget, which includes appropriations of \$19.7 million to fund ORPTS programs under the budget of DTF (p.666), and \$232 million for payments of taxes on taxable state lands under RPTL §§ 532-546 (p.714). Chapter **53** enacts the 2013-14 Aid to Localities Budget, which, among other things, appropriates \$3.42 billion to pay for tax relief under the STAR program (p.213). Chapter **53** also appropriates up to \$926,000 for local aid for improved real property tax administration, including up to \$750,000 for coordination programs and cyclical reassessments (where such are conducted for the first time in three years or more) and up to \$176,000 for assessor training (p.927). Chapter **55, Part T** amends the State's PILOT payments to the City of Albany by reallocating payments made earlier in the payment schedule (p.35).

Financing of Tax Refunds; Extender

- Chapter **77** (A.7099) ▪ Local Finance Law §11.00

Chapter **77** extends the periods of probable usefulness of real property tax refunds for purposes of bonding. If the refunds to be paid are more than 1% of the tax levy but less than 3%, the period of probable usefulness is 10 years; if more than 3% but less than 5%, 15 years; if more than 5%, 20 years. These provisions will remain in effect until June 15, 2018.

Cold War Certificates

- Chapters **477** (A.5890); Military Law §247

Chapter **477** amends section 247 of the Military Law to authorize the presentation of a "Cold War Certificate" to those who served honorably in the United States armed forces during the defined Cold War period (September 2, 1945 – December 26, 1991) and who are New York State citizens or were New York State citizens while they so served.

Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- The exemption for certain residential construction in the City of Syracuse has been restructured (Chap. **441**).
- The authorization for the Town of Hempstead to pay PILOTs to the school and fire district for certain land (Lido Beach) has been extended through June 30, 2018 (Chap. **65**).
- The Town of Sennett has been authorized to grant taxpayer assistance payments from the Town's surplus to eligible households (Chap. **285**).

- The City of Middletown has been authorized to enter into contracts to sell delinquent tax liens to third parties and to use such tax liens as collateral for loans (Chap. **510**).
- The aggregate non-homestead class tax share in the Nanuet School District is permitted to exceed the limit prescribed by RPTL §1903-a(4)(c)(ii) (Chap. **539**).
- The calculation of Adjusted Base Proportions has been “capped” at 1% for the 2013 assessment rolls for Nassau County and New York City as well as for the Approved Assessing Units in Nassau County (subject to local option) and Suffolk County (Chaps. **84, 134, 85, and 281**).
- The expiration date for the modifications to the Nassau County assessment calendar that were enacted in 2002 has been changed to June 30, 2014 (Chap. **55**, Pt. Z).
- The “green roof” tax abatement in New York City has been expanded (Chap. **524**).
- The New York City Class II abatement program has been expanded to apply to certain properties held in trust and to properties receiving a STAR exemption or the exemption for persons with disabilities and limited income authorized by RPTL §459-c (Chap. **97**).

GOVERNOR'S DISAPPROVAL MESSAGES

VETO MESSAGE No. 203

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

Assembly Bill Number 7806-A, entitled: "AN ACT to amend the tax law, in relation to exempting tangible personal property purchased by a tenant for use directly and exclusively to furnish and equip the tenant's leased premises for use as a commercial office space; and to amend part C of chapter 2 of the laws of 2005 amending the tax law relating to exemptions from sales and use taxes, in relation to the effectiveness thereof (Part A); to amend the real property tax law and the administrative code of the city of New York, in relation to extending a real property tax abatement program for certain commercial properties in cities having a population of one million or more and in relation to extending a special reduction under the commercial rent tax in the city of New York (Part B); to amend the real property tax law and the administrative code of the city of New York, in relation to applications for tax abatements for industrial and commercial construction work on properties in a city of one million or more persons (Part C); to amend the general city law and the administrative code of the city of New York, in relation to extending the relocation and employment assistance program and the Lower Manhattan relocation and employment assistance program (Part D); to amend the general city law and the administrative code of the city of New York, in relation to extending the special rebates and discounts provided pursuant to the energy cost savings program and the Lower Manhattan energy program (Part E); to amend the administrative code of the city of New York, in relation to the amount of special reduction allowed (Part F); and to amend the real property tax law, in relation to a real estate tax abatement program for certain commercial, industrial and manufacturing properties in a city of one million or more persons (Part G)"

NOT APPROVED

This bill would extend for two years various New York City revitalization tax incentive programs and tax abatements which have assisted New York City to recover from the economic effects of the 9/11 attacks and Superstorm Sandy. I agree that they should be extended. However, within the bill, Part A would substantially alter one such program -the Lower Manhattan State and Local Sales Tax Exemption - by loosening the eligibility criteria at a great cost, but with no corresponding relief, to the State's financial plan. Moreover, that program does not even expire until 2014.

This unwarranted expansion, passed without discussion with the Executive or the Division of Budget, would increase the cost to State taxpayers of this program by \$10 million for this year and \$20 million for each year thereafter. It would also have an impact on the State's and New York City's financial plans. As noted, the Legislature did not discuss this with the Executive; thus, I cannot approve the legislation as it now stands.

However, if the Legislature were to pass a bill that extends, but not expands, the programs extended in this bill, I would sign that bill.

The bill is disapproved.

(signed) Andrew M. Cuomo

VETO MESSAGE No. 212

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

Assembly Bill Number 4070, entitled: "AN ACT to amend the real property tax law, in relation to the process for local disciplinary actions against assessors"

NOT APPROVED

This bill would provide local property tax assessors with a State appeals process to appeal any disciplinary actions taken against them by a local appointing authority.

Local property tax assessors are employees of local governments, not the State. No other employees of local government have such a right. Thus, if enacted this legislation would insert the State into a local government's exclusive affairs while treating local property tax assessors differently from other local government employees. An earlier version of this law lapsed in 2010; there is no reason to revive it now. Therefore, I must disapprove this bill.

The bill is disapproved.

(signed) Andrew M. Cuomo

VETO MESSAGE No. 243

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

Assembly Bill Number 7314-A, entitled: "AN ACT to amend the real property tax law, in relation to requiring assessment disclosure notices in New York city to include a description of the method of assessment"

NOT APPROVED

This bill would require that New York City's Department of Finance ("DoF") include in its assessment disclosure notice certain property tax assessment data. However, DoF already provides the majority of the information required by this legislation through several separate databases on its website and on the Notices of Property Value that are mailed to property owners.

With respect to other information called for, such as information on property tax exemptions for the current year, such information is not yet finalized when the Notices of Property Value are mailed in mid-January and could not be included. Finally, New York City advises that this unfunded mandate would require it to, at significant cost, recode the DoF's systems for very little benefit given that much of this information is already available.

Therefore, I cannot approve this bill.

The bill is disapproved.

(signed) Andrew M. Cuomo

VETO MESSAGE No. 244

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

Assembly Bill Number 7327-A, entitled: "AN ACT to amend the administrative code of the city of New York, in relation to requiring assessment rolls to be published on the department of finance website"

NOT APPROVED

This bill would require New York City's Department of Finance ("DoF") to post its property tax assessment roll and certain property tax assessment data on its website and create a document containing such information in a searchable format within nine months.

Although currently not in one database, most of the information required under this bill is currently available on DoF's website or the Notices of Property Value that are mailed to taxpayers. New York City

has also advised that it is currently working on modernizing its property tax assessments system which will be operational by 2017. This longer-term project will meet most of the bill's requirements by consolidating information into a single database where possible. The changes required under this bill would not only be difficult to implement given the constraints of the City's current technology and the bill's nine month effective date, but also, it would be wasteful to reprogram systems that are already scheduled to be replaced. Given these circumstances, I am compelled to disapprove this legislation.

The bill is disapproved.

(signed) Andrew M. Cuomo

VETO MESSAGE No. 286

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

Senate Bill Number 5658, entitled: "AN ACT to authorize Talmud Torah Ohr Yochanan to file an application for exemption from real property taxes"

NOT APPROVED

This bill would authorize the Town of Ramapo to accept from Talmud Torah Ohr Yochanan an application for a retroactive property tax exemption for two parcels of land located in the Town of Ramapo for the 2011 assessment roll.

As a result of recent developments regarding the facts underlying Talmud Torah Ohr Yochanan's application for a retroactive property tax exemption, the bill's sponsors have requested that I not approve this bill at this time. Based on this information, I am constrained to withhold my approval.

The bill is disapproved.

(signed) Andrew M. Cuomo

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For the 2013 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/legsum.htm>