



OFFICE OF COUNSEL

SUMMARY OF 2019 REAL PROPERTY TAX LEGISLATION

This publication summarizes noteworthy 2019 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

County-Level Boards of Assessment Review

- Chapter 59 (S.1509-C), Part J, Subpart B • RPTL §§ 523(1)(b), 1537(1) and 1408(1)
Chapter **59**, Part J, Subpart B, authorizes the creation of a county-level Board of Assessment Review upon agreement between a county and an assessing unit. Members of the BAR would be appointed by the legislative body of the county upon recommendation of the county director of real property tax services. BAR members would need to be residents of the county but need not be residents of the assessing unit.

Electronic Issuance of Statutory Notices

- Chapter 59 (S.1509-C), Part J, Subpart D • RPTL § 104
Chapter **59**, Part J, Subpart D, authorizes the Tax Department to issue statutory notices electronically, by email and by posting on the Tax Department's website, starting in 2020. Electronic statutory notices are allowed for all tentative determinations that are subject to administrative review including equalization rates, special franchise assessments, and assessment ceilings. When providing tentative determinations by email, the Tax Department is required to accept complaints regarding such determination by email. The Tax Department must continue to provide notices by postal mail when requested to do so by an assessor.

Equalization Rates

- Chapter 59 (S.1509-C), Part I • RPTL §§ 1204(3), 1211 and 1314(1)(d)
Chapter **59**, Part I, modifies the equalization program in three respects:
 - It clarifies that assessors must provide written notice to the local governing body of any affected town, city, village, county and school district when there is a difference of more than five percent between the tentative rate and the locally-stated level of assessment (LOA).
 - It provides that when the Tax Department confirms the accuracy of the LOA, a final equalization rate shall be established shortly thereafter that equals the LOA; no tentative rate will be issued in such instances.

- It authorizes school districts located in more than one city or town to apportion the school tax levy based upon the average full value of real property over a three-year period or a five-year period.

Power Plant Inventory Reporting

- Chapter **59** (S.1509-C), Part J, Subpart F • RPTL § 575-a

Chapter **59**, Subpart F, establishes a program for owners of electric generating facilities to report their inventory, revenue, and expenses to the Tax Department by April 30 of each year. Reporting only applies to facilities that generate electricity for sale to the public, and does not include equipment owned or operated by a residential customer. Reporting begins in 2020.

Special Franchise Property; Taxable Status Date

- Chapter **59** (S.1509-C), Part J, Subpart E • RPTL §§ 302(4) and 606(2)

Chapter **59**, Part J, Subpart E, provides that the taxable status of special franchise property is to be determined based on its value and ownership as of January 1 (instead of July 1) of the prior year. This subpart takes effect on January 1, 2020.

Training of Assessors and County Directors

- Chapter **59** (S.1509-C), Part J, Subpart C • RPTL §§ 318(4) and 1530(3)(f)

Chapter **59**, Part J, Subpart C, provides that where the provider of a training course for assessors or county directors asks the Tax Department to approve the course for credit only, without providing reimbursement for travel and other actual expenses of the assessors or county directors who take the course, the Tax Department may do so.

STAR PROGRAM

Cap on Annual Growth in STAR Exemption Tax Savings

- Chapter **59** (S.1509-C), Part LL • RPTL § 1306-a(2)(a)(i)

Chapter **59**, Part LL, provides that, beginning with the 2019-2020 school year, the tax savings associated with the STAR exemption cannot exceed the tax savings realized in the prior school year. It does not impose a similar restriction upon the STAR credit, so the credit may continue to increase by up to two percent from one year to the next.

Basic STAR Exemption Income Limit

- Chapter **59** (S.1509-C), Part RR • RPTL § 425(3)(b-1); Tax Law § 606(eee)(3)(A)

Chapter **59**, Part RR, reduces the income limit for the Basic STAR exemption from \$500,000 to \$250,000 beginning with the 2019-2020 school year. The income limit for the Basic STAR credit remains at \$500,000.

Preventing STAR Fraud and Abuse

- Chapter **59** (S.1509-C), Part PP • RPTL § 425; Tax Law § 606(eee)

Chapter **59**, Part PP, modifies the STAR exemption and credit to prevent fraud and abuse in several respects, particularly:

- Starting in 2020, the Department is authorized to verify the residency and age eligibility of Enhanced STAR recipients.
- Material misstatements on a STAR credit application will result in a six-year disqualification from receiving the credit.

- When a STAR credit is issued to a taxpayer who also received the STAR exemption in the same year, the improperly issued STAR credit amount shall be paid upon notice and demand without the issuance of a notice of deficiency.

Improving STAR Administration

- Chapter 59 (S.1509-C), Part TT • RPTL §§ 425(6)(a-2) and 496

Chapter 59, Part TT, extends the “good cause” Enhanced STAR exemption provision to first-time applicants. It had previously been limited to renewal applicants. Part TT also improves the STAR exemption renunciation process by removing the \$500 fee if renunciation occurs before the school tax levy occurs, clarifying that the amount to be repaid is the STAR tax savings, and allowing repayment of the STAR tax savings after year-end in certain circumstances.

Disclosures of Certain Information to Assessors and County Directors

- Chapter 59 (S.1509-C), Part QQ • RPTL §§ 467 and 1532; Tax Law § 651(c)

Chapter 59, Part QQ, provides that the Tax Department may provide assessors with the names of those Enhanced STAR recipients whose federal adjusted gross incomes are less than the uppermost income limit for the “sliding scale” option of the senior citizens exemption (currently, \$37,400). Though eligibility for the senior citizens exemption is not based upon AGI, this will permit assessors to contact such homeowners to suggest that they consider applying for the senior citizens exemption. Part QQ also allows the Department to provide county directors of real property tax services with the name, address, and date of death of decedents, as identified through the filing of a New York State personal income tax return on the decedent’s behalf, for use in real property tax administration.

STAR Credit Check Notices

- Chapter 59 (S.1509-C), Part SS • RPTL § 1306-a(6)

Chapter 59, Part SS, clarifies the language on school tax bills sent to STAR credit recipients to state that a STAR credit check “has been or will be” mailed to them.

Cooperative Housing Corporation Information Returns

- Chapter 59 (S.1509-C), Part MM • Tax Law § 1405-B

Chapter 59, Part MM, amends Tax Law § 1405-B to provide that information contained within cooperative housing corporation information returns, with the exception of social security numbers and employer identification numbers, is not subject to the secrecy provisions of Tax Law § 1418.

Mobile Home Park Reporting

- Chapter 59 (S.1509-C), Part OO • Real Property Law § 233(v); Tax Law § 606(eee)(6)(B)

Chapter 59, Part OO, authorizes the Tax Department to establish an electronic reporting system for mobile home parks. If implemented, the system will require each owner or operator of a mobile home park to file electronic statements with the Tax Department that include the names of all park owners, the services provided by the park to tenants, the designated park agent, the names and addresses of all park tenants, whether the tenant leases or owns the home, the rent set for each lot in the park, and such additional information as the Tax Department deems necessary. The first registration statement filed in each calendar year must also include a copy of the park rules and regulations. Filing reporting statements with the Tax Department under the electronic reporting system will satisfy the requirement that statements be filed and the Department of

Housing and Community Renewal. The Tax Department must provide a copy of each electronically filed statement to DHCR within 30 days of receipt.

Switching to STAR Credit

- Chapter **39** (S.6615), Part G • RPTL §§ 425 and 510-a(1); Tax Law § 606(eee)
Chapter **39**, Part G, simplifies the process of switching from the STAR exemption to the STAR credit. It does so primarily by authorizing the Tax Department to establish procedures that will allow exemption recipients to give up their exemptions in the process of registering for the credit. This eliminates the need for the applicant to also file a renunciation form (RP-496) with the County Director.

EXEMPTION ADMINISTRATION (FOR EXEMPTIONS OTHER THAN STAR)
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Alternative Energy Systems; State Land

- Chapter **59** (S.1509-C), Part AA • RPTL § 487
Chapter **59**, Part AA, amends the RPTL § 487 exemption for alternative energy systems to provide that municipalities, by local option, can permanently exempt alternative energy systems from real property taxation if the system is installed on property owned or controlled by New York State or a state agency or authority, and if the state has agreed to purchase the energy produced by such system (or the environmental credits created by virtue of the system) in accordance with a written agreement with the system owner or operator. If adopted by the municipality, the exemption would also apply to special ad valorem levies and special assessments.

Persons with Disabilities; Special Districts

- Chapter **649** (A.5137-a) • RPTL § 459
Chapter **649** amends the exemption authorized under RPTL § 459 for certain improvements to the homes of resident owners who are physically disabled to provide that special districts may adopt resolutions providing for such an exemption. Note that upon signing this bill, the Governor issued an Approval Message (# 40), a copy of which appears below.

Active Military Service Members with Severe Injuries

- Chapter **479** (A.7289) • RPTL § 458-c
Chapter **479** allows municipalities and school districts to grant a property tax exemption to the primary residence of a severely injured, but still active, member of the armed forces of the United States. The injury must be service-connected and due to combat. In addition, the service member has to be found fit for service by the physical evaluation board of his or her branch of service. The exemption is a percentage of the cost of improvements that were made to remove “architectural barriers that challenge the mobility” of the service member.

Discharged LGBT Veterans and Veterans with “Qualifying Conditions”

- Chapter **490** (S.45-b) • RPTL §§ 458, 458-a, 458-b
Chapter **490** expands the eligibility criteria for numerous veterans benefits to enable veterans with “qualifying conditions” and “discharged LGBT veterans” to qualify for those benefits. The provisions that specifically relate to real property tax administration amend the Veterans Exemption, the Alternative Veterans Exemption and the Cold War Veterans Exemption to allow a veteran with a qualifying condition or who is a discharged LGBT

veteran to receive those exemptions. Those exemptions (which are authorized by RPTL §§ 458, 458-a and 458-b respectively) generally reduce the taxable assessed value of property owned by a veteran who meets the applicable eligibility requirements.

Housing Finance Agency

□ Chapter **127** (S.6410) • RPTL § 421-d

Chapter **127** extends certain statutory authorizations of the New York State Housing Finance Agency, State of New York Mortgage Agency and SONYMA Mortgage Insurance Fund, and increases the bonding authority of HFA. One of the statutes that was extended is the exemption authorized by RPTL § 421-d for the construction of multiple dwellings financed by the HFA. That statute had been set to sunset on July 23, 2019, but this legislation keeps it (and the other HFA-related statutes) in effect until July 23, 2021.

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 of the various authorizations may be found in the 2019 Legislative Status Chart, which is posted online at <http://www.tax.ny.gov/research/property/legal/legis/19bills.htm>.

TAX COLLECTION AND ENFORCEMENT

Tax Payment Extensions; Furloughed Federal Employees

□ Chapters **9** and **10** (A.881 and S.2523) • RPTL § 925-e

Chapter **9** and **10** provide that municipalities that employ collecting officers may, at local option, grant an extension of the deadline for paying property taxes to furloughed or designated non-pay federal employees, their spouses and domestic partners. Any such extension would end 90 days after the end of the lapse in discretionary appropriations by the federal government. Individuals claiming to be eligible for an extension must document their eligibility by the 30th day following the end of the interest-free tax collection period. The enabling statute, RPTL § 925-e, expires on June 1, 2020.

Expedited Tax Foreclosure; Vacant and Abandoned Residential Real Property

□ Chapter **704** (S.1864) • RPTL §§ 1110(2), 1111-a, 1122(2)

Chapter **704** amends the law that generally governs the enforcement of delinquent property taxes – namely, Article 11 of the RPTL – to allow a tax district to reduce the redemption period for vacant and abandoned residential property to one year, if certain conditions are met. In conjunction therewith, it enacts procedures to be followed when determining whether residential property may be considered vacant and abandoned for this purpose.

Installment Agreements; Maximum Term Extended

□ Chapter **265** (A.4420) • RPTL §§ 1184(3)(a)

Chapter **265** amends RPTL § 1184 to extend the maximum allowable term over which delinquent real property taxes may be paid in installments. Most local governments with the power to enforce the collection of delinquent real property taxes do so pursuant to the Uniform Delinquent Tax Enforcement Act codified in Article 11 of the RPTL. Under

the RPTL, these “tax districts” are authorized by RPTL § 1184 to allow delinquent taxpayers to enter into agreements to pay the amount owed in installments. Tax districts that choose to offer installment programs have considerable flexibility as to how their programs may be structured. One of the few limitations, under previous law, was that the repayment term could not exceed 24 months. This legislation allows, but does not require, tax districts to establish a repayment term of as long as 36 months for purposes of these delinquent tax installment agreements.

MISCELLANEOUS

Property Tax Cap

□ Chapter **59** (S.1509-C), Part NNN

- L.2011, Ch.97, Pt. E, § 13; General Municipal Law § 3-c; Education Law § 2023-a Chapter **59**, Part NNN, eliminated the expiration language that had been attached to the property tax cap. By doing so, it made the property tax cap permanent.

PILOTs; Impacts of Assessment Challenges upon School Districts

□ Chapter **421** (S.3972) • RPTL § 561

Chapter **421** provides that when the assessed value of property that is subject to a Payments in Lieu of Taxes (PILOT) agreement is “challenged through the grievance process, any reduction in [PILOTs] made to a school district resulting from such challenge shall not take effect until the following taxable status year.” This requirement applies to PILOT agreements entered into on or after December 30, 2019.

Industrial Development Agencies; Green technologies and energy-saving measures

□ Chapter **386** (A.1606) • General Municipal Law § 874(4)(a)

Chapter **386** provides that when Industrial Development Agencies adopt uniform tax exemption policies, they shall consider “the extent to which [projects] will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures.”

Tax Freeze Credit; Technical Amendment

□ Chapter **59** (S.1509-C), Part K • L.2018, Ch.59, Pt. E; former Tax Law § 606(bbb)

Chapter **59**, Part K, eliminates a reporting requirement that had been imposed upon counties, cities, towns and villages under the former tax freeze credit program.

Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- The Town of Mount Pleasant is authorized to refund interest and penalties to property owners who paid their taxes late due to the non-delivery of their bills by the United States Postal Service (Unconsolidated; c.432).
- The authority of the Village of Plandome Manor to enter into contracts to sell or pledge as collateral delinquent tax liens has been extended (Unconsolidated, c.519).
- The formula for determining current base proportions under RPTL § 1903(3)(a) in the towns of Clarkstown (c.119), Islip (c.12) and Orangetown (c.121) has been modified for one year.
- The following enactments primarily impact New York City:
 - A Gateway Development Commission Act has been enacted, which includes a provision exempting the commission’s property from taxation (c.108, § 8(a))

- The SCRIE and DRIE programs have been amended to require the mailing of annual renewal notices (RPTL § 467-b; c.472)
- The city's "green roof" tax abatement program has been modified and extended (RPTL §§ 499-aaaa through 499-aaa, 499-bbb, 499-ccc; c.79).
- The city's "J-51" tax abatement for certain alterations and improvements to multiple dwellings has been modified and extended (RPTL § 489; c.72)
- The city's tax abatement for cooperative and condominium units has been extended (RPTL § 467-a; c.90)
- The formula for determining current base proportions in the city has been modified for one year (RPTL § 1803-a(1); c.415).
- The calculation of the enhanced real property tax circuit breaker has been clarified (Tax Law § 606(e-1)(3), c.59, pt. NN)
- The following enactments primarily impact Nassau County:
 - The county has been authorized to offer a class one reassessment exemption (RPTL § 485-u; c.55, pt. J)
 - The formula for determining current base proportions for the county and the approved assessing units therein has been modified for two years (RPTL §§ 1803-a(1)(ee)(ff), 1903-a(3)(a)(xx)(xxi); c.12).

GOVERNOR'S APPROVAL MESSAGE

APPROVAL MEMORANDUM - No. 40 Chapter 649

MEMORANDUM filed with Assembly Bill Number 5137-A, entitled:

"AN ACT to amend the real property tax law, in relation to permitting special districts to adopt a local law providing for an exemption for improvements to residential real property for the purpose of facilitating accessibility of such property to a physically disabled owner"

APPROVED

This bill would add special districts to the list of municipalities that are authorized to exempt from real property taxes certain home improvements that are made for the purpose of facilitating and accommodating the use and accessibility of the real property. I fully support allowing municipalities to provide incentives to their citizens to increase the accessibility of their homes. However, this real property tax exemption would not cover special ad valorem levies, including those that counties and towns impose on real property to support their special districts.

Therefore I have reached an agreement with the Legislature to pass legislation in the upcoming session that will address this technical oversight and allow these qualifying homeowners to receive an exemption from special ad valorem levies. On that basis, I am signing this bill.

This bill is approved.

(signed) ANDREW M. CUOMO

APPROVAL MEMORANDUM - No. 86 Chapter 704

MEMORANDUM filed with Senate Bill Number 1864, entitled:

"AN ACT to amend the real property tax law, in relation to the redemption of real property subject to a delinquent tax lien"

APPROVED

This bill seeks to help local governments address the critical problem of vacant and abandoned properties by allowing those taxing districts whose municipal foreclosure process is governed by Article 11 of the Real Property Tax Law to reduce the redemption period for vacant and abandoned residential real property to one year under certain circumstances. The bill would also establish new procedures for determining whether residential property may be considered vacant and abandoned for this purpose.

This bill, which expedites the foreclosure process for these abandoned and unmaintained properties, complements the ongoing efforts of my administration to address the problem of Zombie properties that are plaguing communities across the state. However, some of the bill's provisions do not fit neatly with our existing in rem foreclosure laws. For example, the bill allows the redemption period to be reduced to one year, but does not make conforming amendments to the provisions of Article 11 that govern other minimum time periods in the foreclosure process. The bill also appears to allow cities, towns and villages to opt into this new expedited foreclosure process even when their delinquent taxes are actually enforced at the county level, as is generally the case. And, because an owner's only recourse under the new "expedited" process would be judicial review via a CPLR Article 78 proceeding, it could take longer to conclude a foreclosure proceeding under this bill than it does under existing law.

Though this bill would be administered by local government officials at local option, I am concerned that if these legal impediments are not resolved, they will find that this bill does not fully achieve its intended purpose. Accordingly, I am directing my staff to work with the Legislature to address these infirmities in the next Legislative session.

This bill is approved.

(signed) ANDREW M. CUOMO

GOVERNOR'S DISAPPROVAL MESSAGES

VETO MESSAGE - No. 166

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

Senate Bill Number 5522-A, entitled: "AN ACT to direct the department of education to study the frequency of residents who are being assessed library taxes for more than one library district and to make recommendations to prevent the double taxation of residents; and providing for the repeal of such provisions upon expiration thereof"

NOT APPROVED

This bill would direct the Commissioner of the State Education Department, in consultation with the Commissioner of the Department of Taxation and Finance, along with other interested parties, to study the frequency of New York State residents who are being assessed library taxes for more than one library district.

While the purpose of the study required by the bill is a laudable pursuit, the state agencies required to undertake such study are unable to effectively undertake this mandate without additional funding. The State Education Department does not have access to the data that would be required to complete this study, and any action to obtain that data from local governments would be a costly endeavor. The bill would also be unduly burdensome on the Department of Taxation and Finance, as the data required to complete this study is similarly not readily accessible. Furthermore, this bill would result in significant costs that are not accounted for within the state financial plan.

This bill is statewide legislation designed to solve a local community problem, as opposed to simply addressing the specific community concerns, such as the solution put forth in Chapter 401 of the Laws of 1997. I am therefore constrained to veto 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 2947, entitled: "AN ACT to amend the general municipal law and the public authorities law, in relation to requiring notice and confirmation of such notice by affected local taxing jurisdictions and school districts prior to approval of projects by industrial development agencies"

NOT APPROVED

This bill would amend General Municipal Law and Public Authorities Law to require Industrial Development Agencies ("IDAs") to send notifications of proposed financial incentives for a project and any reasons for deviation from their uniform tax exemption policy to affected local taxing jurisdictions by certified mail, return receipt requested. If the affected local taxing jurisdiction is a school district, notifications would be required to be sent to the school board and district superintendent of the school district.

IDAs are already required to notify affected tax jurisdictions of proposed financial incentives or any deviation therefrom. The bill's sponsors have not identified what issue this bill is attempting to resolve or how the service of such notifications by certified mail, return receipt requested would remedy that issue. Because this requirement would impose an unnecessary and additional administrative burden upon IDAs, absent clarification of how this amendment would address a specific need, I am constrained to veto this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

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For the 2019 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/19bills.htm>.