



OFFICE OF COUNSEL

SUMMARY OF 2020 REAL PROPERTY TAX LEGISLATION

This publication summarizes noteworthy 2020 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

Acting County Directors of Real Property Tax Services

- Chapter 59 (S.7509-B), Part P • RPTL § 1530(1-a)

Chapter 59, Part P, allows an acting County Director of Real Property Tax Services to be appointed when the incumbent County Director is unable to perform the duties of the office, or the office becomes vacant. The individual so appointed shall serve until the incumbent director is able to resume the position or a replacement is appointed. An acting director who has been serving for more than six months must meet the applicable minimum qualification standards and obtain certification.

Oil and Gas Fee Extender

- Chapter 59 (S.7509-B), Part C • RPTL § 593

The authorization to impose charges upon oil and gas producers for the establishment of unit of production values have been extended by three years. They are now scheduled to remain in effect until March 31, 2024.

Nuclear Power Plants; Definition of Real Property

- Chapter 385 (S.8075) • RPTL §§ 102(12)(j), 563

Chapter 385 expanded the definition of real property to include "spent fuel pools and dry cask storage systems in which nuclear fuel is stored and is pending further or final disposal from a nuclear power station following the permanent cessation of power operations of such station." Chapter 385 also adds a new statute (RPTL § 563) that provides such real property shall be "assessable". Upon signing this legislation, the Governor issued an Approval Message (# 74), a copy of which appears below.

EXEMPTION ADMINISTRATION

COVID-19 Pandemic

The following measures relating to exemption administration were enacted in response to the COVID-19 pandemic:

- **Agricultural Assessment; Gross Sales Requirement**

- Chapter 220 (A.10464-A) • Agriculture & Markets Law § 305(1)(f)

Chapter 220 temporarily reduced the gross sales requirement needed to qualify for an agricultural assessment if it can be shown that a farm's gross sales suffered due to the pandemic, and would have been at or above the \$10,000 (or \$50,000 if less than seven acres) average gross sales value threshold if not for the pandemic. This legislation only applies to farm operations that qualified for an agricultural assessment in 2020. The average annual gross sales value that the farm would have been produced if not for the pandemic must be certified by a cooperative extension using form RP-305-f. This legislation expires January 1, 2022.

- **Temporary Suspension of Certain Renewal Application Requirements**

- Chapter 381 (S.9114), Part B, Subpart D • Unconsolidated

Chapter 381, Part B, Subpart D, generally required exemptions for senior citizens and persons with disabilities that were granted in 2020 to be renewed at the same amounts in 2021 without an application. Owners had to be given the ability to reapply where they believe they may be entitled to a greater exemption, but they could not be compelled to reapply in person. The legislation also gave assessing units the option to allow their assessors to request a renewal application where they had reason to believe that an eligible owner had relocated to a new primary residence, had added someone to the deed, had transferred the property to a new owner, or had passed away.

- **General Application Filing Deadlines**

- Chapter 92 (S.8122-B) • Unconsolidated

Chapter 92 gave municipal corporations the option to adopt local laws, ordinances or resolutions extending the deadline for filing applications for 2020 exemptions and abatements until July 15, 2020.

Nuclear Power Plants; Exemption Applicability

- Chapter 386 (S.8204) • RPTL § 485(1)

Chapter 386 extends the local option exemption authorized by RPTL § 485 to nuclear facilities that no longer generate electricity. This effectively allows impacted municipalities to enter into PILOT agreements with the owners of such facilities. Upon signing this legislation, the Governor issued an Approval Message (# 75), a copy of which appears below.

Residential-Commercial Urban Exemption (RESCUE) Program

- Chapter 357 (A.8091-A) • RPTL § 485-a

Chapter 357 revises the eligibility requirements for the exemption for certain mixed-use property that is authorized by RPTL § 485-a. To qualify for the exemption as so revised: (1) the commercial component of a mixed-use building must provide goods or services directly to the public; (2) permissible commercial uses include hotel services, retail stores, office space, restaurants, bars, gyms, theaters, and cafes; (3) land that was vacant prior to residential or commercial construction work for which the exemption is sought is not eligible for the exemption; and (4) owners of property receiving the exemption are required to submit an annual certification with the assessor attesting to the continued compliance with the eligibility requirements of the exemption. Failure to file the certification or to comply with the eligibility requirements will result in revocation of the exemption. These amendments apply to properties for which initial exemption applications are received on or after January 1, 2021. Upon signing this legislation, the Governor issued an Approval Message (# 59, set forth below) indicating that further amendments will be forthcoming.

Real Property Tax Exemption Task Force

□ Chapter 317 (S.3679-A) • Unconsolidated

Chapter 317 created a real property tax exemption task force to conduct a study of tax exemptions in New York State. Within one year after its seven members have been appointed, this panel must issue a report with data on the number and value of exempt properties (including those with IDA exemptions), information about the application processes, and recommendations as to whether exemptions should be continued or reformed. Upon signing this legislation, the Governor issued an Approval Message (# 27, set forth below) indicating that further amendments will be forthcoming.

STAR Exemption

The following STAR-related measures were enacted in 2020:

- Chapter 56 (S.7506-B), Part W, precludes delinquent property owners from receiving Basic STAR credits or exemptions if their property taxes remain unpaid. See Tax Law § 171-w and <https://www.tax.ny.gov/pit/property/star/prop-tax-delinquency.htm>.
- Chapter 59 (S.7509-B), Part U, reopened the period for persons receiving the Enhanced STAR exemption to enroll in the Income Verification Program (IVP) for 2019. It also allowed the Tax Department to send checks to enrollees who qualify. See RPTL § 425(4)(b)(iv)(A).

Superstorm Sandy Exemption Extender

□ Chapter 259 (A.9968) • L.2015, Chap.122 & L.2018, Chap.130

Chapter 259 extends the ability of certain taxpayers affected by Superstorm Sandy to apply for exemption relief. Previously, to be eligible, the reconstruction, alterations or improvements had to be included on a certificate of occupancy issued by March 1, 2020. This enactment changes that deadline to March 1, 2022.

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 [2020 Legislative Status Chart](#) that is posted on the Department's website. Upon signing two of these measures (specifically, Chapters 163 and 187), the Governor issued Approval Messages (## 8 and 9; set forth below) indicating that further amendments will be forthcoming.

Technical Amendments

Technical amendments concerning real property taxation were enacted in 2020 that:

- Clarified that the exemption for facilities for physically disabled persons authorized by RPTL § 459 applies to special ad valorem levies. Chapter 55 (S.7505-B), Part XX, Subpart E.
- Removed from the RPTL and Tax Law certain provisions that only impacted the administration of the STAR exemption in the 2013-2014, 2014-2015 and 2015-2016 school years. Chapter 59 (S.7509-B), Part S.
- Clarified that the same valuation date is to be used to value railroad property when determining both ceilings and local assessments, and also clarified that prior year equalization rates are to be used to set telecommunications ceilings. Chapter 59 (S7509-B), Part T.

TAX COLLECTION AND ENFORCEMENT

COVID-19 Pandemic

The following measures relating to tax collection and enforcement were enacted in response to the COVID-19 pandemic:

- Foreclosure moratorium: Chapter 381 (S.9114), Part B, Subpart B, imposed a moratorium on the sale and foreclosure of tax liens during the COVID disaster emergency when an owner of residential property has filed a hardship declaration with the local government. It did not eliminate the obligation to make the payments due, nor did it preclude the imposition of interest for non-payment.
- Utility Moratorium: Chapter 108 (S.8113-A) imposed a moratorium on terminations of utility services – including those provided by municipalities – on residential property due to the non-payment of fees and/or taxes during the COVID disaster emergency.
- Additional payment options: Chapter 389 (S.8138-B) gave municipalities additional flexibility to defer payment due dates and devise installment arrangements during the COVID disaster emergency.

MISCELLANEOUS

Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- The authority of the City of Middletown to enter into a contract to sell delinquent liens to a private party, and to engage a private party to collect some or all of the delinquent tax liens held by it, has been extended (Chap. 58, Pt. XXX, Sbpt. B, Item B).
- The special provisions for determining current base proportions under RPTL Article 19 in the Towns of Orangetown, Clarkstown and Islip have been extended (Chap.58, Pt. XXX, Sbpt. B, Items KKK, LLL and MMM).
- The following enactments primarily impact Nassau County:
 - Provisions relating to the preparation and review of assessments in the county have been extended (Chap 58, Pt. XXX, Subpt. B, Item II)
 - The special provisions for determining current base proportions for the county and the approved assessing units therein have been extended (Chap 58, Pt. XXX, Subpt. B, Item MMM).
 - The obligation of Nassau County and the Town of Hempstead to pay PILOTs on certain property in the Lido Beach area has been extended (Chap 58, Pt. XXX, Subpt. B, Items U and V).
- The following enactments primarily impact New York City:
 - The Industrial and Commercial Abatement Program (ICAP) has been extended to remain in effect through 2025, with modifications (Chap. 56, Pt. SS).
 - The tax abatements for certain commercial properties and for solar electric generating systems and electric energy storage equipment have been extended (Chap. 58, Pt. XXX, Subpt. H, Items A and B).
 - The income limits for the SCRIE and DRIE programs have been extended (Chap. 58, Pt. XXX, Subpt. B, Item Z).
 - The special provision for determining current base proportions in the City has been revised and extended (Chap. 58, Pt. XXX, Subpt. B, Item JJJ).
 - The J-51 tax abatement program has been extended (Chap. 58, Pt. XXX, Subpt. B, Item RRR).

GOVERNOR'S APPROVAL MESSAGES

APPROVAL MEMORANDA - Nos. 8 and 9 Chapters 163 and 187

MEMORANDUM filed with Senate Bill Number 8136, entitled:

"AN ACT in relation to authorizing the assessor of the town of Huntington, county of Suffolk, to accept from Chabad Lubavitch Chai Center, Inc., an application for exemption from real property taxes"

MEMORANDUM filed with Senate Bill Number 6869A, entitled:

"AN ACT in relation to authorizing the assessor of the town of Huntington, county of Suffolk, to accept from the Joshua Baptist Church, an application for exemption from real property taxes"

APPROVED

These bills would allow the Chabad Lubavitch Chai Center and the Joshua Baptist Church to file late applications for exemption from property taxes for property owned.

These bills, however, require that the Suffolk County Legislature approve such exemptions. While it is customary in bills of this nature for the exemptions to be subject to local approval, in Suffolk County, the town is the assessing unit and so the power to approve the exemptions should be vested in the town board. The Legislature has agreed to a chapter amendment changing the required approving entity from the Suffolk County Legislature to the Town Board of Huntington for each bill. Based on that agreement, I am approving this bill.

This bill is approved.

(signed) ANDREW M. CUOMO

APPROVAL MEMORANDUM - No. 27 Chapter 317

MEMORANDUM filed with Senate Bill Number 3679-A, entitled:

"AN ACT relating to establishing the real property tax exemption task force, and providing for its powers and duties; and repealing such provisions of law relating thereto"

APPROVED

This bill will establish a real property tax exemption task force to examine the real property tax exemption laws and to recommend changes, if any, to those laws.

I support and share the goals of this legislation. As such, I have reached agreement with the legislature on technical amendments removing the Task Force from the Department of Taxation and Finance while continuing to provide for the open sharing of data, and changing the composition of the Task Force to ensure adequate representation of stakeholders. On that basis, I am signing this bill.

This bill is approved.

(signed) ANDREW M. CUOMO

APPROVAL MEMORANDUM - No. 59 Chapter 357

MEMORANDUM filed with Assembly Bill Number 8091-A, entitled:

"AN ACT to amend the real property tax law, in relation to the residential-commercial urban exemption program"

APPROVED

This bill would amend provisions of the real property tax law to limit the purposes and uses that qualify for the exemption program.

This exemption program, which incentivizes mixed-use developments, has seen some abuse with a few projects containing only nominal commercial or residential space, undermining the goals of the program. Accordingly, I fully support the spirit of this bill to ensure this program appropriately incentivizes legitimate mixed-use development projects.

This bill, however, could have the unintended consequences of negatively affecting revitalization projects, which are in progress and will create jobs and spur economic growth. While I fully understand and appreciate the Legislature's intent to incentivize the redevelopment of only existing buildings for mixed use, now is not the time to stifle any economic development. I would happily support further legislation intended to more directly focus on needs of underutilized or vacant properties. Therefore, in response to these concerns, I have secured an agreement with the Legislature to amend provisions of the bill to make certain technical changes and to prevent obstructing development projects on vacant land that are reliant on this tax exemption.

On the basis of this agreement, I am pleased to sign this bill.

This bill is approved.

(signed) ANDREW M. CUOMO

APPROVAL MEMORANDA - Nos. 73, 74 and 75 Chapters 384, 385 and 386

MEMORANDUM filed with Senate Bill Number 7846, entitled:

"AN ACT to amend the labor law and the public service law, in relation to establishing requirements for the transfer, sale, lease and any decommissioning activities of the Indian Point Nuclear Power Plant"

MEMORANDUM filed with Senate Bill Number 8075, entitled:

"AN ACT to amend the real property tax law, in relation to including certain spent nuclear fuel within the definition of real property"

MEMORANDUM filed with Senate Bill Number 8204, entitled:

"AN ACT to amend the real property tax law, in relation to nuclear powered electric generating facilities"

APPROVED

These bills would amend the Labor Law, Public Service Law and Real Property Tax Law to address certain issues associated with the closure of nuclear power plants in New York. Senate Bill 7846 would provide certain labor

protections to employees of the Indian Point Power Plant. Senate Bill 8075 would expand the definition of Real Property under the Real Property Tax Law to include spent fuel pools and dry cask storage systems for nuclear fuels in storage at a nuclear power plant that has shut down permanently. Senate Bill 8204 would amend the Real Property Tax Law to allow communities to continue to enter into Payment in Lieu of Tax (PILOT) Agreements after nuclear facilities located in those communities have shut down.

This administration has been and remains committed to providing support and resources to address the potential impacts to local communities resulting from the retirement of nuclear power facilities. However, these bills would potentially increase the costs associated with decommissioning and restoring nuclear sites, increasing the strain on limited funds held in trust for the safe and thorough decommissioning of these sites. In addition, these bills may undermine the Public Service Commission's (PSC) existing legal authority and oversight over former nuclear plants. The State must retain its oversight to ensure that nuclear facilities are shut down and decommissioned, and the sites restored, safely and thoroughly.

Therefore, I have agreed with the Legislature to make certain technical changes to Senate Bill 7846 that will address these concerns by requiring employees at Indian Point to be paid no less than the locality's prevailing wage and for purchasers of Indian Point to be bound by current collective bargaining agreements, and amending the Public Service Law to make clear that PSC has continuing authority over nuclear power reactors after a plant has shut down. I also direct the Department of Public Service to establish an Indian Point Nuclear Decommissioning Oversight Board comprised of state officials, scientific and technical experts, local officials, labor union representatives, environmental groups and other interested stakeholders. The oversight board will advise and assess on how to protect the financial, environmental and physical interests of the communities affected by decommissioning, including the interests of the current workforce as it relates to continuing the public safety of the surrounding communities.

This bill is approved.

(signed) ANDREW M. CUOMO

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For the 2020 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/20bills.htm>.