STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
OFFICE OF COUNSEL
Real Property Tax Services Section
W.A. HARRIMAN CAMPUS
ALBANY, NY 12227

SUMMARY OF 2012 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

SCAR; Limited Partnerships

□ Chapter **114** (A.4982) ▪ RPTL §730(1)

Chapter **114** gives individuals whose primary residence is owned by a limited partnership the right to seek Small Claims Assessment Review (SCAR) under RPTL Article 7, Title 1-A. To be eligible, the partnership must not engage in any commercial activity, and must hold title solely for estate planning and asset protection purposes of the partners who reside thereon. In addition, the resident partners must personally pay all of the real property taxes and other costs associated with ownership. Chapter 114 also clarifies that SCAR is available to beneficiaries of trusts created to hold title solely for estate planning and asset protection purposes, when the real property is the primary residence of the trust beneficiary.

Advisory Appraisals

□ Chapter **62** (S.6307-a) ▪ RPTL §1544

Chapter **62** expands the scope of DTF's advisory appraisal program. Previously, advisory appraisals of specific types of property (namely, highly complex properties and taxable public utility properties) had been available to cities, towns and counties conducting revaluations or updates, but not to villages. Chapter 62 puts assessing unit villages on the same footing as other types of assessing units for purposes of the advisory appraisal program.

Oil and Gas Fee Extender

□ Chapter **59** (A.9059-d, Part A) ▪ RPTL §593

Chapter **59** continues the obligation of oil and gas producers to provide financial support for the oil and gas assessment program administered by ORPTS (RPTL §§590-597). The statute that prescribes the fee schedule (§593) has been subject to a sunset clause since its enactment, but has been repeatedly extended; the extension enacted by Chapter 59 keeps it in effect until March 31, 2015.

EXEMPTION ADMINISTRATION

Green Buildings Exemption

□ Chapter **188** (A.9960) ▪ Real Property Tax Law §470 ▪ Approval Message #4

Chapter **188** gives municipal corporations the option of offering a real property tax exemption to property that has been constructed or reconstructed to meet specified certification standards for green buildings, as certified by an accredited professional. The level of exemption and duration is linked to the certification category (i.e., for "Silver," the property is fully exempt for 3 years and then partially exempt for 4 years; for "Gold," it is fully exempt for 4 years and then partially exempt for 4 years; and for "Platinum," it is fully exempt for 6 years and partially then exempt for 4 years). This new exemption applies only to newly constructed improvements, not maintenance and repairs, and only where construction commenced on or after January 1, 2013. Upon signing this legislation, the Governor issued an Approval Message (#4, see below) that memorialized the Legislature's commitment to enact a chapter amendment to enable participating municipalities to set an upper limit on the allowing exemption.

STAR; Suspension for State Tax Liabilities

□ Chapter **59** (A.9509-d, Part B) ▪ RPTL §425(3)(f); Tax Law §171-y

Chapter **59** provides that a property's eligibility for the STAR exemption will be suspended if one or more of its owners have a past-due State tax liability. DTF will notify the delinquent taxpayer of the impending suspension at least 45 days prior to the date the applicable assessor will be directed to suspend the exemption. Once DTF notifies the assessor that a taxpayer's STAR eligibility has been suspended, the assessor is directed to remove the exemption for the next school year, even if the assessment roll has been finalized. The taxpayer may appeal the removal of the exemption only to DTF, not to the local assessor, and only on grounds of mistake of fact. If the suspension is lifted by the Department, the assessor may reinstate the STAR exemption on a prospective basis, but not retroactively. The amount by which a taxpayer's property tax liability increases as a result of losing the STAR exemption will be applied to offset the amount of the taxpayer's past-due state tax liability.

Agricultural Assessment Program; Equine Operations

□ Chapter **344** (S.6962) ▪ Agricultural and Markets Law §301(4)

Chapter **344** clarifies that qualifying commercial equine operations are eligible for exemption under the Agricultural Assessment Program (Agriculture and Markets Law Article 25-AA). A commercial equine operation must consist of at least seven acres and stable at least ten horses, and must generate $10,000 or more in gross receipts annually from fees through commercial equine activities (i.e., riding lessons, trail riding activities or training of horses) or through agricultural activities (i.e., the production for sale of crops, livestock, and livestock products), or a combination of equine and agricultural activities.

Agricultural Assessment Program; Annual Recertification

□ Chapter **160** (A.9960) ▪ Agricultural and Markets Law §301(7), §305(1)

Chapter **160** simplifies the annual recertification process for the Agricultural Assessment Program. It allows exemption recipients to file a certification of continued eligibility on a form prescribed by DTF, instead of filing a standard renewal application, where the acreage involved remains the same and the eligibility requirements continue to be satisfied. The landowner must maintain records documenting eligibility and must furnish them to the assessor upon request.

Affordable Housing Tax Exemption; Extension

□ Chapter **415** (S.6480) ▪ Private Housing Finance Law §125

Chapter **415** enables municipalities to grant an additional tax exemption period of up to 50 years to qualified affordable housing projects. Under prior law, a qualified affordable housing project could be granted an exemption for 25, 40 or 50 years, depending on the circumstances, but no additional exemption beyond that initial period was permissible.

Retroactive Exemptions for Specific Properties

In a number of 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. In many cases the entity acquired the property after the taxable status date, though in other cases, the entity had title but simply failed to apply by the taxable status date. The affected assessing units, entities involved, and Chapter numbers are identified in the Legislative Status Chart that is posted online at http://www.tax.ny.gov/research/property/legal/legis/legsum.htm.

TAX COLLECTION AND ENFORCEMENT

Sale of Tax Lien; Village Extender

□ Chapter **154** (A.9816) ▪ Chapter 602 of the Laws of 1993

Chapter **154** extends the authority of certain villages (i.e., those which duly opted out of the tax enforcement process established by RPTL Article 11) to conduct tax lien sales for taxes that become liens prior to December 31, 2015.

MISCELLANEOUS

State Budget; Real Property Tax-Related Appropriations

□ Chapters **50**, **53** and **57** (A.9050-d, A.9053-e, A.9057-d)

Chapter **50** enacts the 2012-13 State Operations Budget, which includes appropriations of $19.7 million to fund ORPTS programs (p.695) under the DTF budget, and $212 million for payments of taxes on taxable state lands under RPTL §§ 532-546 (p.756). Chapter **53** enacts the 2012-13 Aid to Localities Budget, which, among other things, appropriates $3.3 billion to pay for tax relief under the STAR program (p.187). 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 (if conducted for the first time in three years or more) and up to $176,000 for assessor training (p.903). Chapter **57**, **Part T** amends the State's payments in lieu of tax payments to the City of Albany to increase short term cash flow to the City by reallocating payments earlier in the payment schedule.

Tax Increment Financing; School Districts
□ Chapter **57** (A.9507-d, Part U) ▪ General Municipal Law Art. 18-C

Chapter **57** amends the Municipal Redevelopment Law (General Municipal Law, Article 18-C), to give school districts the option to participate in tax increment financing. School districts must approve the redevelopment plan as well as the distribution allocations if they elect to participate. Prior law allowed only county, city, town or village property taxes to be used to secure tax increment bonds or bond anticipation notes in connection with a redevelopment plan.

New York Government Reorganization & Citizen Empowerment Act
□ Chapter **435** (S.7731) ▪ State Finance Law §54 ▪ Approval Memorandum #10

Chapter **435** provides that if a town and village become coterminous after July 1, 2012, the town may seek the Citizen Empowerment Tax Credit as the "surviving municipality" of the two. The Secretary of State may adopt rules that take taxpayer savings into account for purposes of implementing the credit in these cases. The Citizen Empowerment Tax Credit is an aid program that incentivizes the consolidation or dissolution of one or more local governments. A municipality receiving this aid must use at least 70% of it for real property tax relief and may use the remainder for general municipal purposes. Upon signing this legislation, the Governor issued an Approval Message (#10, see below), memorializing the Legislature's commitment to enact a chapter amendment to require a new coterminous town-village to choose to operate principally either as a town or village, in order to ensure that the tax benefit would be available to actual consolidation and efficiency measures.

Legislation of Local Interest
Enactments that are primarily of local interest include the following:

- The City of Auburn has been authorized to offer real property tax exemptions to renovations of existing housing stock and vacant residential homes for capital improvements (Chap. **129**).
- The Town of Evans has been authorized to enact a partial residential tax abatement for the improvement, modification, or renovation of one to three family homes that raise said home's assessed value (Chap. **122**).
- The municipalities in the County of Steuben have been authorized to opt in to a tax abatement program that would exempt a portion of the change to assessed value of buildings that have commercial or residential construction work done (Chap. **394**).
- The expiration date of provisions related to assessment review timelines and procedures in Nassau County has been extended to March 31, 2013 (Chap. **183**).
- The calculation of Adjusted Base Proportions has been "capped" for the 2012 assessment rolls of Approved Assessing Units in Nassau County (1% if a local law, ordinance or resolution so providing is adopted) and Suffolk County (1%), as well as for Nassau County (1%), and New York City (1.5%) (Chaps. **30**, **85, 73**, **90**).

- The solar generating system tax abatement in New York City has been extended to apply to systems put in place between January 1, 2013 and January 1, 2015 (Chap. **401**).
- Legislation addressing issues in Oneida and Madison Counties related to the taxable status of Oneida Indian Nation property has been extended by two years (Chap. **71**).
- The boundary lines between Orange and Sullivan Counties have been fixed (Chap. **212**).
- Entities administering the senior citizen rent increase exemption (SCRIE) and disabled rent increase exemption (DRIE) programs in rent-controlled housing are now required to develop a system to transition properties from DRIE to SCRIE when the resident is nearing eligibility for SCRIE (Chap. **286**).

Addendum to the 2011 Summary of Real Property Tax Legislation: Hurricane Irene/Tropical Storm Lee Assessment Relief

(Note: Chapter 56 of the Laws of 2011 (S.50002) became law December 9, 2011, after the 2011 Summary of Real Property Tax Legislation had been published. Since Parts G and I of this enactment impacted real property tax administration, they are summarized here to make up for that inadvertent omission.)

Chapter **56** of the Laws of 2011, a multi-faceted budget-related measure, addressed real property tax administration in two significant respects. **Part G** enacted the “Hurricane Irene and Tropical Storm Lee Assessment Relief Act.” That Act established a real property tax exemption, at local option, within the counties covered by the federal disaster declarations that were issued in connection with Hurricane Irene and Tropical Storm Lee. Municipalities in those counties that wished to offer this relief had to adopt a resolution so providing by January 23, 2012. If they did so, property owners who had suffered a loss in property value of 50% or more could apply to the assessor by March 8, 2012 for a reduction in assessed value based on the extent of the loss. It was the responsibility of the assessor to determine the extent of the loss in the first instance, though property owners were permitted to seek review of the assessor’s determination by filing a complaint with the Board of Assessment Review. The relief authorized by this Act (which was not codified as a permanent law) applied to taxes levied on final rolls with a taxable status dates prior to August 27, 2011, if those taxes were payable without interest on or after August 27, 2011.

In addition, **Part I** of Chapter 56 of the Laws of 2011 provided school districts within a county included in a federal disaster declaration with the option to allow, by resolution, any taxes levied in excess of $50 to be paid in installments. The resolution, if passed by the school board, would be good for one year only and only in a year where a flood or natural disaster occurs within 6 months prior to the due date for such taxes. This installment payment option (which was codified as RPTL §1326-b) is not limited to Hurricane Irene and Tropical Storm Lee and is available in the event of future floods or natural disasters for which a federal disaster declaration should be issued.

GOVERNOR'S APPROVAL MESSAGES

APPROVAL MEMORANDUM - No. 4 Chapter 188

MEMORANDUM filed with Senate Bill Number 1462-d, entitled: "AN ACT to amend the real property tax law, in relation to authorizing a municipal corporation to provide a real property tax exemption for improvements to real property meeting certification standards for green buildings"

APPROVED

This legislation would bolster localities' efforts to promote energy efficiency and green construction by allowing localities to offer a real property tax exemption for construction and improvements that meet LEED green building standards. Because this legislation does not cap the value of the tax exemption that may be granted, the Legislature has agreed to amend this chapter to allow local governments to set a maximum tax exemption, which would enable localities to tailor this program to fit the needs of their communities.

On that basis, I am signing this bill.

The bill is approved. (signed) ANDREW M. CUOMO

APPROVAL MEMORANDUM – No. 10 Chapter 435

MEMORANDUM filed with Senate Bill Number 7731, entitled: "AN ACT to amend the state finance law, in relation to providing that municipalities made coterminous may qualify for the citizen empowerment tax credit and the local government citizens re-organization empowerment grant program"

APPROVED

This bill would allow existing towns and villages that become coterminous after July 1, 2012, to receive the Citizen Empowerment Tax Credit and Local Governments Citizens Re-Organization Empowerment grants to study and implement government reorganization. While I understand the intent of the bill is to ensure that coterminous towns and villages achieve efficiencies and tax savings through consolidation, the bill as drafted, would allow for town and villages that achieve no savings or efficiencies to receive a benefit under the program.

Therefore, the Legislature has agreed to amend this chapter to require new coterminous towns and villages to choose whether to operate principally as a town or village, thereby ensuring that the tax benefit could be available to actual consolidation and efficiency measures. With the understanding that such amendments will be made, I approve this bill.

The bill is approved. (signed) ANDREW M. CUOMO

CHAPTER INDEX

2011 CHAPTER INDEX – ADDENDUM