



SUMMARY OF 2016 REAL PROPERTY TAX LEGISLATION

This document provides general summaries of the most noteworthy legislation enacted in 2016 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 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 “DTF” means the Department of Taxation and Finance.

EXEMPTION ADMINISTRATION

Agricultural Districts

□ Chapter **35** (A.8082) • Agriculture & Markets Law (AML) §§ 16, 301, 305, 306; RPTL § 483

Chapter **35** makes a variety of changes to the laws that govern the administration of the Agricultural Districts program (AML Article 25-AA), and to related laws. Insofar as real property tax administration is concerned, it:

- Removes from the definition of “farm woodland” the requirement that woodland products be produced “for sale” and replaces it with the requirement that such products be “intended for sale.” AML § 301(3).
- Increases from \$500 to \$1000 the maximum penalty that an assessing unit may impose when an owner fails to notify the assessor of a conversion. Increases from \$100 to \$500 the minimum payment that a municipality may impose when land used in agricultural production is converted to a non-qualifying use. AML §§ 305(1)(d) and 306(2).
- Amends the definition of “structures and buildings” for purposes of the Agricultural Buildings Exemption to expressly include impermanent structures, including but not limited to metal, string, or wood trellises and pergolas. RPTL § 483(2).
- Authorizes the Commissioner of Agriculture and Markets to develop materials to assist and support the Commissioner of Taxation and Finance in the training of assessors and other local officials who have responsibility for agricultural assessment and taxation. AML § 16(2-e)(ii).

Anaerobic Digesters

□ Chapter **57** (A.9005-c), Part P • RPTL §§ 483-a, 483-e, 487

Chapter **57**, Part P, restructures the exemption for certain types of anaerobic digestion facilities (i.e., facilities that generate energy primarily from farm waste). Previously, those facilities were potentially eligible for exemption under both RPTL §§ 483-a and 487. Those facilities are now exempt under a new RPTL § 483-e, which does not require such facilities to be located on agricultural land. In addition, RPTL § 487 has been amended to make clear that it does not apply to property that satisfies the requirements for exemption under § 483-e.

Banking Development Districts; Extender

□ Chapter **46** (A.9480) • RPTL § 485-f; Banking Law § 96-d

Chapter **46** continues for another five years legislation that expanded participation in the Banking Development District Program (L.1998, c.526). As a result, the property tax exemption authorized by RPTL § 485-f will apply for another five years to savings banks, savings and loan associations, federal savings and loan associations and federal savings banks, rather than being limited to banks, trust companies, and national banks.

STAR Credit Program

□ Chapters **60** (S.6409-c), Pt. A, and **73** (S.8159), Pt. A • RPTL § 425(16); Tax Law § 606(eee)

Chapter **60**, Part A, as amended by Chapter **73**, Part A, gradually converts the School Tax Relief (STAR) program from a real property tax exemption to a personal income tax credit. Its major features are as follows:

- New exemptions barred, replaced by credits: The law prohibits new STAR exemptions from being granted unless at least one of the applicants held title to the property on the taxable status date of the assessment roll that was used to levy school district taxes for the 2015-2016 school year (generally, March 1, 2015), and the property was granted a STAR exemption on that assessment roll. However, a new homeowner may receive a new personal income tax credit in the form of a check.
 - The dollar benefit to eligible taxpayers will not change.
 - A taxpayer who is eligible for the new credit will receive a check from the State equal to the amount by which the STAR exemption would have reduced his or her school tax bill.
 - The assessor may not approve any STAR exemption applications submitted after the taxable status date specified above; any such approval is void. Instead, the assessor will notify the applicant of the ability to claim the STAR credit by registering with the Tax Department.
- Pre-existing exemptions unaffected: A homeowner who owned his or her home on the taxable status date for the assessment roll used to levy taxes for the 2015-2016 school year, and who received a STAR exemption on that roll, may continue to receive a STAR exemption on that home as long as he or she still owns and primarily resides in it. No further action is required (unless the homeowner has been receiving Basic STAR and wants to apply for Enhanced STAR, which is permissible).

STAR Exemption and Senior Citizens Exemption; Late filing of renewal applications

□ Chapter **60** (S.6409-c), Part D • RPTL §§ 425(6)(a-2), 467(8-a)

Chapter **60**, Part D, allows late renewal applications to be filed for the Enhanced STAR and Senior Citizens Exemptions under certain circumstances. More specifically:

- A senior citizen receiving the Enhanced STAR exemption who has failed to file a timely renewal application may ask the Commissioner of Taxation and Finance for permission to file a late renewal application. The request may be made until the last day for paying school taxes without interest or penalty. It must show there was “good cause” for not having filed on time, and must be accompanied by the renewal application that should have been filed. The Tax Department must review the request, consult with the assessor, and notify the assessor and property owner of its determination. If the Department approves the request, the exemption must be restored.
- An assessing unit may adopt a local law providing that a senior citizen receiving the Senior Citizens exemption who has failed to file a timely renewal application may ask the assessor for permission to file a late renewal application. The request may be made until the last day for paying school taxes without interest or penalty. It must show there was “good cause” for not having filed on time, and must be accompanied by the renewal application that should have been filed. The assessor must review the request and notify the owner of his or her determination. If the assessor approves the request, the exemption must be restored.

STAR Exemption; Direct payments by Commissioner

- Chapters **60** (S.6409-c), Part F, and **73** (S.8159), Part A • RPTL § 425(15-a)

Chapter **60**, Part F, as amended by Chapter **73**, Part A, allows the Commissioner of Taxation and Finance to directly reimburse a STAR-eligible property owner when the property owner did not receive the STAR exemption to which he or she was entitled due to an administrative error. The amounts payable under this amendment will be paid from the account established for the payment of STAR benefits to late registrants.

STAR Exemption; Recoupment timing

- Chapter **60** (S.6409-c), Part JJ • RPTL § 425(15)

Chapter **60**, Part JJ, revises the timing of the process for recouping erroneously granted STAR exemptions. The look-back period is now tied to school years rather than assessment rolls, and recoupment notices are now required to be mailed to affected taxpayers no later than three years after the conclusion of school year in question, or in the case of the 2012-13 school year, until no later than September 30, 2016.

Veterans – Alternative; Operation Graphic Hand

- Chapter **476** (S.4842-a) • RPTL § 458-a(10)

Chapter **476** authorizes a county, city, village or school district to adopt a local law or resolution to allow the alternative veterans exemption to be granted to members of the United States armed forces reserves who were called to active duty to assist the Postmaster General in restoring and maintaining postal service during the 1970 postal strike. That activation was later designated “Operation Graphic Hand.” Such reservists must also be honorably discharged and meet all other qualifications set forth in RPTL § 458-a in order to receive the exemption.

Veterans – Cold War; Exemption levels

- Chapter **22** (S.6385-a) • RPTL § 458-b(2)(c)(iii)

Chapter **22** makes technical corrections to the maximum Cold War Veterans exemption schedule that was enacted in 2015 (Chap.381). These changes were called for by Governor’s Approval Message # 1 of 2015.

Veterans – Cold War; School District Option

- Chapter **253** (A.3379-a) • RPTL § 458-b(2),(5)

Chapter **253** enables school districts to opt to offer the Cold War veterans exemption. To do so, its governing body must adopt a resolution so providing. Previously, this exemption did not apply to school districts. This change brings the Cold War exemption more in line with the Alternative veterans exemption, which was extended to school districts in 2013 (c.518).

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. The entity either acquired the parcel after taxable status date, or acquired title but failed to apply for the exemption by taxable status date. The details are in the Legislative Status Chart at <http://www.tax.ny.gov/research/property/legal/legis/16bills.htm>.

MISCELLANEOUS

New York City Watershed

- Chapter **483** (S.6546-a) • RPTL §§ 583, 585, 586, 589

Chapter **483** amends the law governing the taxation of New York City Watershed Conservation Easements, primarily by expanding the City’s liability to pay taxes on newly-acquired easements. More particularly, it:

- Makes watershed conservation easements taxable even if acquired after 2016.
- Subjects watershed agricultural easements to taxation even if the land is receiving an agricultural exemption, except where the easement was acquired before 2011.
- Provides that the same assessment procedure shall apply whether the easement encumbers all or just a portion of the burdened parcel.
- Removes the requirement that an assessment allocation factor shall remain in effect for at least 20 years before it can be reviewed and reset.

Local improvements on State lands; Invoices of assessment

- Chapter **449** (A.7673) • Public Lands Law § 19

Chapter **449** eliminated the requirement that prior notice be given to the Office of the State Comptroller (OSC) of certain assessments of local improvements on state lands. Instead, an invoice of assessment must now be provided. The imposition of property taxes on most state-owned lands is overseen by DTF per RPTL Article 5, Title 2, but Public Lands Law § 19 creates an exception for capital improvements such as water supply and sewer treatments. The review of assessments and tax payments on such property is solely the responsibility of OSC.

Land Banks

- Chapters **338** (A.7529-b), **341** (A.8156-b) and **441** (S.7880)

- Not for Profit Corporation Law (NPCL) §§ 1607(a)(21), 1609(a), 1616(i) and 1608(a)

The land bank program has been modified in various respects: Chapter **338** empowers land banks to create subsidiaries to hold title to real property (NPCL §§ 1607(a)(21), 1609(a)). Chapter **341** allows a land bank to assign to a “foreclosing governmental unit” all rights resulting from a “successful tender” on property, so the property may be deeded directly to that governmental unit (NPCL § 1616(i)). Chapter **441** provides that real property owned by a land bank is exempt from special ad valorem levies and special assessments (NPCL § 1608(a)).

Municipal Consolidation and Efficiency

- Chapter **55** (S.6404-d), p.662 • Unconsolidated

Chapter **55**, the Capital Projects budget, includes a provision appropriating \$20 million for capital and other expenses related to the implementation of municipal actions that reduce operational costs or property tax burdens on a permanent basis, as selected through a competitive application process developed by the Secretary of State.

Electric Generation Facility Cessation Mitigation Fund

- Chapter **58** (A.9008-c), Part BB • Unconsolidated

Chapter **58**, Part BB, enacts a program of local assistance to certain taxing jurisdictions impacted by the closure of electrical generating facilities on or after June 25, 2015. The program provides \$30 million in grant assistance to support counties, towns, cities, villages, school districts and special districts that are impacted by reductions in the tax liability and/or payments in lieu of taxes owed by an electric generation facility subject to their taxing authority. The reduction must be 20% or more and be a direct result of an electric generation facility ceasing operation within its jurisdiction. The program is administered by Empire State Development, in consultation with the New York State Energy Research and Development Authority and the Department of Public Service.

Mass Transportation Capital Projects

- Chapter **54** (A.9006-c), Part PP • General Municipal Law §119-r(1)

Chapter **54**, Part PP, authorizes the municipal corporations within the Metropolitan Commuter Transportation District (MCTD) to enter into contracts with the Metropolitan Transportation Authority and with other municipal corporations in the MCTD to support mass transportation capital projects. Insofar as real property tax administration is concerned, the law

further provides that municipalities may impose taxes, assessments and/or charges according to the terms of these contracts. It also permits municipalities to capture the value created by such projects through such methods as tax increment financing, special transportation assessments, land value taxation, or through a combination of such methods.

Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- RPTL §485-r, which authorizes the City of Batavia to exempt “residential redevelopment inhibited property,” has been amended to address a technical issue related to the use of federal census data (Chap. **28**; *see also Approval Message # 2 of 2015*).
- The legislation authorizing the City of Middletown to pledge its delinquent tax liens as collateral for a loan and/or sell the liens to a private party for collection (L.2013, c.510 as amended by L.2014, c.144 and L.2015, c.503) has been given an expiration date of December 31, 2017 (Chap. **38**; *see also Approval Message # 12 of 2015*).
- The schedule of payments of State aid to the City of Albany in relation to certain State land has been accelerated (Chap. **57**, Pt. O).
- The Towns of Greenburgh and Ossining have been authorized to offer a “residential reassessment exemption” under a new RPTL § 485-s (Chaps. **90** and **91**).
- The timing of the notice of unpaid taxes required by RPTL § 987 has been modified in relation to Monroe County (Chap. **162**).
- Land transactions to settle property disputes in “Township 40” in the Town of Long Lake have been approved (Chap. **231**).
- The Cities of Hornell and Corning have been separately authorized to provide a partial exemption for qualifying improvements to multiple dwellings under a new RPTL § 421-o (Chaps. **279**, **417**).
- The Village of Wappingers Falls has been authorized to provide a 20-year exemption for newly constructed mixed-use buildings under a new RPTL § 485-s (Chap. **334**).
- The City of Binghamton has been authorized to classify cooperative apartment buildings as homestead property for purposes of RPTL Article 19 (Chap. **495**).
- The Village of Plandome Manor has been authorized to pledge its delinquent tax liens as collateral for a loan and/or sell the liens to a private party for collection (Chap. **280**).
- Tompkins County has been authorized to provide a partial exemption for certain residential properties under a new RPTL § 467-j (Chap. **352**).
- The Lowville Central School District has been authorized to establish an energy system tax stabilization reserve fund to lessen or prevent increases in the school district’s property tax levy (Chap. **379**).
- The following enactments primarily impact New York City:
 - The City Council has been given the power to opt to offer the alternative veterans exemption for school tax purposes (Chap. **332**).
 - The income limit of the J-51 tax abatement has been increased (Chap. **388**).
 - The solar electric system tax abatement has been extended (Chap. **393**).
 - The SCRIE and DRIE programs have been modified as follows:
 - The process for applying for benefits on the basis of permanent departure has been clarified (Chap. **31**; *see also Approval Message # 34 of 2015*).
 - The local option to establish income limits of \$50,000 has been extended by four years, while the State’s obligation to reimburse the City for the associated costs has been capped at \$1.2 million (Chap. **54**, Pt. EE).
 - Heads of households whose rent increase orders expire due to an income increase may have their benefits reinstated at the prior level if their income returns to its prior level the following year (Chap. **343**).
 - Individuals receiving United States Postal Service disability pensions now qualify as persons with disabilities for DRIE purposes (Chap. **392**).

- Heads of household who meet certain criteria have been authorized to file “short form” renewal applications (Chap. **442**).
- The following enactments impact Nassau County and/or municipalities therein:
 - The expiration date for the modifications to the county’s assessment calendar that were enacted in 2002 has been changed to June 30, 2018 (Chap. **81**).
 - The calculation of class tax shares in the County under the four-class tax system established by RPTL Article 18, and under the two-class system established by RPTL Article 19, will continue to include a 1% limit upon changes to current base proportions (Chap. **93**).
 - The Water Authority of Great Neck North has been authorized to turn over water charges that remain unpaid for 90 days to local government officials so that they may be collected and enforced with property taxes (Chap. **339**).
- The following enactments impact Suffolk County and/or municipalities therein:
 - The calculation of class tax shares in the Town of Islip will continue to include a 1% limit upon changes to current base proportions (Chap. **93**).
 - The Suffolk County Water Authority has been authorized to turn over water charges that remain unpaid for 90 days to local government officials so that they may be collected and enforced with property taxes (Chap. **363**).
 - The county has been authorized to convey property to the land bank for such consideration and on such terms and conditions as they determine (Chap. **440**).

GOVERNOR'S DISAPPROVAL MESSAGE

VETO MESSAGE - No. 235

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

Assembly Bill Number 6823, entitled: "AN ACT to amend the town law, in relation to the powers and duties of the receiver of taxes and assessments"

NOT APPROVED

Under current law, a town collects the property taxes on behalf of a school district unless there is an agreement that the school district will perform this task. This bill would authorize a school district to unilaterally decide to collect its own property taxes, as long as the district notifies the town by February 1st of that year.

School districts across the State are seeking autonomy to collect their own taxes. However, this bill suffers from significant flaws that have direct and collateral consequences for taxpayers. First, this bill would hamper a town's ability to develop and implement its annual budget. If the school district decided to start collecting its own taxes and did not provide sufficient notification, the change in revenue could harm the town's financial condition and cash flow.

Second, allowing a school district to collect property taxes while still requiring the town to process all other taxes will lead to uncoordinated and potentially duplicative collections and compound government inefficiency. This is directly at odds with my efforts to promote municipal consolidation and streamline local government operations.

For these reasons, I cannot approve this bill. I defer further discussion of this issue to the legislative session where an effective mechanism to provide a meaningful benefit can be explored.

The bill is disapproved.

(signed) ANDREW M. CUOMO

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For the 2016 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/16bills.htm>.