



Real Property Tax Reform White Paper

A look at the assessment process and tax reform in New York State

By

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March, 2010

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White Paper on Real Property Tax Reform

Objective:

New York State's property taxes are among the most burdensome of any state in the nation. What we have attempted to do with this paper is to propose real property tax relief by discussing various areas of tax reform. The desired action in most cases is state legislation reflecting structural changes to the real property tax process in New York for all assessing units, including special jurisdictions.

REAL PROPERTY TAX REFORM

PROPERTY TAXES FOR SCHOOL FUNDING

New York State has traditionally had one of the stronger educational systems in the Country. No one can legitimately question the State's commitment to quality public education. It is a system supported to a great extent by direct taxation of individual property owners through both levying of taxes by local school districts based on the value of property and a state aid formula which quantifies a combination of property value and personal wealth in the specific school district in which the property owner resides.

The amount of school taxes paid by a property owner has steadily increased to historically unsustainable levels. The school taxes paid by New York State property owners are some of the highest in the nation.

It is the recommendation of the New York State Assessor's Association that property taxes no longer fund schools. The appropriate means for school funding should be determined by the State and its schools. Other states fund their schools by increased State income tax, a dedicated sales tax for school funding only, motor vehicle tax, increased lottery contributions, head tax per pupil, or a combination of any of these methods. The other side of the education funding equation is the cost of public schools and the potential of capping such costs through legislation. Schools must be required to function more efficiently.

Removing school funding from the property tax would eliminate the need for the STAR exemption, saving the State millions of dollars each year.

Required Action - Statewide legislation needed to change the method in which we fund schools, and find other sources.

REASSESSMENTS

All property in New York State would be reassessed at 100% of market value on a cyclical basis. The cycle frequency would be based on a standard of at least once every four (4) years and a statistical measure of appraisal uniformity the Coefficient of Dispersion (COD). The International Association Assessing Officers (IAAO) defines the Coefficient of Dispersion as "the average deviation of a group of numbers from the median expressed as a percentage of the median; in ratio studies, the average percentage deviation from the median ratio." The COD measures uniformity in assessments.

The COD will be calculated each year by the assessor and reviewed by the Office of Real Property Services or equivalent state oversight agency.

The valuation date will remain frozen between assessments (with exception to new construction, additions, and demolitions), reducing litigation and the costs associated with same. As a result this would also provide increased stability of the tax base and improved taxpayer understanding. Since schools would no longer be funded through the real property tax, this would eliminate the need for equalization rates for school tax levy apportionment. In no instance, will a municipality be allowed to remain out of compliance with the statutory COD standard without performing a reassessment the following year. *After a municipality performs a reassessment and maintains its compliance with the COD standard throughout an assessment cycle it may receive a reassessment waiver, but must perform a reassessment if the level of assessment falls to 75% or less of the COD standard or by the next cycle.

* The maximum period that a municipality can go without performing a reassessment is 6/8 years.

Cost for reassessment will be a local cost. Local government will be allowed to create a reassessment fund so that increased costs, which may be associated with reassessment, do not have to be funded within the fiscal year.

This recommendation complies with Section 305 of the New York State Real Property Tax Law.

Required action: Legislation- Statutory Cycle Bill

EQUALIZATION RATES

The Equalization Rate making process has seen a metamorphosis over the last twenty-five plus years. Formerly a labor-intensive data collection and valuation undertaking, it is now a system of statistical analysis of actual sales during a specified period of time, trended for market and assessment roll fluctuations, supplemented with appraisals as needed. In most cases the result was often one of severe swings from one municipality to the next within shared districts.

This process is now more commonly referred to as measuring one's Level of Assessment (LOA), but in essence continues to accomplish the same outcome – attempting to ensure tax equity within shared districts. These districts are most commonly school, county, fire, and ambulance, but are not restricted to only these taxing entities.

The progression this procedure experienced is largely due to the intervention of the assessment community, frustrated with the lack of accuracy, consistency, reliability, and currency from year to year. Although this process has vastly improved, there is still much to be addressed.

The myriad of purposes the Equalization Rate serves outside of apportioning tax levies are numerous. These include setting exemption levels, establishing bond and debt limits, allocation of State Aid, and establishing Special Franchise Assessments and Railroad Ceilings to name a few of the primary uses.

The equalization rate process becomes unnecessary if the reassessment proposals are adopted.

Required Action - Legislation to adopt reassessment proposal herein

PROPERTY TAX EXEMPTIONS

There are currently over 275 types of property tax exemptions in New York State. On the 2008 assessment rolls throughout New York, there were 4,618,259 exemptions totaling \$797,114,356,000 in equalized exempt value. The exemption process is complex, confusing and unfair.

The basic concept of property tax exemptions must be realized. Property tax exemptions do **not** forgive property taxes, but rather redistribute those exempted taxes to all other property owners.

Property tax exemptions need to be simplified.

The use of real property tax exemptions to grant specific groups of people a benefit discriminates against those individuals that aren't owners of real property. For example, all military veterans aren't receiving a benefit from the State of New York, only those that own and live in a residential property. If it is the intention of the State Legislature to thank the veteran for services to their country, then an income tax credit or refund should be granted to all veterans, regardless of ownership of real property.

Repeal all exemptions for privately owned property and replace them with a circuit breaker exemption. When an individual's property tax bill exceeds a predetermined threshold – usually based on income and/or property value – that individual receives an income tax credit toward state income taxes due. The credit may be "refundable," in that the taxpayer will receive a check for any excess of the credit over the amount of income taxes. Seventeen other states have circuit breaker mechanisms through which residential property taxes in excess of a specified amount are credited against state income taxes. Eight of those states provide the tax relief only to elderly or disabled taxpayers. The remaining nine states all provide the benefit to both homeowners and renters.

Wholly Exempt Properties

The days of 100% exemption from property taxes has passed. All property owners must contribute to services provided by municipalities. To that end, all property currently wholly exempt under Real Property Tax Law would be subject to a legislated Payment In Lieu of Tax agreement.

Required action: Legislation to address the repeal of the majority of tax exemption statutes and enact a circuit breaker law

ASSESSMENT COMPLAINTS

The right to grieve a perceived incorrect assessment is a vital component of the assessment process. Over time the grievance process has become bogged down by attorneys and assessment consultants using the Board of Assessment Review (BAR) as a stepping stone to the Courts. Many of the perceived grievances and lawsuits place a tremendous strain on a municipality's time and resources. As a result the average taxpayer is held to a higher standard than the paid representative.

All complainants should be required to submit full documentation specific to the individual property supporting the requested assessment to the BAR with the grievance application. If such documentation is not submitted, the BAR would have the right to declare the grievance null and void, thus preventing the case from going forward to the Courts.

Recommendation:

Expand the authority of the BAR to request documentation from the property owner and their representatives. Limit the property owner's further recourse for non-compliance.

Provide the ability for the municipality to by right have external and internal access to any parcel in which an assessment grievance is filed.

Provide the ability for the municipality to file a counter suit for any assessment lawsuit that has no merit.

Establish a procedure for municipalities to contest illegal Small Claims assessment decisions.

Establish a law that requires all income producing properties to file an annual income and expense statement.

Required action: Legislation

EDUCATION

Assessment personnel education and training is a fundamental necessity of the assessing function. Virtually, all States have an Assessment personnel training program.

In 1984 the New York State legislature required additional Assessment personnel training and certification requirements. That legislation was accompanied with funding.

It is our recommendation that there be one, standardized, assessment training program for New York State, with standardized reimbursements to include assessor staff positions. This program would be funded by the State.

Required action: Local Government education and understanding, as well as adequate State funding.

STATE ASSESSMENT AID

Most State assessment aid would be eliminated. Again, with Schools not funded by property taxes, only local municipalities receive property tax dollars. The cost to establish and maintain assessments should be born by the local municipalities.

The only State funded assessment aid would be for initial revaluation projects in a municipality, which has not reassessed property for at least fifteen years. After the initial reassessment no other State Assessment aid would be available.

Required action: Legislation

ASSESSMENT CONSOLIDATION

Assessment consolidation has been occurring throughout New York State long before it became a popular buzzword. For over twenty-five years municipalities have been sharing Assessors by employment agreements or consolidated assessing agreements. For over ten years Counties

have had the ability to form 1537 agreements where the County can, by contract, provide assessment functions to Towns. Additionally, counties have had the ability to, by referendum; establish County Assessing, as the standard for assessments in a particular county.

If the above initiatives were to be implemented there would no need for State mandated assessment consolidation.

In the autumn of 2007, the Office of Real Property Services established the Centralized Property Tax Administration Program (CPTAP) to encourage county and municipal officials to study reform opportunities for their local property tax systems. The final deadline for grant applications has passed, and 52 counties will be receiving grants expecting to total \$4.8 million. As we reviewed the studies that were generated by these grants, we were struck by the lack of taxpayer savings estimated in most of the counties. The option for County-wide assessments was more expensive in almost all cases and could not make any promises for a better assessment process.

Recommendation:

Allow each municipality to choose the correct assessment function for that municipality.

ASSESSMENT METHODOLOGY RESTRICTIONS

Condominium (RPTL 581 and RPL 339y) and Affordable Housing (RPTL 581-a)

Of utmost importance is the fair and equitable distribution of property taxes. There is current legislation that creates inequities in assessment procedures for condominium property and affordable housing property opposed to all other property types. The Uniform Standards of Professional Appraisal Practice (USPAP) require appraisers to consider all three approaches to value before estimating the market value of any property. The New York laws mentioned above restrict the assessor from considering any approach other than the Income Approach to value for condominiums and certain affordable housing projects.

Recommendation:

Repeal section 581 and 581a of the Real Property Tax Law and section 339y of the Real Property Law and establish current market value at the municipality's level of assessment as the assessment standard for condominiums and affordable housing properties.

Required action: Legislation

FOREST LAND ASSESSMENTS

Properly assessing the State's public and private forestlands is an issue that must be addressed. With skyrocketing property taxes more and more forest properties are being either sold for other uses or are being timbered to assist in paying property taxes. The proper method of assessing forest properties needs to be examined to ensure a future forest crop for New York State.

New York State Real Property Tax Law section 102 states timber is real property and is subject to taxation. Proper and updated forest assessment procedures must be established.

Recommendations:

The Assessor would determine the forest land assessment based on current forest land sales and that determination would be the assessment on the roll. The value of the timber is then

recaptured at the time of harvest based on a stumpage fee of 5% (or some other appropriate percentage). The stumpage fee would be collected by the County and distributed to the Town and School where the harvesting occurred. The "forever wild" State Owned Land parcels would be assessed by current methodology.

Required action: Legislation

NEW YORK STATE OFFICE OF REAL PROPERTY SERVICES

If the above initiatives were instituted the role of the New York State Office of Real Property Services could be diminished. This would provide significant savings to New York State. Required functions such as utility valuation and legal support would remain. Reassessment support and education would then fall on the municipal level or private sector.

ESCROW ACCOUNTS

In light of the current mortgage crisis it is our belief that it is paramount that every property owner receives their property tax bill ensuring their awareness of the amount of property taxes they pay.

Recommendation:

Legislation would require municipalities to only send tax bills to the current owner of record of each property. Escrow or mortgage companies could request an electronic file, from each municipality, with owners, account numbers, and tax amounts for mass payments. It would be the responsibility of the escrow or mortgage company to establish a means to properly notify the property owner of payment.

Required action: Legislation

PROPERTY TAX BILLS

The Taxpayer Bill of Rights added a number of additional pieces of information to the tax bill received by each taxpayer every year. It is by all accounts cluttered and confusing and difficult for the taxpayer to understand, and different from one taxing jurisdiction to the next.

It is the suggestion of the New York State Assessor's Association that an organized standardized tax bill be created.

Required Action: Statewide Legislation to create a Standardized tax bill

ADDENDUM:

History:

The real property tax dates back as early as 1654 to the Dutch New York Colony. The dominant feature of most of the property tax laws enacted during the colonial and early state periods was the determination by the legislative body of a quota of taxes to be collected from each county. County boards of supervisors would determine quotas for the towns and wards within their

boundaries. The assessors of the towns and wards were required to assess property at “whatsoever have been deemed the worth or value thereof.”

A State act of 1799 made provision for county commissioners of taxes who were required to “equalize the tax upon the real estates within this State, and make the valuation of the real estates in their respective counties as near as may be equal to the valuation of the houses and lands therein made under the authority of the United States.”

In 1813, New York’s Legislature enacted a law establishing a procedure for the assessment of property and empowered county boards of supervisors to equalize assessment rolls of towns within their respective counties by adding to or deducting from the aggregate valuations in any town, “such a per centum as may, in their opinion, be necessary to produce a just relation between all the valuations of real estate in the county.”

The 1813 act was the first codification and revision of the general laws relating to the assessment and taxation of real property. In addition to providing for the equalization of assessment rolls by counties, the act expressly provided for a “grievance day” at which a taxpayer could complain and be heard by the assessors on his assessment. This act also provided that real property be assessed “at the value they would appraise such estate in payment of a bona fide debt due from a solvent debtor.”

In 1975, section 306 of the State Real Property Tax law directed that; “All real property in each assessing unit shall be assessed at the full value thereof.” The history of the full value standard in New York can be traced back at least to 1788, and the traditional practice of ignoring this standard was as old as the statute itself. The validity of this longstanding practice of assessing at less than 100 percent of full value was challenged in *Hellerstein*. Having rejected all of the defenses raised by the town, the majority held that the petitioner was entitled to an order directing the town to make future assessments at full value.

Then, in 1981, the Rules Committees of the State Senate and Assembly introduced Senate Bill 7000/Assembly Bill 9200 (hereafter, S.7000). These bills sought to change the landscape of assessment administration in three primary ways.

Section one of S.7000 would repeal full value as the sole standard of assessment in New York.

Bill section two preserved existing tax shares in special assessing units (Article 18, New York City and Nassau County).

Bill section three created a dual tax rate option (Article 19).

The new RPTL section 305 placed the burden of deciding tax policy squarely on each assessing unit by providing that the standard of assessment would be anything up to 100 percent of full value at the option of the assessors or boards of assessors.

Regarding the standard of assessment, with the December 3, 1981 enactment of Chapter 1057, the legislature repealed section 306 of the RPTL, which had defined the standard of assessment as “full value” and replaced it with section 305, which stated:

The existing assessing methods in effect in each assessing unit on the effective date of the legislation may continue;

All real property in each assessing unit should be assessed at a uniform percentage of value;

Any assessing unit now at full value through a revaluation may adopt a uniform percentage of value as its new standard.

This gives the reader a brief history of real property assessment in New York State, but does not address the problem facing New York taxpayers today. The number one issue is not assessments or who performs the assessment function; the major issue is taxes and the burden they place on the real property owner.ⁱ

ⁱ Historical information first published in the Uniform Standard, Volume 6, Number 12, A History of the Real Property Tax and Equalization in the State of New York, Part 1; Office of Real Property Services