

SUBSTANCE OF THE ADOPTED RULE

DEPARTMENT OF TAXATION AND FINANCE

Part W of Chapter 56 of the Laws of 2010 transferred various responsibilities relating to real property tax administration from the State Board of Real Property Services and the Office of Real Property Services to the Commissioner of Taxation and Finance. As amended, Real Property Tax Law (RPTL), section 201 provides that the functions, powers and duties of the State Board of Real Property Services and the Office of Real Property Services shall be functions, powers and duties of the Commissioner of Taxation and Finance except as provided for the State Board in section 200-a of the RPTL.

The purpose of this proposal is to move the rules for real property tax administration from Chapter I of Subtitle F of Title 9 to Title 20, which contains the rules of the Commissioner of Taxation and Finance, as a new Chapter XVI, Real Property Tax Administration. Parts 185 through 201 of the former Chapter I of Subtitle F of Title 9 will be renumbered Parts 8185 through 8201 within Chapter XVI of Title 20. This summary will refer to the provisions as renumbered.

In addition to the renumbering, the rule corrects obsolete references, updates functions in line with current statute, and makes other technical updates. References to the State Board or board where the State Board retains its authority pursuant to section 200-a of the RPTL remain.

Overall:

- a. References to ORPS, State Office, executive director, Counsel to the State Board, board, State Board, Bureau of Equalization Rates, State Valuation Services were updated where appropriate to conform with statute.
- b. These references were amended to Department, Commissioner, Deputy Commissioner or ORPTS in most cases. References to the State Board or board where the State Board retains its authority pursuant to section 200-a of the RPTL remain.

Part 8185 General Administration:

- a. Definitions for “certified counties” (41), “certified school districts” (42), “engineering report” (79) and “VO-3 additions and retirements” (310) are repealed. “Certified counties” relate to RPTL, section 845, which was repealed and “certified school districts” relate to RPTL, section 1315, which was also repealed. The definitions for “engineering report” and “VO-3 additions and retirements” refer to the Interstate Commerce Commission which is now an obsolete reference and reporting is not necessary.
- b. The definition for “Arm’s-length transfer” is amended to conform to current forms and procedures (section 8185-1.1(a)(14)).
- c. The definition for “general tendency” is corrected to be “central tendency” (section 8185-1.1(a)(40)). The definition for “final assessment roll data file” is updated to reference current electronic media language for the filing of data files with the department (section 8185-1.1(a)(99)).
- d. A definition for the State Board of Real Property Tax Services (State Board) is added (section 8185-1.1(a)(253)).
- e. References to the Interstate Commerce Commission are updated to the national Surface Transportation Board (Part 8185).
- f. Subpart 8185-2, Public Access to Records is repealed as this authority can be found in 20 NYCRR 2370.1.
- g. Subpart 8185-3, Personal Records is repealed as this authority can be found in 20 NYCRR 2371.2.
- h. Subpart 8185-4, Environmental Quality Review is repealed as this authority is no longer required as an office in the Tax Department.
- i. Subpart 8185-5, Declaratory Rulings is repealed as this authority can be found in 20 NYCRR 2375.3.

j. Subpart 8185-6, Issuance of Certificates is repealed as this is no longer a State Board function and it is not Tax Department policy to charge for certifications of documents.

Part 8186 State Equalization Rates, Ratios and Adjustments:

a. References to delegations by the State Board are deleted as the State Board does not retain the authority to institute policy or directives to staff of the new Office of Real Property Tax Services. (i.e., NYCRR, sections 8186-3(b)) and 8186-4.3).

b. References to former section 186-1.1 of 9 NYCRR regarding general definitions are updated to note that the section is now repealed and set forth in section 8185-1.1 and RPTL, sections 1801 and 1901.

c. Subpart 8186-5, pertaining to special equalization rates for certain parts of cities and towns, was updated to conform the initiation and determination of segment special equalization rates to current process. Specifically, in addition to conforming any references of the State Board to ORPTS or Commissioner, the rule deletes references to particular prior and current assessment rolls, and provides that copies of information submitted with a request for a segment rate will be provided to any affected party upon request.

d. References to school districts designated in former section 186-6.1 of 9 NYCRR, are updated to note that the section is now repealed and set forth in RPTL, section 1230.

e. References to definitions in former sections Subparts 190-3.1 and 190-4.1 of 9 NYCRR are noted as repealed and set forth in RPTL, sections 1801 and 1802, and section 1901 respectively.

f. References to former Subparts 186-2 186-7, 186-8, 186-11 and 186-22 of 9 NYCRR are noted as repealed.

g. The process concerning the preparation of proposed findings and determinations of rate complaints (section 8186-15.10) was updated to current practice with the inclusion of language regarding the preparation of a resolution for the State Board.

Part 8187 Informational Hearings, Adjudicatory Proceedings and Review Proceedings:

Subpart 8187-3 regarding local disciplinary action is repealed as the governing authority in Real Property Tax Law, section 324 was repealed.

Part 8188 Minimum Qualification Standards, Training and Certification of Local Assessment Administration Personnel:

a. References to the Municipal Service Division in the State Department of Civil Service is corrected to the new agency name – Office of Commission Operations and Municipal Assistance.

b. References to certain form names and templates such as for assessor training reimbursement are updated.

c. A new subdivision (a) is added to NYCRR, section 8188-4.3 regarding the minimum qualification standards for county directors. This language was mistakenly repealed in 1998 and is needed in rules so that staff has a standard with which to review the qualifications of new directors taking office between October 1, 1998 and September 30, 2013. The current section in regulation only applies to county directors taking office subsequent to October 1, 2013. The language being included is the same language that was in existence when the rule amendments were adopted in 1998.

d. Paragraphs (c) and (d) of NYCRR 8188-2.5 concerning review of a negative determination of qualifications of a newly appointed assessor are added as these paragraphs were inadvertently deleted in 1999. These paragraphs are necessary as there needs to be a mechanism for an assessor to appeal ORPTS' decision where his/her qualifications are not approved. A similar process is in the rules for county directors and other local government officials.

Part 8189 Preparation and Maintenance of Tax Maps for Real Property Assessment and Taxation Administration:

Reference to delegation by the State Board is rescinded as the State Board does not retain the authority to institute policy or directives to staff of the new Office of Real Property Tax Services. (i.e., section 8189.15).

Part 8190 Assessment Rolls:

Section 8190-3.1 is amended to conform regulation to RPTL, section 1590. Section 1590 was amended by Chapter 56 of the Laws of 2010 to provide that a copy of the tentative assessment roll be filed with ORPTS and that the assessing unit maintain a website and post a copy of the roll on its website. The amended regulation now includes this language, along with the required time frames.

Section 8190-3.2 is amended to clarify that only active parcels are included in the number of parcels when determining the fee for use of the New York State Real Property System.

Part 8191 Real Property Transfers:

Section 8191-3.1, pertaining to criteria for use of sales in establishing residential assessment ratios, is repealed as it is obsolete based on changes to RPTL section 738, which was amended effective September 1, 2008.

Part 8193 Assessor's Reports:

a. References to certain forms required for the filing of Assessors' Reports are conformed to the current naming convention.

b. Subpart 8193-3 "Assessor's Report for Equalization Purposes and of Exempt Property for All Assessment Rolls Beginning with those filed in the Year 1984" is repealed as it is outdated.

Part 8197 Special Franchise Assessment:

a. References to certain forms required for annual reporting by special franchise companies are conformed to current naming conventions.

b. Section 8197-5.1 is amended to update the special revenue fund calculation and confirm it to the circumstances of the merger with the Tax Department (i.e., no rental costs).

Part 8200 Railroad Ceilings:

a. References to certain forms required for annual filing by railroad companies reporting are conformed to current naming conventions.

b. Section 8200-7.1 is amended to update the special revenue fund calculation and confirm it to the circumstances of the merger with the Tax Department (i.e., no rental costs).

Part 8201 State Assistance for the Maintenance of a System of Improved Real Property Tax Administration:

Subpart 8201-2 "Assessment Rolls filed in 1999 and thereafter" is repealed as it is outdated.