



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
STATE BOARD OF REAL PROPERTY SERVICES
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ALBANY, NEW YORK 12210-2714

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Village Assessment Options

Law

Section 1402 of the Real Property Tax Law (RPTL) provides villages with several assessing options:

- an assessing unit village prepares an assessment roll in the same manner and form as does a town. Assessed values are determined by the village assessor and these values are subject to administrative and judicial review (RPTL, §1402(1)).
- a village may use the assessment roll(s) of the town(s) or county in which it is located as the basis of village assessments, adjust the values as necessary, and provide for administrative and judicial review (RPTL, §1402(2)).
- a village may cease to be an assessing unit and opt to levy its tax on a portion of the town or county roll prepared for it.¹ Under this option, there is no separate administrative or judicial review of assessments for village purposes; the village becomes analogous to school districts which use county, city, town, or village prepared assessment rolls without any responsibility for their preparation, maintenance, or defense (RPTL, §1402(3)).²
- a village, which has boundaries coterminous with those of the town in which it is located, and which prepares a single assessment roll for village and town purposes in accordance with section 17-1722-a of the Village Law, is not otherwise subject to section 1402 of the RPTL (RPTL, §1402(5)).

The State Board maintains a list of villages that have adopted resolutions to base their assessment rolls on the town or county roll or have terminated their assessing status on its Internet website at < <http://www.orps.state.ny.us/legal/localop/village.htm>>.

History

¹ However, a village located in two or more towns having different taxable status dates is not eligible to cease to be an assessing unit.

² Note that most villages which are newly incorporated on or after January 1, 1995 are non-assessing villages, unless they adopt local laws to become assessing units (RPTL, §1402(4)).

Prior to the adoption of the non-assessing unit option in chapter 735 of the Laws of 1983, all villages were included within the then statutory definition of "assessing unit" (RPTL, §102(1)) and were required to perform all the requisite steps in the assessment process (*i.e.*, determine taxable status of village real property, determine tentative assessed values, provide for administrative review of assessments, file a final assessment roll, correct administrative errors on assessment rolls, defend judicially challenged assessments, file an assessor's annual report).

Villages have long had the option of using the town or county assessment roll "as the basis for the village assessment so far as practicable" (RPTL, §1402(2)), but even where this option is exercised, the village remains an assessing unit with the concomitant assessment responsibilities. For example, separate valuation and exemption determinations are necessitated by differing town and village taxable status dates and the village must have an inventory of assessment data. Also, the assessments are subject to administrative and judicial review (including small claims assessment review) and those assessments must be defended by the village whether they were originally computed by the village or by the town or county. A model section 1402(2) resolution is included as Appendix A to this memorandum. A copy is to be filed with the State Board.

Whether a village has opted to use the town or county assessment roll as a basis for village assessments or has prepared its own roll, villages have been specifically excluded from many State programs regarding improved assessment procedures (*e.g.*, villages are not subject to the provisions of the so-called Assessment Improvement Law of 1970 (L.1970, c.957, *see*, RPTL, §§334, 1562) and are not eligible for State assistance for the maintenance of improved real property tax administration (RPTL, §§1573, 1574)). In part, these exclusions may be explained by the conscious choice of villages, by the State's recognition of the duplicative nature of village assessments, and by the State's limited resources. (That is, State aid for the maintenance of improved assessment administration might otherwise be paid twice for the same parcel.) The exclusion of villages from State programs may also be explained, in part, by the relatively small population of many villages. (For example, some villages would find it difficult, if not impossible, to staff an independent board of assessment review as is required in towns and cities (*see*, RPTL, §523) but only optional in villages (RPTL, §1408(1)).

Required Village Action to Terminate Assessing Unit Status

To exercise the option to terminate its assessing unit status, a village must pass a local law,³ subject to a permissive referendum. Within 10 days of the adoption of such a local law, the village board of trustees must forward a copy thereof to the State Board of Real Property Services.⁴ If a village

³ A copy of a model local law is included as Appendix B to this memorandum. Note that should a special charter village wish to elect the option in section 1402(3), its local law must also amend any assessment provisions in the charter to make the charter consistent with the village's option to terminate its assessment function.

⁴ The purpose of filing this copy of the local law with the State Board is to enable State Board staff to advise village officials concerning proper filing of the local law, thereby helping to avoid problems which may delay the local option.

enacts such a local law, and it goes into effect, either because no valid petition for a referendum is filed or, if a referendum is held, the local law receives voter approval, the village will thereafter levy its taxes on a copy of the appropriate portion of the town (or towns, if the village is located in more than one town) assessment roll(s) or county assessment roll (if the village is located in a county having the power to assess real property (*i.e.*, Nassau or Tompkins)). The local law will be effective for all village taxes thereafter levied, unless the local law is subsequently rescinded. However, if a village's local law initially takes effect between village taxable status date and the corresponding village tax levy, the village will not cease to be an assessing unit until the following year.

To be effective, the local law must be filed with the Secretary of State.⁵ Within five days of the effective date of the local law, the village board of trustees is to file a copy with the State Board,⁶ the county or town clerk, and the county or town assessor.

County/Town Responsibility

Once a local law is effective, the town or county assessor must thereafter prepare and deliver to the village a copy of the appropriate part of the town or county assessment roll. This roll is to conform in all respects to the corresponding part of the town or county roll, and the town or county's taxable status date will also govern for village purposes. As noted below, the town or county assessor must make necessary changes for village purposes for exemptions granted at village option where these options differ from the town or county (*e.g.*, different senior citizens exemption income limit).

The town or county assessor is responsible for apportioning special franchise assessments and railroad ceiling properties on the town or county assessment roll used for village tax purposes. Also the town or county assessor apportions village tax liens. The law provides that the town or county may charge the village for the cost of preparing and furnishing a duplicate copy of the village portion of the town or county assessment roll.

Where a village terminates its assessing unit status, the county real property tax director has the responsibility of investigating and reporting on administratively correctable errors on village tax rolls. The village board will continue to refund village taxes based on errors found.

State Equalization Rates

State equalization rates are established for all villages. The State equalization rate established by the State Board of Real Property Services for the town or county assessment roll is the equalization rate for the non-assessing unit village.⁷ Village equalization rates remain essential for State aid

⁵ Because a local law adopted pursuant to section 1402(3) is subject to permissive referendum, village attorneys should be careful to complete Part 4 of Page 2 of the Department of State's form for local laws.

⁶ If possible, file a copy of the Department of State's receipted acceptance of the local law with the State Board's copy.

⁷ A special rate may be determined where the town rate is shown to be inequitable as to the non-assessing unit village (RPTL, §1226(3)).

determinations and tax and debt limit calculations. Also, they are used to establish special franchise assessments, railroad ceilings, and State owned land assessments.

Split Villages

More than 70 of the State's villages are located in two or more towns. Where such a village elects the non-assessing unit option, equalization is necessary for village tax apportionment.⁸ In essence, the village utilizes the county or town assessment rolls in much the same manner that school districts do in determining their tax apportionments and tax levy. The town equalization rates are applied to the village assessed value portions of each town roll to obtain the full value of each portion of the village. The full values are then used to apportion the tax levy among the portions of the village. As with school districts, different tax rates result.

Assessments

With the termination of its assessing unit status, a village is no longer responsible for making or defending assessments. The village no longer has an assessor or board of assessment review and is not responsible to defend small claims court or tax certiorari proceedings brought against a county or town assessment. The village does, however, receive notice of such proceedings (RPTL, §§708(3), 730(8)).

A non-assessing unit village retains its municipal exemption options (see, 8 Op.Counsel SBEA No. 16). For village taxes, the county or town assessor will reduce the total assessed value to taxable assessed value in accordance with established village exemption policies.

Taxes

Although a non-assessing unit village has no assessment authority, it continues to levy a village tax and it continues to collect taxes and enforce the collection of delinquent taxes. However, the optional provision for collection of delinquent village taxes by the county, as authorized by RPTL, section 1441, remains in effect.

Villages which cease to be assessing units and which are located wholly within a town (outside of Nassau County) which is an "approved assessing unit"⁹ or which are located in more than one town, where one-fifth or more of the parcels in the village are located in one or more approved assessing units which have in effect a local law adopted pursuant to RPTL, section 1903(1), are eligible to establish separate (different) tax rates for the "homestead" (e.g., 1-, 2- and 3-family residential property) and non-homestead classes of real property. Villages located wholly within a town, which choose to take

⁸ Similarly, a split village which relies on the assessment rolls of the two or more towns in which it is located as the basis for the village assessment roll (per RPTL, §1402(2)), must change some or all of the town assessed values so that the village assessment roll satisfies the statutory standard of uniform assessment (RPTL, §305).

⁹ A town which is an "approved assessing unit" is one which has been certified by the State Board pursuant to section 1902 of the RPTL as having completed a revaluation or update of assessments.

advantage of this option must enact a second local law adopting the provisions of RPTL, section 1903, and file copies of that local law with the town assessor and county director. Split villages which choose to take advantage of this option must first file a notice of intent with each assessor on or before the applicable taxable status date and file a copy with the county director. They must then pass a resolution, following a public hearing, adopting the provisions of RPTL, section 1903-a, and file copies of such resolution with the body, officer or employee that computes the village's tax rates and the county director.

Villages in Nassau County which cease to be assessing units are automatically required to establish separate (different) tax rates for each of the four classes of real property for which the County establishes separate tax rates. The information needed to allocate the village tax levy among the four classes is provided to the village by the County. However, the village may adopt a local law combining Classes 2, 3, and 4 into one class for tax levy purposes.

Assessor's Annual Report

A non-assessing village is not required to submit an assessor's annual report (RPTL, §575). The town or county assessor will include relevant village information as part of the town or county report (9 NYCRR 193-4.2(b)(4)).

Fiscal Year Option

Since most villages have a fiscal year commencing on June 1 (Village Law, §5-500(4)), in general, if a village were to timely elect the option provided in this law for purposes of its 2009-10 tax levy, those taxes would be levied against a part of the town assessment roll based on a March 1, 2008 taxable status date. **New construction and demolitions occurring after March 1, 2008 would therefore not appear on the 2009-10 village tax roll.** To change this result, which may be deemed a problem by some villages, section 5-510 of the Village Law permits a village which has opted to cease to be an assessing unit to change its fiscal year to conform to that of the appropriate town(s) or county, thereby resulting in a village roll more contemporaneous with that of the town or county. The dates for collection of the village tax would then change in a corresponding manner.

Further Questions

Questions concerning non-assessing unit villages may be directed to Counsel's Office at <internet.legal@orps.state.ny.us> or (518) 474-8821.

Appendix A

Model Resolution per Real Property Tax Law, §1402(2)

Be it resolved by the Board of Trustees of the Village of _____ that, in accordance with the provisions of subdivision 2 of section 1402 of the Real Property Tax Law, the Village assessment roll shall be based on the roll(s) of the Town(s)* of _____ so far as practicable. This resolution shall remain in effect unless and until it is rescinded by a subsequent resolution or it is superseded by a local law, adopted in accordance with subdivision 3 of section 1402 of the Real Property Tax Law, to abolish the Village's assessing unit status. A copy of this resolution will be filed with the State Board of Real Property Services.

* Nassau County villages should revise text to indicate that village assessments will be based upon County assessed values.

Appendix B

Model Local Law per Real Property Tax Law, §1402(3)

A local law relating to the termination of a village's status as an assessing unit for village real property tax purposes.

Section 1. Legislative intent. The intent of the Board of Trustees of the Village of _____ is to implement section 1402(3) of the Real Property Tax Law providing for the voluntary termination of the Village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this local law to abolish the position of Assessor (or Board of Assessors) and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of _____.

Section 2. On or after the effective date of this local law, the Village of _____ shall cease to be an assessing unit.

Section 3. The position of Assessor in the Village of _____ is hereby abolished.

Section 4. The Board of Assessment Review in the Village of _____ is hereby abolished.

Section 5. On or after the effective date of this local law, taxes in the Village of _____ shall be levied on a copy of the applicable part of the assessment roll of the Town (or County) of _____ with the taxable status date of such Town (or County) controlling for village purposes.

Section 6. Within five days of the effective date of this local law, the Board of Trustees of the Village of _____ shall file a copy of such local law with the Clerk and Assessor (or Board of Assessors) of the Town (or County) of _____ and with the State Board of Real Property Services.

Section 7. This local law shall take effect immediately upon filing with the Secretary of State, provided, however, that such local law is subject to a permissive referendum and the village clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.

[Note: Villages which operate pursuant to special charter should also include a section or sections to amend the provisions of their charter to conform it to the intent of this local law.]