

RESOLUTION NO. 2015206

RE: APPROVAL OF APPLICATION FOR REFUND OF REAL
PROPERTY TAXES AND TO AUTHORIZE A CHARGE-BACK
BY THE COMMISSIONER OF FINANCE:

APPLICANT: Roman Realty Management Inc.
PO Box 2834
Poughkeepsie NY 12603
ACCOUNT NO.: 134689-6262-02-482769-0000

Legislators BORCHERT, NESBITT, BOLNER, JETER-JACKSON,
SAGLIANO, and FARLEY offer the following and move its adoption:

WHEREAS, there is a misclassification of a property on the assessment roll for the Town of Poughkeepsie for 2012 under the name of Roman Realty Management Inc. , Account No. 134689-6262-02-482769-0000, and

WHEREAS, the owner of said parcel, by application attached hereto, has applied for a correction of real property taxes on the basis of an alleged error in essential fact, and

WHEREAS, pursuant to Section 556 of the Real Property Tax Law, the County Director of Real Property has investigated this claim and has found that the Town the local tax assessor in the Town of Poughkeepsie has made a error in essential fact on said assessment roll , and

WHEREAS, attached hereto is the written report of said Director together with his recommendation that the application be approved by the County Legislature, and

WHEREAS, the County Legislature has agreed that the error in essential fact does exist, now, therefore, be it

RESOLVED, that the application received July 8, 2015, relating to Account No. 134689-6262-02-482769-0000 for a refund is hereby approved, and be it further

RESOLVED, that the Commissioner of Finance is authorized, empowered and directed to issue a tax refund to the applicant in the amount of \$6,684.61 and to charge-back the erroneous taxes on next years levy as follows:

A342 Allowance for Uncollectible Taxes	\$ 254.09
A430 Town of Poughkeepsie	2,413.37
A430 Consolidated Light (CL057)	87.92
A430 Poughkeepsie Library (GL000)	299.40
A440 Arlington CSD	<u>3,629.83</u>
Total	\$6,684.61

and be it further

RESOLVED, that the Clerk of the County Legislature be and is hereby is authorized, empowered and directed to mail a copy of the approved application and this resolution to the applicant.

CA-123-15
MB/kvh G-194

Fiscal Impact: None

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 10th day of August 2015, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 10th day of August 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

Dutchess County Real Property Tax Service Agency
COE Investigating Report

Legal Description (grid #) 134689-6262-02-482769-0000

Owner's Name Roman Realty Management Inc.

Mailing Address PO Box 2834 Poughkeepsie NY 12603

Property Location 124 Bedell Rd.

School District Arlington Central School Dist Special District _____

Total Assessed Value now on roll 598,000 Corrected to Same

Taxable Assessed Value now on roll 598,000 Corrected to Same

Exempt codes and amounts if applicable

Amount Levied \$28,659.84 Should be \$21,975.23

Tax Bill Paid? yes no Verified with assessor? yes no

Error Claimed is defined in Real Property Tax Law, Section 550:

- Subdivision 2, Paragraph ___ (clerical error)
- Subdivision 3, Paragraph F (error in essential fact)
- Subdivision 7, Paragraph ___ (unlawful entry)

Reason:

Exemption was approved by assessor, but not entered on roll _____

Exemption amount incorrectly calculated _____

Assessed value on roll does not match assessor's final work product _____

Structure did not exist on taxable status date or was present on another parcel _____

Assessment based on incorrect acreage _____

Parcel should be Wholly Exempt _____

Parcel Misclassified as homestead, non-homestead or portions misallocated

Other: _____

Recommendation APPROVE APPLICATION DENY APPLICATION

Details: It is recommended that the application for a partial refund of the 2012/13 Cnty/Town tax bill be approved.

Investigator Margaret Burns Director Eric Alfano Date 7/13/2015

Dutchess County Real Property Tax Investigative Report for Approval of an Application for Refund of Taxes

Date: July 13, 2015
Name of Applicant: Roman, Ismael
Parcel ID: 134689-6262-02-482769-0000
Location: 124 Bedell Rd., Poughkeepsie, NY 12603

Property owner has requested tax refunds based on following claimed error:

That there was an "Error in Essential Fact" in that the parcel was designated as being in the Non-Homestead class and should have been designated as Homestead, which would have resulted in the application of lower tax rates for Town and School purposes.

The claimed error is for the 2012, 2013, and 2014 assessment/tax rolls. The applicant claims that although the assessment rolls indicated that the building held four dwelling units, the structure had only three, and was therefore "misclassified." RPTL §1901(13) dictates that one, two, and three family dwellings are in the "Homestead," class. All property not specifically defined as Homestead, including dwellings containing more than three units, is classified "Non-Homestead." The property owner provided an Order to Remedy Violation issued by the town's building inspector, which indicated that the house had an apartment added to the attic, and another added in the basement. The Order clearly calls the structure a three-family structure. The assessor has stated, however, that a fourth dwelling unit existed in a former garage space, which was not identified in the original Order. This finished area was adjacent/attached to the main structure.

The assessor has supplied another Order To Remedy Violation issued by the Building Department, along with an architect's floor plan, for a studio apartment in addition to the other three dwelling units. That would have made the structure a four-unit building, which would be correctly classified as Non-Homestead. Subsequently, the property owner provided yet another document from the building inspector showing that the structure did not have a dwelling unit in the garage area. This was based upon the physical inspection by the Building Inspector. That document was dated June 17, 2015, well after the tax status date of all of the assessment roll years in question. During a phone call to the building inspector, Mr. Bruce Flower indicated the "office" area did have all of the amenities of a studio apartment, but that he did not believe that the passageway between the office area and the main house was ever sealed, which he indicated would have been required to call the area an apartment. The Assessor, the Building Inspector, and the property owner all agree that no

inspection of the office area was done at the time of the inspection that resulted in the initial Order to Remedy Violation.

Despite the assessor's contention that a fourth unit existed, there is no documentation from any party indicating they had seen it, and there is documentation from the building department to support the contention that there were only three units in the dwelling. Based on available documents, and the absence of proof to the contrary: The request for a refund of taxes based on a misclassification should be granted.

Handwritten signature of Eric Axelsen and the date 7/13/2015.

Eric Axelsen, IAO, CCD
Director of Real Property Tax services.



NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

APPLICATION FOR REFUND AND CREDIT OF REAL PROPERTY TAXES
FOR THE YEAR(S) 20 12/13

Part 1: To be completed in duplicate by Applicant. For refund or credit of real property tax, submit both copies to County Director of Real Property Tax Services...

Form fields for: 1a. Name of Owner (Ismael F Raquel Roman), 1b. Mailing Address (124 Bedell Rd, Poughkeepsie, NY 12603), 1c. E-mail Address (iroman1169@gmail.com), 2. Telephone Number (Day (885) 46-3105), 3. Parcel Location

RECEIVED *
2015 JUL -8 PM 1:41
REAL PROPERTY TAX SERVICES

4. Description of real property as shown on tax roll or tax bill (Include tax map designation)
5. Account No. 6a. Amount of taxes paid or payable 6b. Date of payment
7. I hereby request a refund or credit of real property taxes levied for the year(s) by (Tax levying body)

* Insert name of village, county, city, school district; town in Westchester County
7/8/15 Date
Signature of Applicant

PART II: For use by COUNTY DIRECTOR, VILLAGE ASSESSOR: Attach written report including documentation and recommendation (Include type of error as defined in Sec. 550)

Date application received: 7/8/15 Date warrant annexed: 12/17/12
Last day for collection of taxes without interest: Paid 2/25/15
Recommendation: [X] Approve application* [] Deny Application
7/15/2015 Date
Signature of Official

* [] If box is checked, this copy is for assessor and board of assessment review of city/town/village of which are to consider attached report and recommendation as equivalent of petitions filed pursuant to section 553.

PART III: For use by TAX LEVYING BODY or OFFICIAL DESIGNATED BY RESOLUTION (Insert Number or Date)

APPLICATION APPROVED (Check reason) [] Clerical error [] Unlawful entry [] Error in essential fact
Amount of taxes paid: \$ Amount of taxes due: \$
Amount of refund or outstanding tax to be credited: \$

APPLICATION DENIED Reason:

Date
Signature of Chief Executive Officer or Official Designated by Resolution

TO THE DIRECTOR OF REAL PROPERTY TAX SERVICES:

I, Kathleen D. Taber, Assessor of the Town of Poughkeepsie, Dutchess

County do hereby certify that the real property owned by

Roman, Ismael & Raquel Grid 6262-02-482769-0000

shown of the 2012 to 2014 Tax Rolls of the Town of Poughkeepsie/

School District of Arlington School and assessed in the amounts of

598000 and 568500 and the property class classification of 411 is correct.

RECEIVED
2015 JUN 24 AM 11:29
REAL PROPERTY TAX SERVICES

Therefore, I hereby do/do-not support a recommendation of the Director of Real Property Tax that a new bill or refund be issued for above said parcel.

Attached is documentation for the investigation of the report.

6/15/2015
DATE

Kathleen D. Taber
ASSESSOR

TOWN OF POUGHKEEPSIE

DOCUMENTATION REQUESTED

- exemption application
- Property record card
- Tax Bill
- Other _____
- assessor work book
- verified statement from BAR
- Paid Tax Bill

Sometime in 2011 after final roll-

We were notified by two appraisers that this property had 3 apartments rented with the **main house Occupied by owner**. 1st and 2nd floor (owner occupied) **Attic- 3rd Floor** converted to apartment 2 BR ,kitchen, bath, Living and dining room: **Basement apartment** - 1BR' Kitchen, bath/laundry, living room. There is a playroom used by owner(?) and 2 more BRs. There was a **studio** with Kitchenette between the 2 car and 1 car attached garages. There was no final CO on the house. When I changed parcel from a 210 to a 411, for 2012, the owner did come in and ask why. I informed him of the above conversation with apprasiers and requested an inspection but none was

allowed. (Floor plan attached). A grievance was never filed by him in 2012, 2013 or 2014 . Only this year when he had to remove all units. (with multiple Tickets issued)was when he filed a grievance. A building Permit #20150206 (attached) to correct issues was not taken out until Feb 11, 2015 and issued Mar 6th 2015 by the Building dept and inspected for final 4/15/2015.

The Building dept was notified in 2012. and an Inspection was done but they were not shown the studio apt between the garages. There were two many other violations they were concerned about. I was just informed by Building(6/19/15) they were still never shown the studio area under the above BP 0206. A order to remedy violation was sent to the owner 6/17/15 for the Studio Apt(see attached)

The Property was in Roman Realty Management Inc. in 2011 until Sept 17/ 2013, when it was transferred into Roman, Raquel N.

RECEIVED
2015 JUN 24 AM 11:29
REAL PROPERTY
TAX SERVICES

BUILDING DEPARTMENT

TOWN OF POUGHKEEPSIE

ONE OVEROCKER ROAD

POUGHKEEPSIE, NY12603

Phone: (845) 485-3655

Fax: (845) 486-7881

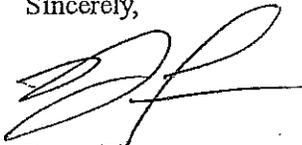
June 25, 2015

Ismael Roman, Jr.
124 Bedell Rd.
Poughkeepsie, NY 12603

Dear Mr. Roman,

On June 17, 2015 I was informed of an additional apartment added to your home on the first floor off of the kitchen. Today I inspected the area in question and is still arranged as per the original building permit plans which are on file. This letter is to confirm the violation has now been removed.

Sincerely,



Bruce Flower
Deputy Building Inspector

Cc; Sara Davis
Kathleen Taber

APPEARANCE TICKET
Zoning Administrator
TOWN OF POUCHKEEPSIE, NEW YORK

2008

Date: September 29 2014

To: Ismael Roman

Address: 124 Bedell Road

POUCHKEEPSIE NY 12603

YOU ARE HEREBY DIRECTED TO APPEAR in Town of Poughkeepsie

Justice Court, 17 Tucker Drive, Town of Poughkeepsie, NY, on the 12

day of SEPTEMBER, 2014 at 4:31 AM/PM to answer a charge

of violating:

Local Law Chapter 110 Sections 210-14

Establishing a Family

Law Within Single Family

Zoning District

Code of the Town of Poughkeepsie, State of New York

on premises situated: 124 Bedell Road

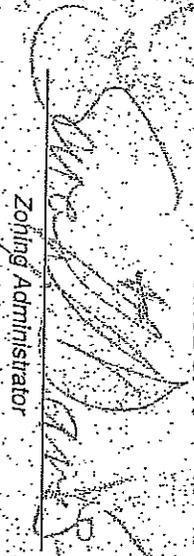
Grid No. 6268-02-482769

on the 29 day of September 2014

A plea of guilty to this charge is equivalent to a conviction after trial. Please be advised that you have the right to request a copy of an

information supporting the charge.

YOUR FAILURE TO APPEAR MAY RESULT IN THE ISSUANCE OF A WARRANT FOR YOUR ARREST.


Zoning Administrator

REAL PROPERTY
TAX SERVICES

2015 JUN 10 AM 11:03

RECEIVED

2012/13

2013 Town Detail Report

SWIS S/B/L 134689 6262-02-482769-0000
 OWNER Roman Realty Management Inc
 ADDRESS 124 Bedell Rd

MAILING ADDRESS PO Box 2834
 Poughkeepsie NY 12603

MUNICIPALITY POUGHKEEPSIE
 SCHOOL DISTRICT ARLINGTON CENTRAL

PARCEL TYPE 411, Apartment
 ROLL SECTION 1
 PARCEL DIMENSIONS Acreage = 5.99

BANK CODE
 ACCOUNT NUMBER
 LAND VALUE 161,500
 TOTAL VALUE 598,000
 PAID DATES 1st 5/31/2013 2nd 3rd

TAX INFORMATION
 BILL #: 009934
 PROPERTY TAXES - **NON-HOMESTEAD PARCEL**

DETAILS

Tax Item	Total Tax Levy	Prior Year(+/-)	Taxable Assessed Value/Units	Rates per \$1000 or Unit	Tax Amount
Town Outside Tax	\$21,519,178	-2.3%	598,000.00	8.331927	\$4,982.49
County Tax	\$105,853,037	2%	598,000.00	3.453153	\$2,064.99
Arlington Fire			598,000	5.230149	\$3,127.63
Consolidated Light			598,000	0.342644	\$204.90
Pok Lib District			598,000	1.157994	\$692.48
Ret 2012 School Tax			—	1	\$17,397.30
Town Wide Wat Imp			4,600	0.035	\$161.00
Townwide Drain Imp			4,000	0.007263	\$29.05
Total:					\$28,659.84

**** Note: Amount displayed is from your ORIGINAL TAX BILL and does not include penalties and additional charges.**

To print this page, click the printer icon on your browser.

POUGHKEEPSIE 2013
Town Tax 2013
Town: 134689 POUGHKEEPSIE

DO NOT PAY - This is a receipt

WE ARE SENDING THIS RECEIPT TO YOU FOR INFORMATION PURPOSES IN ACCORDANCE WITH THE NEW YORK STATE "PROPERTY TAXPAYER'S BILL OF RIGHTS"

BILL NO. 009934
TAX YEAR 2013
NY TAX FN.CD. 102
STATE AID \$945,581
BANK
PER ASSESSMENT ROLE 07/01/2012
SCHOOL CODE 134601

Roman Realty Management Inc
 PO Box 2834
 Poughkeepsie NY 12603

TAX MAP NO: 6262-02-482769-0000
LOCATION: 124 Bedell Rd
DIMENSIONS: Acreage: 5.99
PROPERTY CLASS: 411 Apartment
WARRANT DATE: 12/17/2012

FISCAL YEAR Jan 1, 2013 - Dec 31, 2013

PROPERTY TAXPAYER'S BILL OF RIGHTS

Assessor estimates the FULL MARKET VALUE of property as of 7/01/2012: \$598,000
 The ASSESSED VALUE of this property as of 7/01/2011: \$598,000
 The UNIFORM PERCENT OF VALUE used to establish assessment was: 100.00%

If you think your assessment is too high, you have the right to seek a reduction in the future.
 A publication entitled "Contesting your assessment" is available at the assessor's office and online at www.tax.ny.gov

EXEMPTION INFORMATION

<u>Exemption</u>	<u>Value</u>	<u>TaxPurpose</u>	<u>Full Value Estimate</u>	<u>Exemption</u>	<u>Value</u>	<u>TaxPurpose</u>	<u>Full Value Estimate</u>
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PROPERTY TAXES

<u>Taxing Purpose</u>	<u>Total Tax Levy</u>	<u>% Change from Prior Year</u>	<u>Taxable Assessed Value</u>	<u>Tax Rate per \$1000</u>	<u>Tax Amount</u>
Town Outside Tax	\$21,519,178	-2.3%	598,000	8.331927	\$4,982.49
County Tax	\$105,853,037	2%	598,000	3.453153	\$2,064.99
Arlington Fire	\$15,444,334	0 %	598,000	5.230149	\$3,127.63
Consolidated Light	\$441,105	-8.2 %	598,000	0.342644	\$204.90
Pok Lib District	\$1,481,499	-3 %	598,000	1.157994	\$692.48
Ret 2012 School Tax	\$0	0 %	17,397	1	\$17,397.30
Town Wide Wat Imp	\$0	0 %	4,600	0.035	\$161.00
Townwide Drain Imp	\$0	0 %	4,000	0.007263	\$29.05
INTEREST1					\$191.07
REMINDER1					\$0.00

PAID: 5/31/2013 \$9,744.35
 PAID: \$0.00
 PAID: \$0.00
 TOTAL AMOUNT PAID \$9,744.35

2012 School Detail Report

SWIS S/B/L 134689 6262-02-482769-0000
 OWNER Roman Realty Management Inc
 ADDRESS 124 Bedell Rd

MAILING ADDRESS PO Box 2834
 Poughkeepsie NY 12603

MUNICIPALITY POUGHKEEPSIE
 SCHOOL DISTRICT ARLINGTON CENTRAL

PARCEL TYPE 411, Apartment
 ROLL SECTION 1
 PARCEL DIMENSIONS Acreage = 5.99

BANK CODE
 ACCOUNT NUMBER
 LAND VALUE 161,500
 TOTAL VALUE 598,000
 PAID DATE

TAX INFORMATION
 BILL #: 003234
 PROPERTY TAXES - **NON-HOMESTEAD PARCEL**

DETAILS

Tax Item	Total Tax Levy	Prior Year(+/-)	Taxable Assessed Value/Units	Rates per \$1000 or Unit	Tax Amount
School Taxes	\$128,257,449	1.9%	598,000.00	27.189239	\$16,259.16
Total:					\$16,259.16

021119275 12,629.33

**** Note: Amount displayed is from your ORIGINAL TAX BILL and does not include penalties and additional charges.**

To print this page, click the printer icon on your browser.

Refund

Town of Poughkeepsie
2012/13 C/T Tax Bill

Grid Number: 134689-6262-02-482769-0000
Name: Roman Realty Management Inc.
Location: 124 Bedell Rd.

Currently on Tax Roll	Assessed Value	Exemption Amount	Taxable Value	Tax Rate	Total
Dutchess County	598,000		598,000	0.003453153	2,064.99
Town of Poughkeepsie	598,000		598,000	0.008331927	4,982.49
Arlington Fire	598,000		598,000	0.005230149	3,127.63
Consolidated Light (CL057)	598,000		598,000	0.000342644	204.90
Poghkeepsie Library Dist(GL000)	598,000		598,000	0.001157994	692.48
Townwide Water Imp.	4,600		4600.00	0.035	161.00
Townwide Drain Imp.	4,000		4000.00	0.007263	29.05
		School Interest (0 or 2%)		County Interest	
	Original amount			7%	
Ret School	16,259.16	0	16,259.16	1138.14	17,397.30
			Total Tax on Current Roll		28,659.84

Corrected Tax Roll	Assessed Value	Exemption Amount	Taxable Value	Tax Rate	Total
Dutchess County	598,000		598,000	0.003453153	2,064.99
Town of Poughkeepsie	598,000		598,000	0.004296193	2,569.12
Arlington Fire	598,000		598,000	0.005230149	3,127.63
Consolidated Light (CL057)	598,000		598,000	0.000195621	116.98
Poghkeepsie Library Dist(GL000)	598,000		598,000	0.000657328	393.08
Townwide Water Imp.	4,600		4,600	0.035	161.00
Townwide Drain Imp.	4,000		4,000	0.007263	29.05
		School Interest (0 or 2%)		County Interest	
	Original amount	0%		7%	
Ret School	12,629.33	0	12,629.33	884.05	13,513.38
			Total Tax on Corrected Roll		21,975.23

Chargeback

A342 Allow. For Uncoll. Taxes	254.09
A430 Town of Poughkeepsie	2,413.37
A430 Consolidated Light (CL057)	87.92
A430 Poghkeepsie Library Dist(GL000)	299.40
A440 School Arlington CSD	3,629.83
TOTAL CHARGEBACK AMOUNT	6,684.61

McKinney's Consolidated Laws of New York Annotated
Real Property Tax Law (Refs & Annos)
Chapter 50-a. Of the Consolidated Laws
Article 5. Assessment Procedure
Title 3. Correction of Assessment Rolls and Tax Rolls (Refs & Annos)

McKinney's RPTL § 556

§ 556. Refunds and credits of taxes

Effective: June 22, 2010

Currentness

1. (a) Pursuant to the provisions of this section, an appropriate tax levying body may refund to any person the amount of any tax paid by him or her, or portion thereof, as the case may be, or may provide a credit against an outstanding tax (i) where such tax was attributable to a clerical error or an unlawful entry and application for refund or credit is made within three years from the annexation of the warrant for such tax, or (ii) where such tax was attributable to an error in essential fact, other than an error in essential fact as defined in paragraph (d) of subdivision three of section five hundred fifty of this title, and such application for refund or credit is made within three years from the annexation of the warrant for such tax.

(b) For each year for which a refund or credit is granted pursuant to the provisions of this section by reason of the existence of an unlawful entry as defined by paragraph (b) of subdivision seven of section five hundred fifty of this title, the assessor of the assessing unit in which the subject real property is actually located, but has been omitted from the assessment and tax rolls of such assessing unit, or a school district or special districts located therein, shall have the authority to enter such real property on the current assessment roll in accordance with the provisions of section five hundred fifty-one of this title, notwithstanding any time limitation contained in such section.

2. (a) Whenever it appears to a person who has paid a tax that such tax, or a portion thereof, was attributable to an unlawful entry, a clerical error, or an error in essential fact, as described in subdivision one of this section, such person may file an application in duplicate, including any available proof of the error, with the appropriate county director of real property tax services for a refund of such tax, or portion thereof, as the case may be.

(b) Whenever it appears to a person who is an owner of a parcel which is subject to an outstanding tax, that such tax, or a portion thereof, was attributable to an unlawful entry, a clerical error, or an error in essential fact, as described in subdivision one of this section, such person may file an application in duplicate, including any available proof of the error, with the appropriate county director of real property tax services for a credit of such tax, or portion thereof.

(c) For an error in essential fact, the application for correction shall include a copy of the property record card, field book, or other final work product upon which the incorrect assessment was based and a copy of any existing municipal record which substantiates the occurrence of the error. For an unlawful entry as defined in paragraph (a) of subdivision seven of section five hundred fifty of this title, the application for correction shall include a statement by the assessor or by a majority of a board of assessors substantiating that the assessor or assessors have obtained proof that the parcel which is the subject of the application should have been granted tax exempt status; the failure to include such statement shall render the application null and void and shall bar the tax levying body from directing a refund or credit of taxes pursuant to this section.

3. The application for a refund or credit pursuant to this section shall be on a form and shall contain such information as prescribed by the commissioner and shall be available in the offices of all collecting officers and in the office of the county director.

4. (a) The county director, within ten days of the receipt of an application filed pursuant to this section, shall investigate the circumstances of the claimed unlawful entry, clerical error or error in essential fact to determine whether the error exists, and on such investigation he may require and shall receive from any officer, employee, department, board, bureau, office or other instrumentality of the appropriate municipal corporation such facilities, assistance and data as will enable him to properly consummate his studies and investigations hereunder.

(b) Upon completion of such investigation the county director shall immediately transmit a written report of such investigation and his or her recommendation for action thereon, together with both copies of the application, to the tax levying body. If the same alleged error also appears on a current assessment roll, the county director shall also file a copy of such report and recommendation with appropriate assessor and board of assessment review who shall consider the same to be the equivalent of a petition for correction filed with such board pursuant to section five hundred fifty-three of this title.

5. The tax levying body, at a regular or special meeting, upon the presentation of an application filed pursuant to this section and the written report described in subdivision four of this section, shall:

(a) examine the application and report to determine whether the claimed unlawful entry, clerical error or error in essential fact exists;

(b) reject an application where it is determined that the claimed unlawful entry, clerical error or error in essential fact does not exist by making a notation on the application and the duplicate copy thereof that the application is rejected and the reasons for the rejection;

(c) approve an application where it is determined that the claimed unlawful entry, clerical error or error in essential fact does exist by making a notation on the application and the duplicate copy thereof that the application is approved and by entering thereon the amount of the refund to be paid or outstanding tax to be credited;

(d) mail an application that has been rejected to the applicant;

(e) mail an application that has been approved to the applicant.

6. (a) The amount of any tax refunded or credited pursuant to this section shall be a charge upon each municipal corporation or special district to the extent of any such municipal corporation or special district taxes that were so refunded. Amounts so charged to cities, towns and special districts shall be included in the next ensuing tax levy.

(b) In raising the amount of a refund or credit pursuant to this section of a relieved school tax the appropriate tax levying body shall charge back against the school district which levied such tax the amount of the refund or credit which shall not exceed the amount paid by the county treasurer to such school district upon the return of such tax. The amount so charged against such

school district shall be deducted by the county treasurer and withheld from any moneys which shall become payable by him to such school district by reason of taxes which shall thereafter be returned to him by such school district. No such charge shall be made by the county legislative body against a school district unless ten days' notice thereof by mail has been given to the school authorities thereof. Notice that such deduction will be made shall thereafter be given by the county treasurer in writing to such school authorities on or before the first day of May prior to the making of such deduction.

7. The powers and duties imposed by this section upon the county director of real property tax services shall be performed by such officer for taxes levied for county, city, town, special district and school district purposes except that (a) in the case of counties having the power to assess real property for tax purposes such powers and duties shall be performed by the chief assessing officer or the chairman of the county board of assessors and, (b) in the case of villages, for village tax purposes, such powers and duties shall be performed by the village assessor or the chairman of the village board of assessors; provided, however, that if the village has enacted a local law as provided in subdivision three of section fourteen hundred two of this chapter, the county director shall perform the powers and duties imposed upon such officer by this section on behalf of such village.

8. (a) A tax levying body may, by resolution, delegate to an official who is empowered to authorize payment of bills without prior audit by such body or, in the event there is no official so empowered, to an official responsible for the payment of bills upon audit of the appropriate municipal corporation so designated by it, the authority to perform the duties of such tax levying body, as provided in this section. Such resolution shall only be in effect during the calendar year in which it is adopted and shall designate that such delegation of authority is applicable only where the recommended refund or credit is twenty-five hundred dollars or less, or such other sum not to exceed twenty-five hundred dollars.

(b) Where such resolution is adopted and the recommended refund or credit does not exceed the amount specified in the designating resolution, the county director shall transmit the written report of the investigation and recommendation, together with both copies of the application, to the official designated by the tax levying body. Upon receipt of the written report, the designated official shall follow the procedure which the tax levying body would follow in making refunds, provided, however, where the designated official denies the refund or credit, in whole or in part, such official shall transmit to the tax levying body for its review and disposition pursuant to subdivision five of this section the written report of the investigation and recommendation of the county director, together with both copies of the application and the reasons that the designated official denied the refund or credit. Where the recommendation of the county director is to deny the application or the refund or credit requested is in an amount in excess of the amount authorized in the enabling resolution, the county director shall transmit the written report of the investigation and recommendation, together with both copies of the application, to the tax levying body.

(c) On or before the fifteenth day of each month, the designated official shall submit a report to the tax levying body of the refunds or credits processed by such official during the preceding month. Such report shall indicate the name of each recipient, the location of the property and the amount of the refund or credit.

(d) In no case shall the total sum of such refunds or credits approved by the designated official exceed the amount appropriated therefor by the tax levying body.

9. In the event that an appropriation for a refund authorized pursuant to this section is included in the annual budget next adopted after approval of such refund, interest shall be added to such refund computed from the date that the application is approved pursuant to subdivision five or eight of this section.

10. When a portion of an outstanding tax has been credited pursuant to this section, any interest and penalties that have been imposed thereon shall be reduced to the extent that such interest and penalties were attributable to the credited portion of the tax, and no additional interest and penalties shall be imposed if the corrected amount of the tax is paid within eight days of the date on which the notice of approval is mailed pursuant to paragraph (e) of subdivision five of this section.

Credits

(Added L.1974, c. 177, § 4. Amended L.1975, c. 124, § 8; L.1976, c. 634, § 2; L.1978, c. 390, § 6; L.1980, c. 753, § 4; L.1983, c. 735, § 13; L.1984, c. 383, § 1; L.1986, c. 317, §§ 10, 11; L.1988, c. 160, § 12; L.1993, c. 383, § 1; L.1997, c. 515, § 2, eff. Sept. 3, 1997; L.1999, c. 262, § 1, eff. July 13, 1999; L.2002, c. 616, § 5, eff. Jan. 1, 2003; L.2004, c. 652, § 2, eff. Oct. 26, 2004; L.2010, c. 56, pt. W, § 1, subd. (b), eff. June 22, 2010.)

Notes of Decisions (155)

McKinney's R. P. T. L. § 556, NY RP TAX § 556
Current through L.2015, chapters 1 to 79.

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