

RESOLUTION NO. 2016021

RE: DELEGATION OF AUTHORITY WITH RESPECT TO
CERTAIN REAL PROPERTY TAX REFUNDS

Legislators FLESLAND, BOLNER, SAGLIANO, and JETER-JACKSON offer the following and move its adoption:

WHEREAS, Section 556 of the Real Property Tax Law requires that the tax levying body approve or reject an application for a tax refund requested for a claimed unlawful entry, clerical error or error in essential fact, and

WHEREAS, Section 556 of the Real Property Tax Law allows the tax levying body to delegate the authority to perform the duties of such tax levying body, and

WHEREAS, said delegation is considered a Type II action pursuant to Article 8 of the Environmental Conservation Law and Part 617 of the NYCRR ("SEQRA") and does not require environmental impact statements or any other determination or procedure under Part 617, now, therefore, be it

RESOLVED, that the Dutchess County Legislature hereby designates the Dutchess County Commissioner of Finance as the official who shall be authorized to make property tax refunds in accordance with applicable provisions of Section 556 of the Real Property Tax Law, and be it further

RESOLVED, that the Dutchess County Commissioner of Finance's authority is applicable only where the recommended refund is TWENTY FIVE HUNDRED DOLLARS and 00/100 (\$2,500.00) or less, and be it further

RESOLVED, that this resolution and the delegation authority it grants shall only be in effect during the calendar year in which it is adopted, and be it further

RESOLVED, that in accordance with Section 556 of the Real Property Tax Law, where the Commissioner of Finance denies the refund or credit, in whole or in part, or where the requested amount is in excess of the amount authorized, the Commissioner shall transmit to the Legislature the report of the Director of Real Property Tax Services, together with both copies of the application, and the reason the Commissioner denied the refund, for review and disposition by the Legislature, and be it further

RESOLVED, that on or before the 15th day of each month, the Dutchess County Commissioner of Finance shall submit a report to the County Legislature of the refunds processed during the preceding month, which report shall contain the name of the recipient, the location of the property, and the amount of the refund, and be it further

RESOLVED, that this resolution shall be filed in the Offices of the Dutchess County Clerk and the Clerk of the Dutchess County Legislature.

CA-002-16
CEN/kvh
12/31/15
G-0145
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 25th day of January 2016, 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 25th day of January 2016.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

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.)

McKinney's R. P. T. L. § 556, NY RP TAX § 556
Current through L.2015, chapters 1 to 589.

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated
Environmental Conservation Law (Refs & Annos)
Chapter 43-B. Of the Consolidated Laws (Refs & Annos)
Article 8. Environmental Quality Review (Refs & Annos)

McKinney's ECL § 8-0105

§ 8-0105. Definitions

Currentness

Unless the context otherwise requires, the definitions in this section shall govern the construction of the following terms as used in this article:

1. "State agency" means any state department, agency, board, public benefit corporation, public authority or commission.
2. "Local agency" means any local agency, board, district, commission or governing body, including any city, county, and other political subdivision of the state.
3. "Agency" means any state or local agency.
4. "Actions" include:
 - (i) projects or activities directly undertaken by any agency; or projects or activities supported in whole or part through contracts, grants, subsidies, loans, or other forms of funding assistance from one or more agencies; or projects or activities involving the issuance to a person of a lease, permit, license, certificate or other entitlement for use or permission to act by one or more agencies;
 - (ii) policy, regulations, and procedure-making.
5. "Actions" do not include:
 - (i) enforcement proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings;
 - (ii) official acts of a ministerial nature, involving no exercise of discretion;
 - (iii) maintenance or repair involving no substantial changes in existing structure or facility.

6. "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character.

7. "Environmental impact statement" means a detailed statement setting forth the matters specified in section 8-0109 of this article. It includes any comments on a draft environmental statement which are received pursuant to section 8-0109 of this article, and the agency's response to such comments, to the extent that such comments raise issues not adequately resolved in the draft environmental statement.

8. "Draft environmental impact statement" means a preliminary statement prepared pursuant to section 8-0109 of this article.

Credits

(Added L.1975, c. 612, § 1. Amended L.1976, c. 228, § 1; L.1977, c. 252, § 2.)

McKinney's E. C. L. § 8-0105, NY ENVIR CONSER § 8-0105
Current through L.2015, chapters 1 to 589.