

Tanisha Edwards, Counsel,
Finance Division

Raymond Majewski, Deputy Director, Chief
Economist Finance Division

Emre Edev, Senior Legislative Financial
Analyst, Revenue Unit



THE COUNCIL

REPORT OF THE FINANCE DIVISION

**PRESTON NIBLACK, DIRECTOR
JEFF RODUS, FIRST DEPUTY DIRECTOR**

COMMITTEE ON FINANCE

**HON. DOMENIC M. RECCHIA, JR., CHAIR
December 10, 2012**

PROPOSED INT. 958-A:

By Council Members Oddo, Ignizio, Recchia, Barron, Brewer, Cabrera, Dickens, Eugene, Ferreras, Gentile, James, Koo, Rose, Van Bramer, Vann, Williams, Wills, Crowley and Halloran

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to the publication of a brochure explaining the New York City property tax system.

ADMINISTRATIVE CODE:

Amends Chapter 1 of title 11 of the administrative code of the city of New York by adding a new section 11-135.

Today, the Finance Committee will consider Proposed Int. 958-A, a Local Law to amend the administrative code of the city of New York, in relation to the publication of a brochure explaining the New York City property tax system.

I. Background

In 1981, the State Legislature adopted Senate bill, S.7000A, which created Article 18 of the Real Property Tax Law (“RPTL”).¹ For purposes of taxation, Article 18 established four classes of property², and allows special assessing units (New York City and Nassau County) to apply different fractional assessment percentages to each class of property.³ The main provisions contained in S.7000A established the framework for the City’s present property tax system. Pursuant to these provisions, the Department of Finance (“DOF”) and the City Council are subject to classification guidelines, assessment caps, and limits on the ability to shift taxes in and among the four classes of property.

A. DOF’s Role Calculating Market and Assessed Value

Pursuant to Article 18, there are 4 classes of property. Class 1 consists primarily of one-, two- and three-family homes; Class 2 consists of other residential property that is not in Class 1 including rental, cooperative and condominium apartments (but not including motels and hotels); Class 3 consists of utility property of regulated utilities and holders of franchises, such as cable television providers; and Class 4 consists of real property not designated Class one, two, or three.⁴

¹ See Chapter 1057 of the Laws of 1981.

² See Real Property Tax Law § 1802(1)

³ See Real Property Tax Law § 305(2)

⁴ See Real Property Tax Law § 1802(1)

Each year, DOF estimates the value of every taxable property in the city.⁵ The determination of value assigned to a property is termed an “assessment,”⁶ and is commonly referred to as the “Market Value⁷” of the property. Pursuant to section 305 of the Real Property Tax law, each class of property must be assessed at the same percentage of full value, which in turn is commonly referred to as the “Assessed Value⁸” of the property. To comply with this statute, DOF calculates real property taxes by determining the full “market” value of each parcel, fixing the ratio of full “market” value to “assessed” value in each class, and finally, applying a uniform tax rate for each class of property to the “assessed” value producing the tax due.⁹

To prevent wide fluctuation in assessed value due to market conditions Article 18 sets forth limits on annual assessment increases and this is reflected in the assessed value of a property:

For class 1 properties, the assessment increases are subject to a 6% annual cap and a 20% cap over five years, regardless of the increase in market value.¹⁰

For small class 2 properties (buildings with 4-10 units), the assessment increases are subject to an 8% annual cap and a 30% cap over five years.¹¹

For large class 2 properties (buildings with more than 10 units) and Class 4 properties, no caps are in place, but the increases in assessment are phased in over 5 years.¹²

These caps only apply to changes due to market conditions, and do not apply to changes due to physical improvements or changes on a property.¹³ As a result of the caps, in periods of sharp

⁵ See New York City Charter § 1508.

⁶ See Real Property Tax Law § 102(2). See also New York City Charter § 1506. The term "assessment" shall mean a determination by the assessors of (a) the taxable status of real property as of the taxable status date; and (b) the valuation of real property, including the valuation of exempt real property, and where such property is partially exempt, the valuation of both the taxable and exempt portions.

⁷ See New York City Department of Finance's 2010 Annual Report of the New York City Property Tax, at 51

⁸ See *id* at 49..

⁹ See *41 Kew Gardens Rd. Associates v. Tyburski*, 70 N.Y.2d 325, 330 (1987).

¹⁰ See Real Property Tax Law § 1805(1).

¹¹ See Real Property Tax Law § 1805(2).

¹² See Real Property Tax Law § 1805(3).

¹³ See Real Property Tax Law § 1805(5).

decline in market values, assessed values may continue to increase because the growth in value is phased in over a period of years.

All property owners can file an appeal with the Tax Commission, an independent review board which, if deemed proper, reviews all assessments of real property made by DOF.¹⁴

B. The Council's Role: Class Share Cap

Each class is responsible for a specific share of the property tax levy, called the class share or class levy.¹⁵ Similar to the assessment caps, the class share system was designed to prevent a dramatic shift in the tax burden from commercial to residential taxpayers, and discourages increases in the overall tax rate because the formula ensures the increases will be equally borne by all the classes. To avoid large year-to-year shifts in the class shares, State law caps the maximum change in a class' market value share to 5%.¹⁶ When one class's market share exceeds the 5% cap, the City Council must allocate the excess to the other classes. The City Council can lower the cap below 5%, thereby effectively reducing class share increases for a specific class of property, if it seeks, and receives, State legislative approval.

C. DOF and the Council Working Together: Determining the Rate & the Property Tax Bill

After the DOF has completed the assessment rolls, the actual property tax levy is determined by the City Council when it sets the tax rates for each class pursuant to Section 1516 of the New York City Charter. This is generally done in conjunction with budget adoption in June and is one of the final steps in the budget adoption process.

¹⁴See New York City Charter, §§ 153, 1504-A.

¹⁵ Each class is responsible for given share of the total tax levy. Baseline shares were based on class shares as of FY82 and then adjusted annually to reflect changes in the roll. Council has the discretion to shift up to 5% (of amend for lower amount) the class's share to other classes.

¹⁶ See Real Prop. Tax Law § 1803-a.

Once DOF determines the market value of the property, DOF applies the target assessment ratio¹⁷, or the maximum permissible increase under the assessment ratios, if applicable, to determine the assessed value of the property. The tax bill will equal the assessed value times the tax rate for the class for the year (as determined by the City Council).¹⁸

II. Helping the Public Understand the System

The property tax system is a very complex system, and the laws governing the system are equally as complex and difficult to understand. In efforts to assist the public in understanding the property tax system, and more importantly, the factors considered, and the application of such factors, when determining the amount of a property owner's tax bill, DOF created a brochure titled "NYC Residential Property Taxes", which explains the contents of a typical class one property owner's tax bill and how it is calculated. The brochure also provides a list and description of exemptions that could lower the tax bill for a class one property owner. The brochure, which has been reviewed and analyzed by the Finance Committee and the Finance Division and deemed very useful to property owners, is slated to be finalized by the end of the calendar year.

III. Proposed Int. 958-A

To assist property owners with a better understanding of the property tax system and their property tax bill, Proposed Int. 958-A codifies DOF's informational brochure relating to class one properties, and requires the creation of a new brochure(s), or amendment to the existing

¹⁷ For Class one the target assessment ratio is equal to 6%, or the maximum permissible increase under the assessment ratios (6%/ 20%); for Class 2A, 2B, and 2C the target assessment ratio is 45%, or the maximum permissible increase under the assessment limits (8%/30%); for Class two (not Class 2A, 2B, or 2C properties) and Class four the target assessment ratio is equal to 45%, or cumulative value of assessment increases being phased in; and for Class three the target assessment ratio is equal to 45%.

¹⁸ Bills can be reduced by tax abatements. See *New York City Department of Finance, Annual Report on the New York City, Fiscal Year 2010, page 49.*

brochure for class two properties. Proposed Int. 958-A requires the brochures to contain the following information:

1. A description of the way the department determines market value and assessed value for all class one and class two property in the city of New York, and the way the property tax assessment determined by such values affects a property owner's property tax bill;
2. A description of the statement of account, notice of property value or similar document that provides a property owner with a description of his or her property, applied exemptions, and the assessed and market values of such property, and an explanation of the content contained therein;
3. A description of property tax exemptions and abatements administered by the department, and the eligibility requirements and application deadlines of such property tax exemptions and abatements;
4. A timeline of deadlines in the fiscal year as they relate to property tax assessment and payment of property taxes; and
5. A description of the property tax dispute process.

Proposed Int. 958-A requires the publication of the brochure(s) for class one and class two properties by January 15, 2013, and January 15, 2014, respectively.

Proposed Int. No. 958-A

By Council Members Oddo, Ignizio and Recchia

A Local Law to amend the administrative code of the city of New York, in relation to the publication of a brochure explaining the New York City property tax system.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-135 to read as follows:

§ 11-135 Informational brochure. 1. The department of finance shall publish on its website a brochure or brochures written in plain English that contains the following information:

(a) A description of the way the department determines market value and assessed value for all class one and class two property in the city of New York, and the way the property tax assessment determined by such values affects a property owner's property tax bill.

(b) A description of the statement of account, notice of property value or similar document that provides a property owner with a description of his or her property, applied exemptions, and the assessed and market values of such property, and an explanation of the content contained therein.

(c) A description of property tax exemptions and abatements administered by the department, and the eligibility requirements and application deadlines of such property tax exemptions and abatements.

(d) A timeline of deadlines in the fiscal year as they relate to property tax assessment and payment of property taxes.

(e) A description of the process specified in sections one hundred sixty-four, one hundred sixty-four a, and one hundred sixty-four b of the New York city charter to dispute assessments determined by the department.

2. The brochure or brochures required by this section shall be published on the department's website as follows:

(a) for class one properties, no later than January fifteenth, two thousand thirteen; and

(b) for class two properties, no later than January fifteenth, two thousand fourteen.

3. Such brochure or brochures shall be updated by the department on a periodic basis.

§ 2. This local law shall take effect immediately.

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