

New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Oversight of the Agricultural Assessment Program

Department of Taxation and Finance



Report 2017-S-26

February 2018

Executive Summary

Purpose

To determine if the Department of Taxation and Finance's (Department) Office of Real Property Tax Services (ORPTS) is properly calculating and communicating the annual per-acre Agricultural Assessment Values that local assessors and boards of assessors use to compute agricultural property assessments and the resulting exemptions. The audit covers the assessment roll years 2014 through 2016.

Background

The New York Agricultural Districts Law was enacted in 1971 to protect and promote the availability of land for farming purposes. The law allows reduced property tax bills for land in agricultural production by limiting the property tax assessment of the land to its prescribed per-acre Agricultural Assessment Value (AAV). ORPTS annually calculates and certifies the per-acre AAV for soil groups, aquaculture, and farm woodland. Local assessors determine whether land is eligible for the Agricultural Assessment Program (Program) by evaluating the property owner's application, including consideration of whether the land satisfies gross sales and acreage eligibility requirements. Assessors are required to use the ORPTS values to determine the agricultural assessment and corresponding exemption amounts for enrolled properties.

Key Findings

- We identified an error in an ORPTS calculation in 2006 that caused subsequent years' AAVs to be incorrect, including those certified and communicated to local assessors during our audit period.
- Assessors' use of the incorrect AAVs resulted in about \$10.4 million in excess agricultural exemptions granted to Program property owners during the three-year period 2014 through 2016 for 10,416 properties in the eight counties we analyzed. Because of the excess exemptions, an estimated \$349,069 in real property taxes was not collected from Program property owners.

Key Recommendations

- As warranted and appropriate, take corrective action relating to the error that affected the AAV used in arriving at agricultural property assessments and the related exemptions.
- Take steps to prevent and detect future errors in certified per-acre AAVs.

Other Related Audit/Report of Interest

[Department of Taxation and Finance: 2015 Property Tax Freeze Credit Report](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

February 2, 2018

Ms. Nonie Manion
Acting Commissioner
Department of Taxation and Finance
William A. Harriman State Campus
Building 9, Room 217
Albany, NY 12227

Dear Acting Commissioner Manion:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of the Agricultural Assessment Program*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

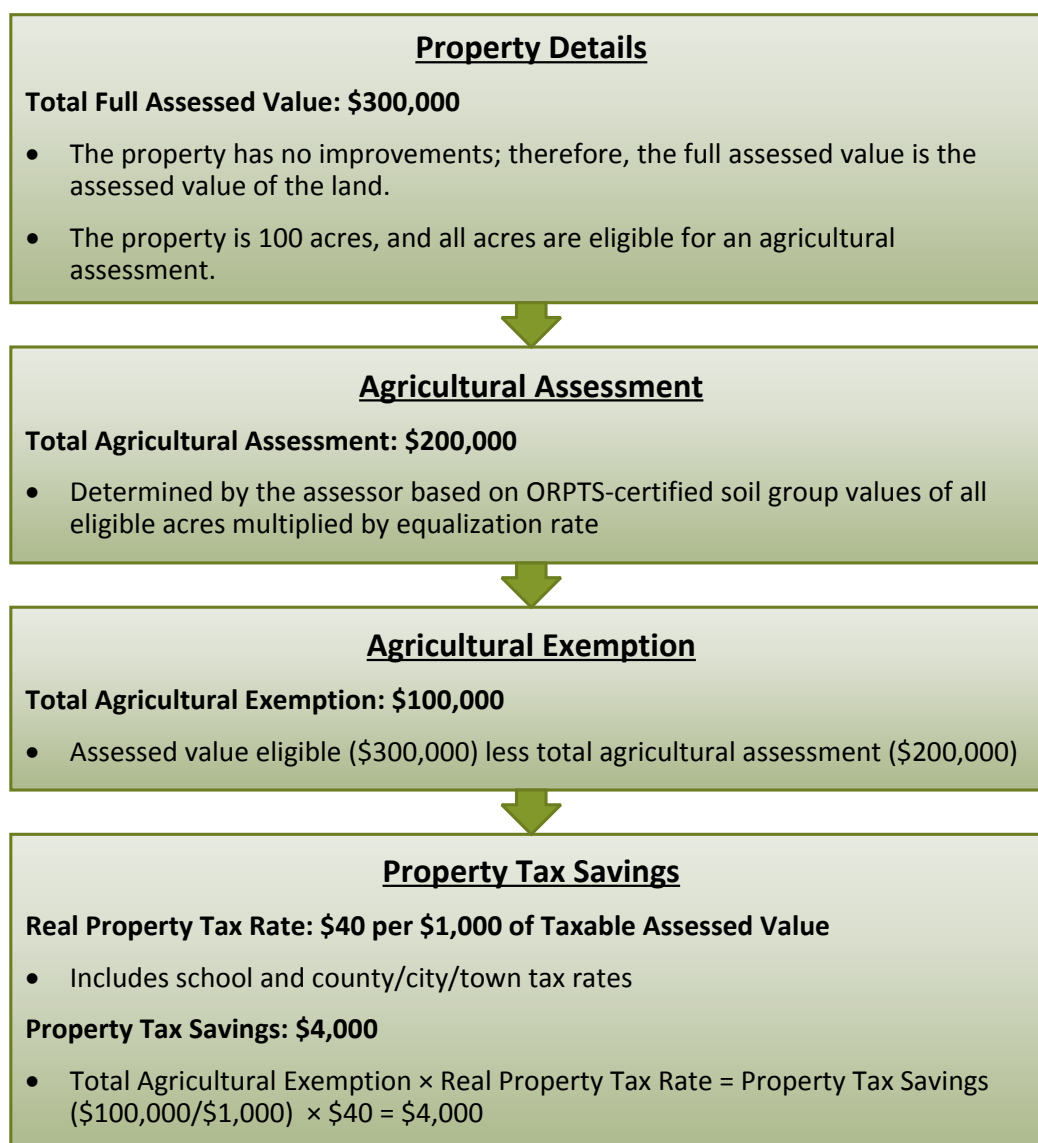
Background

The State Legislature enacted the New York Agricultural Districts Law (Law) in 1971 to protect and promote the availability of land for farming purposes. The Law allows reduced property tax bills for land in agricultural production by limiting the property tax assessment of this land to its prescribed agricultural assessment value (AAV). Local assessors or boards of assessors determine whether land is eligible for an agricultural assessment after a property owner applies to the Agricultural Assessment Program (Program). To qualify, property owners must satisfy gross sales and acreage eligibility requirements. Generally, eligible land must consist of seven or more acres used in the preceding two years for the production of crops, livestock, or livestock products to be sold. Properties enrolled in the Program may include some acreage that is ineligible for the agricultural assessment, such as homestead acreage and some woodland. Property owners must annually renew their agricultural assessment application.

Agriculture and Markets Law §304-a requires the Department of Taxation and Finance's (Department) Office of Real Property Tax Services (ORPTS) to annually calculate and certify the AAV for ten mineral and four organic soil groups, as well as for aquaculture and farm woodland. To do this, ORPTS uses an agricultural land classification system, established by the Department of Agriculture and Markets, that is based on soil productivity and capability. Local assessors are required to use the certified AAVs to determine the agricultural assessment of each property enrolled in the Program.

Taxes on eligible farmland are based on the land's agricultural assessment, rather than its full assessment. To determine the AAV, ORPTS first calculates the base agricultural assessment value per acre (BAAV), using farm data published by the U.S. Department of Agriculture (USDA) for all farming in the State. Examples of the USDA data include farm real estate value (the total value of farmland and buildings, including improvements); farm structure value (the total value of farm buildings, including improvements); and interest on farm real estate mortgage debt. The BAAV calculation uses USDA data for an eight-year period, and excludes the most recent two years prior to the year for which the AAV is certified. For example, in calculating the 2016 BAAV, ORPTS used USDA data for 2007 through 2014. The BAAV drives the per-acre AAVs for each of the soil groups, aquaculture, and farm woodland. Once the per-acre AAVs are established, ORPTS certifies them and makes them available to local assessors, including publicizing them annually on its website. In 2007, the Law changed to limit the annual increase in the BAAV to no more than 10 percent of the prior year's value. A 2013 amendment capped the annual increase at 2 percent.

In determining a given agricultural assessment, assessors use the soil information provided by the property owner when applying for the Program, and apply the ORPTS-certified AAVs to the appropriate soil groups. To then determine the AAV of the eligible land, assessors sum the values of each soil group and multiply the total by the municipality's latest applicable State equalization rate. They then compare the AAV with the full assessed value of the property, and any assessed value above the agricultural assessment is the agricultural exemption amount that is not subject to real property taxation. The following flowchart presents a hypothetical example of how the exemption amount and related tax savings are calculated.



There were 93,330 properties in the State enrolled in the Program in at least one of the three assessment roll years from 2014 to 2016. All properties were located in 57 State counties, and there were no properties receiving the agricultural exemption in Bronx, Kings, New York, Queens, and Richmond counties. Of the total properties, 89,921 were granted a total of about \$14 billion in agricultural exemptions over the three years. The remaining 3,409 properties did not receive exemptions. From 2014 to 2016, the number of properties that received an agricultural exemption increased, on average, 2.3 percent annually. Exhibits A and B present information on the properties enrolled in the Program and the related agricultural exemptions.

Audit Findings and Recommendations

We identified an omission error in ORPTS' calculation of the 2006 BAAV that caused subsequent years' AAVs to be incorrect, including those certified and communicated to local assessors during our audit period. Assessors' use of the incorrect AAVs, in turn, resulted in about \$10.4 million in excess agricultural exemptions being granted for properties in the eight counties we analyzed, resulting in an estimated \$349,069 less in property taxes paid.

Error in Agricultural Assessment Value Calculation

Assessors are required to use ORPTS-certified AAVs to determine the overall agricultural assessment of eligible land. In its calculation of the 2006 per-acre BAAV, an ORPTS error resulted in the certified AAVs for that year for each soil group, including aquaculture and farm woodland, being lower than they should have been. The error affected all subsequent years' certified AAV calculations, which depended on prior years' values. The understated AAVs impacted all State property owners who received the agricultural assessment in the ten years since 2006. Because the assessment values of these properties were understated, they resulted in a larger exemption, and less tax paid than should have been.

In response to our findings, ORPTS officials said they were unaware of the 2006 error. The former Office of Real Property Services merged with the Department in 2010. Department officials stated that since ORPTS was not part of the Department in 2006, they could not confirm whether the personnel responsible for the 2006 calculation knew about the error. However, in 2010 the Department assumed responsibility for ensuring the accuracy of the annual AAV calculations that are used by assessors statewide. We conclude that its responsibility to verify the accuracy of the AAVs began at the time of the merger.

Department officials told us that there is no provision in the law to retroactively correct a certified value. Additionally, they contend that since they both correctly calculated the AAV in years subsequent to 2006 and applied the relevant tax caps for each year (either 10 or 2 percent), the 2006 error did not impact future certified values. While we agree that the AAVs in subsequent years were correctly calculated and were appropriately limited by the relevant tax cap, each AAV calculated in the years following the 2006 error was computed using an incorrect prior year AAV for comparison. Thus, the 2006 error, as it was carried forward, resulted in the error impacting agricultural exemptions and related property taxes for future years through 2016. We recalculated the assessments for the property owners in the eight counties we sampled, eliminating the 2006 error and any rollover impact it had on subsequent years. In doing so, we applied the relevant property tax caps. As explained in the following section, our calculations showed that the initial error did, in fact, result in incorrect property tax exemptions during the years 2014, 2015, and 2016. The Department did not dispute our conclusions in this area.

Effect on Agricultural Exemptions and Real Property Taxes

Using agricultural assessment roll data and countywide Real Property System (RPS) information provided by ORPTS, we calculated the excess agricultural exemptions granted to properties in an eight-county judgmental sample, and estimated the real property taxes not collected as a result of the incorrect AAVs.

For each of the four ORPTS regions (North, South, Central, and West), we identified the counties with RPS databases. These databases include detailed property information, such as soil group acreage, that we used to analyze all the properties within the county. Of the 32 counties with RPS databases, we selected the two counties in each region with the total highest and lowest dollar amount of agricultural exemptions in the three-year period from 2014 to 2016. In total, we judgmentally selected eight counties: Cattaraugus, Chemung, Columbia, Dutchess, Fulton, Greene, Livingston, and Tompkins.

We calculated the correct agricultural exemption amounts for 2014, 2015, and 2016 for 10,416 properties, or 95 percent of the properties that were enrolled in the Program at some point between 2014 and 2016. In total, these properties received \$10,407,614 more in agricultural exemptions than they should have over the three-year period, which resulted in \$349,069¹ less tax paid on these properties than should have been. The table below presents the excess agricultural exemptions and the related property tax effect of the error for the eight counties tested.

County	ORPTS Region	Number of Properties	Excess Agricultural Exemptions	Estimated Real Property Taxes Not Collected From Program Property Owners
Cattaraugus	West	1,261	\$1,011,403	\$41,382
Chemung	Central	383	320,116	11,148
Columbia	North	2,166	1,569,499	38,701
Dutchess	South	2,027	1,361,805	43,753
Fulton	North	394	201,976	8,983
Greene	South	388	184,547	6,032
Livingston	West	2,589	4,301,740	150,131
Tompkins	Central	1,208	1,456,528	48,939
Totals		10,416	\$10,407,614	\$349,069

The effect on individual properties varies and depends on factors such as the assessed value of the land, soil types, land acreage enrolled in the Program, and the real property tax rates for the jurisdiction. For example, one property in Livingston County received more than \$43,000 in excess exemptions over the three-year period, resulting in more than \$1,500 in real property taxes not collected. In contrast, for other properties the excess exemption amount resulted in no tax effect.

In any given jurisdiction, the AAV error affects both property owners who receive agricultural exemptions and those who do not. Local tax rates are determined using the assessed taxable

¹ Property owners who received an agricultural exemption on the 2016 assessment rolls would generally pay school taxes in September 2016 and county/city/town taxes in early 2017.

value of all properties in a taxing jurisdiction. As such, understated AAVs that affect the assessed taxable values of enrolled agricultural properties, in turn, affect the local tax rates. Department officials told us that the number of property owners not in the Program is much larger than the number of owners in the Program and that, as a result, the average property tax increase for a non-Program property owner was minimal (less than \$1.00). Nonetheless, the error affected nearly 79,000 additional Program properties in the 49 counties not included in our sample. These properties received about \$9.7 billion in agricultural exemptions during the three-year period. In total, about \$13.7 billion in agricultural exemptions and more than 89,000 properties were affected by the error.

Recommendations

1. As warranted and appropriate, take corrective action relating to the error that affected the AAV used in arriving at agricultural property assessments and the related exemptions.
2. Take steps to prevent and detect future errors in certified per-acre AAVs.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine if the Department's ORPTS is properly calculating and communicating the annual per-acre AAVs that local assessors and boards of assessors are to use to compute agricultural property assessments and the resulting exemptions. The audit covers the assessment roll years 2014 through 2016. We considered information provided by the Department through October 24, 2017.

To accomplish our objective, we obtained and reviewed ORPTS' certified per-acre AAVs from 2006 through 2017. We also reviewed ORPTS' calculation support for the 2006 per-acre AAV, upon which the 2014 AAV depended, and support for the 2015 and 2016 AAVs. We identified an omission error in the 2006 AAV calculation (the omitted value was the mortgage debt attributable to farmland). We calculated the correct AAVs for 2014, 2015, and 2016 using the omitted value.

We also obtained and reviewed agricultural assessment roll data from the Department for all properties that were enrolled in the Program and received an agricultural exemption from 2014 to 2016. We assessed data reliability by matching exemptions in the roll data to the final real property assessment rolls. We found the data to be reliable.

For each of the four ORPTS regions (North, South, Central, and West), we identified counties that have a countywide RPS database. Of the 32 counties with an RPS database, we selected the two counties in each region with the highest and lowest dollar amount of agricultural exemptions during the three tax years from 2014 to 2016. In total, we judgmentally selected eight counties: Cattaraugus, Chemung, Columbia, Dutchess, Fulton, Greene, Livingston, and Tompkins. For each of these counties, we obtained and reviewed the RPS database information, which encompasses detailed property information, such as soil group acreage, for all its municipalities. Using this data, we analyzed all Program properties within the county, and calculated the exemption amounts

and matched them to amounts in the agricultural assessment roll data. Of the 11,022 properties enrolled in the Program at some point between 2014 and 2016, we verified the exemption amounts that were granted, which totaled about \$4 billion, for 10,416 properties, or 95 percent. Of the remaining 606 properties, 149 did not receive an exemption during the period; for the other 457 properties, verifying exemption amounts would have required determining the county calculation, which was outside the scope of our audit.

We also recalculated the agricultural exemption amounts using the correct per-acre AAVs for all properties in our eight-county sample that received an exemption from 2014 to 2016, and documented each property's excess agricultural exemption amount that resulted from the error. To estimate the effect on real property taxes, we first adjusted the excess agricultural exemptions to full value using the municipality's appropriate State equalization rate, and then divided by \$1,000, as is customary. Then we multiplied this amount for each county by the county tax rate to determine the real property tax effect. (We used the Overall Full-Value Tax Rates by County from the Department's website for the local fiscal year ending in 2015, which would have been used for 2014 exemptions, and was the most recent rate available at the time of our analysis.)

We assessed the adequacy of the Department's internal controls as they related to our objective. To do this, we reviewed applicable policies, procedures, laws, and regulations and also interviewed ORPTS staff responsible for calculating the per-acre BAAVs and AAVs. We also performed certain recalculations to evaluate their accuracy. In recalculating the AAV for the years in our scope, we identified the omission error that forms the basis for our findings.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating threats to organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal written comment. We considered their comments in preparing this final report and have included them in their entirety at the end of the report. Department officials state that their current practices address one of our recommendations, and that their ability to implement the other recommendation is limited by relevant statutes.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Taxation and Finance shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

Exhibit A

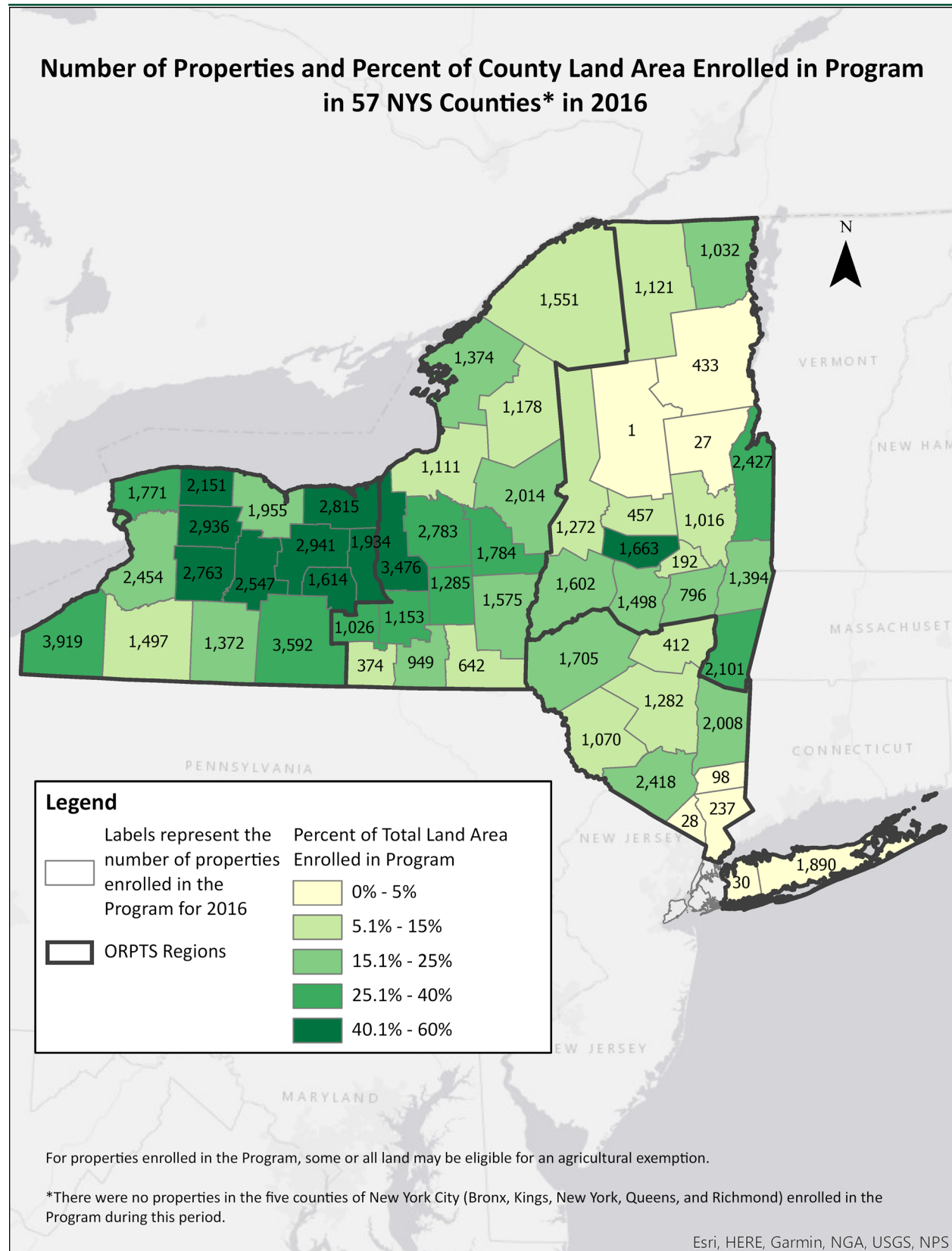
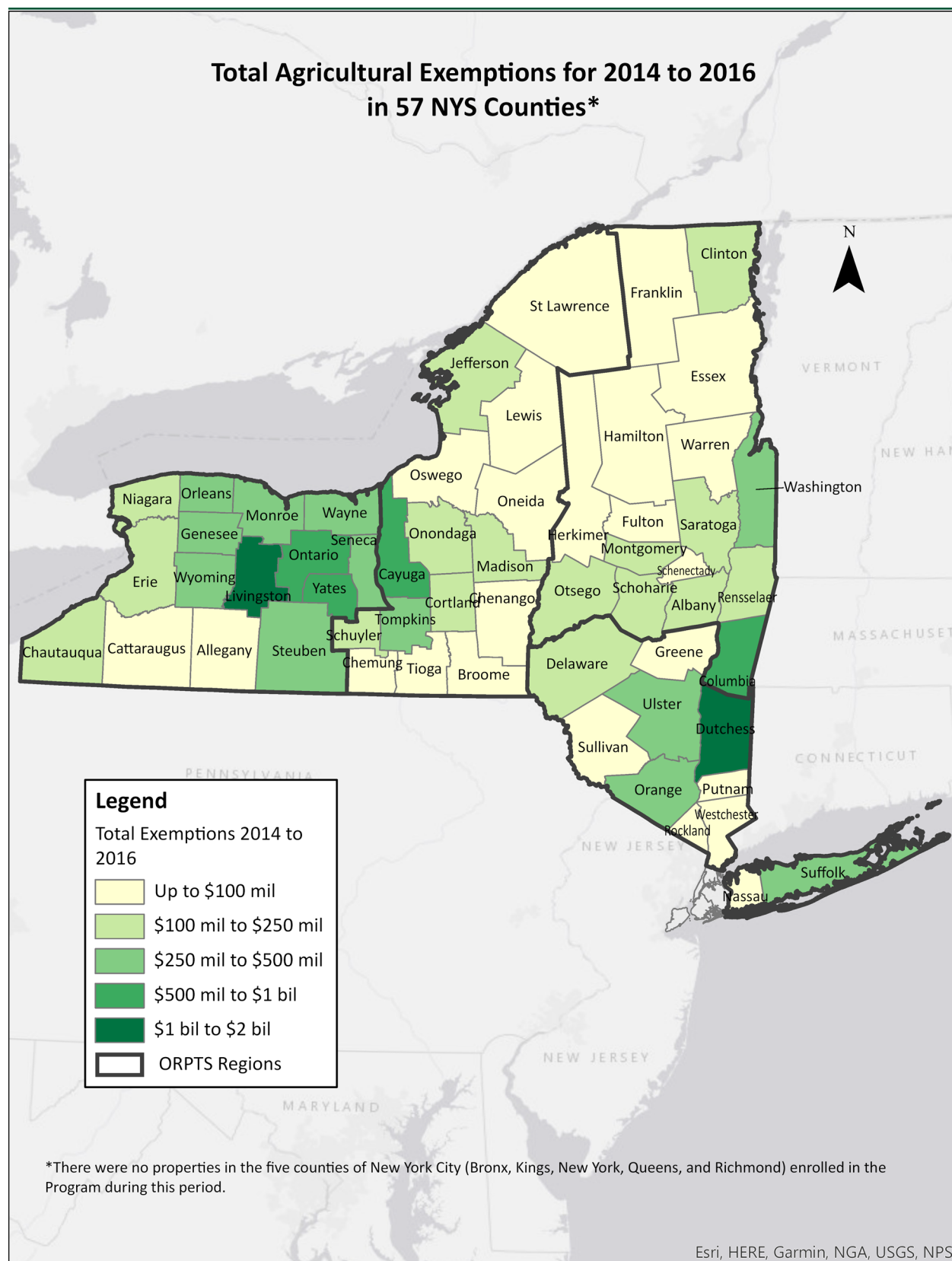


Exhibit B



Agency Comments



Department of Taxation and Finance

NONIE MANION
Executive Deputy Commissioner

December 29, 2017

Mr. Stephen Goss
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

RE: Oversight of the Agricultural Assessment Program

Dear Mr. Goss:

The Office of the State Comptroller (OSC) examined the Department of Taxation and Finance (DTF) Controls and Oversight of the Agricultural Assessment Program for the audit period (assessment roll years) covering 2014 through 2016. This letter responds to Draft Report 2017-S-26 and its audit findings and recommendations. Thank you for the opportunity to comment on the draft report.

We are proud that your comprehensive review of our role in this complex Agricultural Assessment Program confirmed that it is being run professionally and competently, with its only negative finding being the discovery of one data entry error in 2006, eight years prior to the commencement of your audit period. It's important to note that the 2006 error occurred well before DTF had any responsibility for this program: The Office of Real Property Services (ORPS) was a separate agency in 2006 and did not become a part of the Department until 2010.

The draft audit misleadingly suggests that the error in calculating the 2006 base agricultural assessment value (BAAV) went undetected until this audit of the Agricultural Assessment Program. While it is true that DTF staff was unaware of the error, it is clear that the 2006 error was, in fact, detected and corrected by ORPS staff in 2007. However, statutory changes enacted in 2007 made that correction moot: the 2007 law changed how BAAVs are determined by provided that *in no event* shall the change in the BAAV for any given year exceed ten percent (changed to two percent effective 2014) of the BAAV of the prior year, effectively preventing the effect of the 2007 correction from being realized in the BAAV in succeeding years.

While we disagree with the draft audit report's premise that the 2006 error is still relevant to the 2014-2016 audit period, it's important to note that your own figures for the eight counties that you studied during that audit period show the estimated tax savings to program participants that you attribute to the error was only about \$11 per parcel per year. Likewise, the estimated impact of those savings that were borne by other taxpayers (those not in the

*
Comment
1

* See State Comptroller's Comments, page 16.

Mr. Stephen Goss

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December 29, 2017

Agricultural Assessment Program) in those same eight counties was only about \$0.11 per parcel per year. By directing such a disproportionate amount of attention to such a minor error, we respectfully submit that the draft audit report may likely distort the true fiscal impact of this mistake.

*
Comment
2

In response to the recommendations noted in the Audit Report the Department has the following comments:

Recommendation 1:

As warranted and appropriate, take corrective action relating to the error that affected the AAV used in arriving at agricultural property assessments and the related exemptions.

Department Response:

The statutes governing the Agricultural Assessment Program provide no process for correcting values that were previously certified.

Recommendation 2:

Take steps to prevent and detect future errors in certified per acre AAV's.

Department Response:

At the time that the 2006 data entry error occurred, there was only one ORPS staff member involved in the BAAV determination process. For the past several annual cycles, DTF has had two staff members involved in calculating the BAAV each year prior to the certification of any new Agricultural Assessment Value Schedule. By having more than one staff person involved in each year's computations, and by having them cross-check their work, the possibility for any future error of the sort that occurred in 2006 has already been greatly reduced.

The Department would like to thank the OSC auditors for their professionalism during the conduct of this audit and for the comprehensive review performed.

Sincerely,



Nonie Manion
Executive Deputy Commissioner

State Comptroller's Comments

1. During our audit, Department officials told us they were unsure how the error occurred or whether officials were aware of it in 2006. The Department suggests that the effect of the 2006 BAAV calculation error was eliminated by statutory changes in 2007 and 2014. We agree that statutory changes capped increases of the certified BAAVs in 2007 and the ensuing years. However, correctly calculating the BAAV in 2007 and the following years did not remove the effect of the original understated value. In fact, applying the cap in 2007 required using the 2006 BAAV for comparison. Since the 2006 BAAV was understated, applying the cap resulted in the 2007 BAAV, and each subsequent year's BAAV, also being understated. Thus, despite correct application of the statutory changes, the error resulted in sustained tax effects in subsequent years.
2. Department officials characterize the audit's reported effects of the erroneous BAAV calculation as minor. However, these effects are, notably, for only 8 of the 57 participating counties statewide and for only 3 of the 12 ensuing years. As such, the actual cumulative effect on both Program and non-Program participants is much greater than our reported results.