

Town of Lyons

Real Property Tax Exemptions Administration

FEBRUARY 2019



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Audit Objective

Determine whether the Assessor properly administered select real property tax exemptions.

Key Findings

We reviewed properties with 108 agricultural, non-profit and not-for-profit, senior citizen, veteran and other exemptions.

The Assessor:

- Granted exemptions without applications, renewal forms or supporting documentation.
- Granted an ineligible exemption and did not correctly calculate granted exemptions.
- Did not report the transfer of property with exemptions to the County as required.

The Board:

- Did not establish, by local law or resolution, one granted exemption.

Key Recommendations

The Assessor should:

- Ensure granted exemptions are authorized, supported, accurately calculated and continue to meet eligibility requirements.
- Report the transfer of property with exemptions to the County to ensure the new owner is billed for the prorated share of taxes.

The Board should:

- Ensure all exemptions are established by local law or resolution.

Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

Background

The Town of Lyons is located in Wayne County (County). The Town is governed by an elected Town Board (Board) composed of the Town Supervisor and four Board members.

The Board-appointed Town Assessor (Assessor), is responsible for granting and monitoring real property tax exemptions within the Town's boundaries. The Assessor determines the assessed values of properties for the assessment roll, which is then used to create the tax bills for the following year's tax rolls. The Assessor must retain documentation to prove that properties are eligible for exemptions.

Quick Facts

2017 Total Parcels	2,579
2017 Total Exemptions	1,926
2017 Town Taxable Assessed Value	\$191 million

Audit Period

January 1, 2017 – July 3, 2018

Real Property Tax Exemptions Administration

In New York State (NYS) the real property tax is a tax based on the value of real property. Counties, cities, towns, villages, school districts and special districts each raise money through the real property tax. The amount of a particular property's tax bill is determined by two things: the property's taxable assessment and the tax rates of the taxing jurisdictions in which the property is located. The taxable assessment is determined by the assessor and should be based on the market value of the property less any applicable property tax exemptions.

Real property is defined as land and any permanent structures attached to it. Though all real property in an assessing unit is assessed, not all of it is taxable. Some properties, such as religious or government-owned property are completely exempt from paying property taxes. Other properties are partially exempt, such as homes owned by veterans and senior citizens who qualify for a partial exemption, and land and buildings used for agricultural purposes. While some exemptions are mandated by NYS law, others are subject to local option and/or local determination of eligibility criteria. The tax rate is determined by the amount of the tax levy to be raised from all, or part, of an assessing unit, and the unit's total taxable assessed value. Therefore, the accuracy of the assessment roll is essential for fair and equitable property taxation.

How Should an Assessor Properly Administer Exemptions?

Granted exemptions reduce the taxable assessed value of a property and, therefore, the owner's tax payment. To ensure the Town's tax levy is fair and equitable, it is important that the Assessor verify that every exemption is legitimate. To properly administer real property tax exemptions, the Assessor needs to:

- Ensure property owners submit completed applications with proper supporting documentation and meet eligibility requirements.¹
- Verify that exemption amounts are properly calculated in the Real Property Tax System (RPS).
- Annually certify the assessment roll as accurate and complete for all exemptions.
- Periodically verify that those granted exemptions continue to qualify for them.
- Retain supporting documentation for granted exemptions and consult with the New York State Office of Real Property Tax Services (ORPTS), as necessary, for technical assistance.
- Notify the county when a property with an exemption transfers to new owners, who do not qualify for the exemption, to ensure the new owner is billed for the prorated share of taxes.

¹ See Appendix A for eligibility requirements for the following exemptions: agricultural, not-for-profit, senior citizen and veteran. These exemptions are the most common non-New York State School Tax Relief Program (STAR) exemptions granted.

The Assessor Did Not Ensure Property Tax Exemptions Were Appropriate

The Assessor granted a total of 633 non-New York State School Tax Relief Program (STAR) property tax exemptions for non-municipal owned property on the 2017 assessment roll, collectively reducing the Town’s 2018 taxable assessed value by more than \$34 million. We reviewed 108 exemptions totaling \$19.6 million and identified issues with 66 exemptions totaling \$10.6 million (54 percent).

Figure 1: 2017 Real Property Tax Exemptions

Type of Exemption	Total Exemptions ^a	Total Town Exemption Value ^a	Total Number of Exemptions Tested	Total Town Exempted Value Tested	Exceptions Identified From Records	Total Town Exempted Value Exceptions
Agricultural	255	\$16,141,623	67	\$6,876,395	51	\$5,053,677
Non-Profit and Not-for-Profit	35	\$7,923,200	16	\$7,130,800	12	\$5,471,100
Senior Citizens	44	\$651,322	3	\$28,740	3	\$28,740
Veterans	274	\$3,621,613	17	\$212,875	0	\$0
Other	25	\$6,439,585	5	\$5,372,800	0	\$0
Total	633	\$34,777,343	108	\$19,621,610	66	\$10,553,517

^a Excludes STAR and municipal-owned property exemptions

Every exemption granted shifts the tax burden to the non-exempt properties. Therefore, the rate of exceptions noted above (61 percent) can cause inequity among taxpayers to the extent that exemptions are miscalculated or inappropriately granted.

Exemptions Lacked Applications and Supporting Documentation

We reviewed the files related to the 108 granted exemptions totaling \$19.6 million and found 64 (59 percent) totaling \$10.3 million in Town-exempted assessed value lacked one or more pieces of supporting documentation to determine the eligibility or verify the accuracy of the exemption calculation. For example, exemptions granted may have lacked the original application,² income verification, proof of age or annual renewal form, where applicable (Figure 2). These property owners received \$58,480 in 2018 Town tax reductions for these unsupported exemptions. All of the agricultural and senior citizen exemptions reviewed had annual renewal forms.

² NYS establishes legal minimum retention periods for retaining records, including records for real property tax exemptions. Generally, the minimum retention period for real property tax exemption applications and supporting documentation is six years after the expiration of the exemption.

Figure 2: Insufficient Supporting Documentation

Type of Documentation	Number of Exemptions Lacking Documentation ^a	Total Town-Exempt Value Lacking Documentation
Original Applications^b	63	\$9,983,959
Renewal Applications	7	\$2,429,600
Proof of Age	2	\$28,740

^a Some exemptions lacked multiple pieces of documentation.

^b Or, Assessor certification when acceptable instead of an application

Exemptions Were Calculated Incorrectly

For the 44 exemptions with sufficient supporting documentation, we found two exemptions (5 percent) were incorrectly calculated. Both were agriculture exemptions totaling \$239,558 in Town-exempted assessed value. The exemptions were incorrect because the Assessor did not use the assessment roll land values in the exemption calculation and did not have documentation to support the valuations. These incorrect exemption calculations had a net exemption difference of \$7,261, for property owners in fiscal year 2018.

Further, for the 64 exemptions lacking sufficient documentation, we were able to determine that 53 exemptions totaling \$9.5 million would have been calculated correctly assuming the property owners qualified for the exemption. Additionally, 11 agriculture exemptions lacking documentation totaling \$849,772 were incorrectly calculated because the Assessor did not use the assessment roll land values in the exemption calculation. These incorrect exemption calculations had a net exemption difference of \$12,816 for property owners in fiscal year 2018.

Certain Granted Exemptions Did Not Have Board Authorization

In 1996, the Board adopted a resolution granting the senior citizens exemption (subject to income eligibility requirements) for a three-year period. However, these exemptions continued to be granted beyond the three years originally granted. Town officials were unable to provide documentation authorizing the continued use of this exemption for subsequent years. The Assessor granted 44 senior exemptions totaling \$651,322 in 2017 Town-exempted assessed value. As a result, property owners received 2018 Town tax reductions of \$3,693.

In addition, the Board adopted a local law in 2007 to not allow solar or wind energy exemptions. A previous Assessor granted one of these exemptions with \$5,000 in Town-exempted assessed value to an owner who applied for the exemption in 2014. The Assessor continued to grant this exemption because she

was unaware of the local law disallowing the solar exemption. As a result, the owner improperly received tax reductions totaling \$89 for the past three years.

The Certification Process Was Incomplete

Although the Assessor certified the assessment roll was accurate, including exemptions granted prior to her tenure,³ she is still in the process of reviewing the exemptions granted by previous assessors to ensure the exemptions have the necessary supporting documentation, are correctly calculated and remain eligible. Additionally, the Assessor did not always require or maintain sufficient documentation for the exemptions she granted.

The Assessor stated that she would verify farm income every two years when property owners submitted their renewal forms. However, she has not been employed by the Town long enough to do so. The Assessor is approving income-driven exemptions without knowing whether the property owners' information is accurate and complete because she lacks the ability to verify income information with an outside governmental entity. For example, Assessors receive income verification for the STAR exemption from ORPTS. However, this information is not available for the agricultural or senior citizen exemptions. Instead, the Assessor must rely on the supporting documentation provided by the property owners.

Most of the non-veteran exemptions reviewed have annual renewal requirements. However, property owners without renewal forms continued to receive the exemptions because the software automatically renews the exemption on the property until the Assessor manually updates the system.

Although the veteran exemptions do not require an annual renewal, we found the Assessor did not periodically verify that these properties were still eligible for the exemption. For the veteran exemptions tested, we calculated that on average it had been more than six years since the granting of the exemption. When annual renewals are not required, it is especially important to periodically verify that properties are still eligible for the exemptions because the Town could inappropriately continue to grant an exemption to a property that has changed owners or status (i.e., no longer the primary residence).

The Assessor Did Not Notify the County When Transferred Property Had Exemptions

We reviewed all six 2017 transferred properties with non-STAR exemptions totaling \$185,902 in Town-exempted assessed value. The Assessor told us that she did not report the transfer of properties with exemptions to the County, as required, because the County did not prorate taxes. While three properties would

³ The Assessor started in January 2017.

likely still be eligible for the agricultural exemptions, the new owners are required to complete a new application to ensure their eligibility for the exemption. As a result, a portion of the 2017 and all of the 2018 Town tax revenue for the six properties requiring proration totaling \$1,164 was absorbed by other taxpayers.

What Do We Recommend?

The Assessor should:

1. Ensure all applicants provide adequate supporting documentation before granting correctly calculated exemptions and maintain documentation to support eligibility for all exemptions.
2. Ensure previously granted exemptions are supported, accurately calculated and continue to meet eligibility requirements.
3. Grant only authorized exemptions.
4. Report the transfer of exempt property to the County to ensure the new owner is billed for the prorated share of taxes.

The Board should:

5. Review exemptions requiring local authorization and ensure those it wants to allow have proper Board authorization.
6. Consult the Town Attorney regarding recovery and the potential legal and financial impacts the Town may face from prior years' erroneous exemptions.

Appendix A: Specific Exemption Criteria

Agricultural – The agricultural exemption generally requires an average annual gross sales over the previous two years of \$10,000 for farms with seven or more acres of land, or \$50,000 for farms of less than seven acres. The agricultural exemption amount is calculated based on a New York State certified soil productivity value for each parcel. Property owners may also receive an agricultural exemption if they lease acreage to eligible farmers. Certain newly constructed or reconstructed agricultural structures are allowed a 10-year property tax exemption from any increase in the property's assessed value resulting from the improvement. Property owners receiving the agricultural exemption, pursuant to Section 305 of the NYS Agriculture and Markets Law, are required to file a renewal form each year certifying the property remains eligible for the exemption and the operation continues to meet the income requirements. Although the renewal form does not require proof of income, assessors should be periodically verifying farm income to ensure the property remains eligible.

Non-Profits and Not-for-Profits – The requirements related to the non-profits exemptions vary, but generally require the property be owned by a non-profit corporation or association organized or conducted for specified purposes and used exclusively for these purposes. Most owners must file an application prescribed by ORPTS or comparable application form. If neither type of form is filed, the assessor may grant the exemption provided he or she personally inspects the property and certifies in writing that it satisfies all of the requirements for exemption. Some exemptions require annual renewal applications.

Senior Citizens – The senior citizens exemption requires the property be used exclusively for residential purposes and owned by a person 65 years or older (with some familial exceptions) for a consecutive 12 months (unless an exception applies) with varying income limits established by each municipality. Residents receiving the senior citizens exemption are required to file a renewal form each year, along with supporting documentation to show their income is below the threshold. NYS Real Property Tax Law also allows income deductions, such as certain medical expenses, to be considered in calculating the exemption amount, when adopted by local law. Furthermore, all owners or trustees of a property must meet the requirements to be eligible for the exemption, unless the property is retained for life use by a person otherwise eligible for the exemption. Corporations cannot meet requirements for the senior citizens exemption.

Veterans – The requirements related to the veterans exemption vary, but typically include that the primary residence is of a veteran (or a qualifying family member) of the United States Armed Services who actively served during certain eligible time frames or received an expeditionary medal and were discharged under honorable conditions. These exemptions include amounts for Wartime or Cold War service, with increased exemption amounts for Combat service. Towns may pass local laws that establish these exemptions, as well as raise or lower the maximum amount that a single property may be exempt from. Furthermore, disabled veterans may receive an additional exemption based on supporting documentation.

Appendix B: Response From Town Officials

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Lyons, New York 14489
Telephone Number 1-315-946-6252
Fax 315-946-0060

January 14, 2019

Office of the New York State Comptroller
Division of Local Government & School Accountability
PSU-CAP Submission
110 State St-12th Floor
Albany, NY 12236

Re: Town of Lyons
Real Property Tax Exemptions Administration
Audit #2018M-216

Dear Official of the NYS Comptroller's Office:

The Town of Lyons Board, Supervisor, and Assessor are all in receipt of the audit findings conducted by the NYS Office of the Comptroller subject to the Real Property Tax Exemptions Administration in the town.

In response we will be submitting a corrective action plan detailing the steps to correct the issues brought forth by your office.

Sincerely,

Donald J. Emmel
Supervisor, Town of Lyons

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and reviewed Board minutes and applicable local legislation to gain an understanding of the property tax exemption process and recordkeeping requirements.
- We reviewed Town laws and resolutions to determine if the types of property tax exemptions granted on the 2017 assessment roll were authorized.
- We reviewed the exemptions granted for the 2017 assessment roll, which is used to generate 2018 taxes. From the total exemptions, we removed STAR exemptions (applied to school district taxes and overseen by the State) and municipal-owned property. From the remaining exemptions, we calculated the Town's exemption value as a percent of the overall assessment. We then:
 - Selected a judgmental sample of all 24 properties with exemptions in the 65-99 percent range with Town-exempted value totaling \$1.27 million.
 - Judgmentally selected all 38 remaining exemptions with Town-exempted value over \$150,000 totaling \$16.45 million.
 - From the remaining exemptions, randomly selected 5 percent each of agriculture (13 exemptions with Town-exempted value totaling \$972,483), senior citizens (2 exemptions with Town-exempted value totaling \$28,740) and veteran exemptions (14 exemptions with Town-exempted value totaling \$176,875) because the total of the exemptions for these categories represented 93 percent of the remaining exemptions.
 - Judgmentally selected exemptions of Town officials and employees not included in the other samples (17 exemptions with Town-exempted value totaling \$723,232).

For these 108 selected exemptions, we reviewed available documentation supporting the eligibility and calculation of the exemption to determine whether the exemptions had supporting documentation (such as applications, renewal forms, income support, proof of age, proof of military service and soil group worksheets), met eligibility requirements, were properly calculated and properly coded. We recalculated the exemption amounts and calculated the tax dollar effect of any exceptions.

- We reviewed the 19 properties with exemptions that transferred ownership in 2017 and identified six properties transferred with non-STAR exemptions. We asked the Assessor whether she notifies the County of these transfers and whether taxes are pro-rated.

We conducted this performance audit in accordance with GAGAS (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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lgmg

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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