



Last call for Sandy property tax relief: Property owners should take advantage of this opportunity

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The Superstorm Sandy Relief Act was signed by governor Cuomo on October 22nd. This bill was enacted in order to provide retroactive relief to properties that were damaged by Superstorm Sandy. The key aspect that distinguishes this bill from other steps that have been taken to help Sandy victims is that it examines the property's condition after Sandy and provides tax assessment relief for a time period for which it was previously not eligible under the Real Property Tax Law. As these real estate taxes have already been paid in most jurisdictions, successful cases will result in a check for a refund of overpaid taxes.

Under Real Property Tax Law Section 302, a property must be assessed each year as of its condition on taxable status date. Taxable status date is a date certain by which the law mandates taxing jurisdictions must determine a property's physical status from which its assessment must be based. In Nassau County, taxable status date is January 1st each year and in towns in Suffolk County, it is March 1st. Some cities and villages have their own taxable status dates as well.

The logic behind taxable status date is that there must be a date certain in order to avoid an administrative nightmare for taxing authorities, while also providing a transparent and equitable system for property owners. However, the system's imperfections become striking when an event occurs that changes the condition of the property after taxable status date but the property owner continues to be taxed on its former status until the next year. This is the reason why the Superstorm Sandy Relief Act was approved and will allow for a rare occurrence of retroactive relief, even if the property owner has not filed a grievance.

Under the law, a municipality eligible for providing relief must "opt in" by December 6th. While many municipalities have already opted in, others are still scheduling meetings and reviewing the full impact of the law before coming to a decision. There is a nuance in the law that provides a municipality the opportunity to only opt in for those properties with damage that resulted in a loss of the property's value of greater than 50%. Whereas, if a municipality fully opts in, there is a staggered scale that categorizes damage in intervals of 10% then rounds to the median of the interval. For example, if a property has sustained damage of at least 20% but less than 30%, the reduction will be 25%. The legislation even provides that if a property was completely destroyed by Superstorm Sandy, the property will be relieved of 100% of their tax burden for the year.

Property owners must file a written request to the assessor using the new RP-5849-APP form along with supporting documentation by January 21st, 2014 in order to have their case considered. A copy of the form is available at <http://bit.ly/lpjCZm>.

In regards to the supporting documentation, if a FEMA determination is available, the law places blind reliance on their estimation and the Assessor is to adopt FEMA's finding. However, if a FEMA determination is not available, the assessor will review the case and come to his or her own

conclusion. Accordingly, it is very important to provide a full and accurate description along with supporting documentation such as insurance adjuster reports, detailed descriptions of damage, and any other explanation of the Sandy's impact. The fact that the property was partially or entirely repaired is irrelevant to its eligibility.

Upon making a determination, the assessor will provide a written notice to the property owner. The legislation is very taxpayer friendly, in that, if a property owner is not satisfied with the assessor's determination, they then have the opportunity to file a complaint with the Board of Assessment Review and again present their case and provide documentation in support of the reduction to the Board. Both the initial submission of the RP-5849-APP and the potential subsequent submission to the Board of Assessment Review are additional avenues to relief for those owners who already have tax grievances pending.

Taxable status date under the Real Property Tax Law was not written to hinder taxpayer relief, but rather to create a uniform system. By signing this new relief legislation into law, governor Cuomo has provided an opportunity for those victims of Sandy to present their case and to potentially relieve some of the financial burdens caused by Sandy. Accordingly, property owners should take advantage of this opportunity and submit their case in order to obtain their equitable share of relief.

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