



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

MARJORIE LANDA
DEPUTY COMPTROLLER FOR
AUDIT

BUREAU OF AUDIT

December 8, 2017

By Electronic Delivery

Jacques Jiha, Ph.D.
Commissioner
New York City Department of Finance
1 Centre Street, Room 500
New York, NY 10007

Re: Final Letter Report on the Follow-Up Review of the Removal of Senior Citizen Homeowners' Exemption for the Ineligible Properties Identified in Our Prior Audit of the New York City Department of Finance (Special Report #SR18-077SL)

Dear Commissioner Jiha:

We are issuing this Final Letter Report summarizing the findings of our follow-up review of the New York City (City) Department of Finance's (DOF's) removal of the Senior Citizen Homeowners' Exemption (SCHE) from ineligible properties that were identified in our prior report, *Audit Report on the New York City Department of Finance's Administration of the Senior Citizen Homeowners' Exemption Program* (Audit #SR16-087A), issued on July 7, 2016. As discussed in that audit report, DOF allowed owners of at least 3,890 properties to receive SCHE exemptions for which they were not eligible. Those properties received 20,487 improperly granted exemptions from Fiscal Years 2012 through 2017 that resulted in a loss of property tax revenue of at least \$48,529,687. Additionally, DOF improperly credited properties of deceased homeowners and corporate owned properties with Enhanced School Tax Relief (STAR) exemptions totaling \$10,647,896. In total, the audit identified \$59.2 million in lost tax revenue to the City.

This follow-up review was conducted pursuant to the Comptroller's responsibility under Chapter 5, §93 of the New York City Charter. The objective of this review was to determine whether the exemptions were removed or reduced in accordance with DOF's response to our prior report.

Background

DOF is responsible for implementing and monitoring tax benefits granted under the SCHE, which provides a partial property tax exemption for senior citizens who own one, two, or three family homes, condominiums, or cooperative apartments in New York City. The SCHE appears as a reduction of the assessed value of the property, which is used to determine the property tax.

The assessment value of the property can be reduced by a maximum of 50 percent depending on the owner's income.

New York State Real Property Tax Law (RPTL) Section 467, originally enacted in 1966, established a partial property tax exemption for senior citizens who own one, two, or three family homes, condominiums, or cooperative apartments. Section 467 states that any homeowner who has been granted an exemption must file a completed application every 24 months from the date such exemption was granted. In 1974, the New York State Board of Equalization and Assessment (SBEA) issued an opinion stating that property owned in the name of a corporation may not be granted the SCHE. In 1998, the New York State Board of Real Property Services (SBRPS) issued an opinion stating that a property with four or more units would require the SCHE to be prorated to the unit being utilized as the owner's primary residence; however an entire structure would qualify for the exemption if the property contains three or fewer units. In 1999, SBRPS issued an opinion stating that an owner who is absent while receiving health-related care as an inpatient of a residential health care facility, including a hospital or nursing home, satisfies the residency requirement provision of Section 467.

To be eligible for the SCHE an applicant must meet the following criteria:

- 1) All owners must be 65 years of age or older in the year that they apply;
- 2) The combined income of all owners and their spouses cannot exceed a set amount, \$37,399 in 1999 when the SBRPS opinion was issued and \$58,399 for 2018;¹ and
- 3) All owners must occupy the property and have it as their primary residence unless one of the owners is not living there because of divorce, legal separation, abandonment or is receiving health-related services as an in-patient of a residential health care facility.

Homeowners that receive a SCHE, also automatically qualify for and receive an Enhanced STAR exemption based on their income and homeownership status. If the SCHE was found to be inappropriately applied in prior years, New York State's *Exemption Administration Manual Pertaining to the Partial Tax Exemption on Real Property of Senior Citizens* states that a "municipality may rescind the exemption in a subsequent year."

Further, DOF's Homeowner Tax Benefits Removal Policy states:

Homeowner tax benefits shall be removed *prospectively* in the following situations:

- **Renewal:** Upon renewal, DOF determines the household is not eligible for benefits and has not been eligible for benefits that the household received
- **Transfers:** Upon transfer, DOF determines the household has not been eligible for benefits it received

¹ DOF's website states that income includes, but is not limited to, Social Security, retirement benefits, interest, dividends, IRA earnings, capital gains, net rental income, salary or earnings, and net income from self-employment.

- **Death of homeowner/exemption recipient:** When the Social Security Administration is notified that a person is deceased and the Death Master File is updated, DOF will remove benefits from the date of death
- **Notification:** Upon request for review by the Property Division, other divisions within DOF or other City agencies, DOF determines that the household is not eligible for benefits
- **Tips:** Upon request for review by a member of the public, such as a neighbor, DOF determines that the household is not eligible for benefits. [Emphasis in the original.]

During Fiscal Year 2016, there were 51,435 properties that received the SCHE totaling approximately a \$680 million reduction in assessed values.

As noted above, on July 7, 2016, we issued an audit report entitled *Audit Report on the New York City Department of Finance's Administration of the Senior Citizen Homeowners' Exemption Program* (Audit #SR16-087A), in which we reported that DOF allowed owners of at least 3,890 properties to receive a SCHE for which they were not eligible. Those properties received a total of 20,487 improperly granted SCHEs from Fiscal Years 2012 through 2017 that resulted in a loss of property tax revenue of at least \$48,529,687. Specifically, we found that DOF did not remove SCHEs from 3,246 properties after the homeowner(s) had died. In addition, DOF failed to correctly prorate the exemption amounts granted to 573 properties that contained four or more units. We also found that 71 properties owned by corporations or limited liability companies, or LLCs, were improperly granted the SCHE.

Our prior audit also found that 3,317 properties of deceased homeowners and corporate-owned properties had been improperly credited with STAR exemptions. However, like the SCHE, only individuals are entitled to receive STAR exemptions. Those properties received a total of \$10,647,896 in STAR exemptions.²

In its response to the prior audit, DOF generally agreed with our findings and said it was taking steps to correct the problem. However, with regard to the recommendations that DOF recoup prior erroneous exemptions, DOF officials stated,

[w]hile DOF agrees that benefits to business entities should be recouped, the agency is still reviewing the issue with regard to individuals. Our main concern is unfair treatment of "innocent purchasers" who might have been unaware of a benefit on their property – for example, after an ownership change. Many homeowners pay their taxes through mortgage service companies and may not be fully aware of the specifics as to how their taxes are computed.

² A prior audit report (Audit #FM15-070A) issued by our office reviewed instances in which corporations and LLCs received STAR exemptions that they were not entitled to receive.

Removal of Senior Citizen Homeowners' Exemptions for Ineligible Properties

In this follow-up to Audit #SR16-087A and DOF's representation that it would remove incorrectly applied exemption benefits, we examined the property tax bills, issued on June 2017, and Notices of Property Values, issued between January 2016 to May 2017, for the properties we identified as improperly receiving SCHEs to determine whether the exemptions were removed or reduced in accordance with DOF's response. Our review found that for Fiscal Year 2018, DOF has removed the SCHE from 2,057 properties where the homeowner had died, 67 properties that had corporate ownership, and 273 properties that contained four or more units. In addition, the SCHE was prorated for an additional 262 properties that contained four or more units. DOF also removed the Enhanced STAR exemption from 1,523 of the above properties. As a result the City will realize a gain of \$9,201,392 in additional revenue for 2017/2018 tax year. In addition, the SCHE was removed from 425 properties prior to the 2017/2018 tax year, so there was no revenue effect for this tax year.

However, we found that DOF did not remove the SCHE from 806 properties that we identified as ineligible to receive the SCHE. We contacted DOF, and the agency informed us that it will remove or prorate the SCHE for 576 of these 806 properties. DOF also indicated it will remove the Enhanced STAR exemption for 403 of the 576 properties that will have their SCHEs removed. Removing or prorating the SCHE for the 576 properties will result in a gain of \$1,042,348 in property tax revenue and removing the Enhanced STAR exemption for the 403 properties will result in a \$250,472 in property tax revenue. Thus, \$1,292,820 in additional revenue will be collected after the inappropriate exemptions are removed.

According to DOF, the remaining 230 of the 806 properties are eligible to receive a SCHE because either the property had a surviving spouse entitled to the exemption or there was a new SCHE application filed, which was approved.

Recommendations

1. DOF should immediately remove or prorate the SCHE from the 576 ineligible properties.

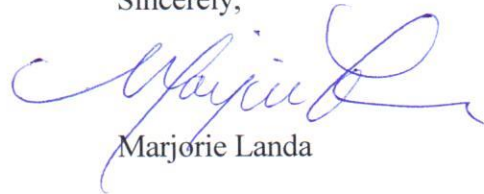
DOF Response: "In Progress - DOF has removed or prorated SCHE benefits for 265 of the properties identified in the follow-up review five prorated with four or more units: 118 cooperative properties; and 142 non-cooperative properties). DOF will continue to review the remaining properties and will remove improperly granted SCHE exemptions."

2. DOF should immediately remove the Enhanced STAR exemption from the 403 ineligible properties.

DOF Response: "In Progress - DOF has reviewed and removed improperly granted ESTAR exemptions for the majority of properties identified in the follow-up review. DOF will continue to review the remaining properties and will remove improperly granted ESTAR exemptions"

The full text of DOF's response is included as an addendum to this letter report.

Sincerely,



Marjorie Landa

Attachment

c: Samuel Mayer, Senior Director of Internal Audit
Celia Carino, Director of Internal Audit
Sean Marani, Senior Internal Auditor
Emily Newman, Acting Director, Mayor's Office of Operations
George Davis III, Deputy Director, Mayor's Office of Operations

Property Division
59 Maiden Lane, 22 Floor
New York, NY 10038
Pierre Dejean
Assistant Commissioner

November 16, 2017

Marjorie Landa
Deputy Comptroller for Audit
NYC Office of the Comptroller
One Centre Street, Room 11th Floor
New York, NY 10007

Re: Draft Letter Report on the Follow-Up review of the Removal of Senior Citizen Homeowners' Exemption for the Ineligible Properties Identified in Our Recent Audit of the New York City Department of Finance (Special Report #SR18-077SL)

Dear Ms. Landa,

The Department of Finance (DOF) hereby provides status updates to the following recommendations in the above-referenced audit report.

DOF UPDATES TO RECOMMENDATIONS:

1. DOF should immediately remove or prorate the SCHE from the 576 ineligible properties.

In Progress - DOF has removed or prorated SCHE benefits for 265 of the properties identified in the follow-up review five prorated with four or more units: 118 cooperative properties; and 142 non-cooperative properties). DOF will continue to review the remaining properties and will remove improperly granted SCHE exemptions.

2. DOF should immediately remove the Enhanced STAR exemption from the 403 ineligible properties.

In Progress - DOF has reviewed and removed improperly granted ESTAR exemptions for the majority of properties identified in the follow-up review. DOF will continue to review the remaining properties and will remove improperly granted ESTAR exemptions.

While benefit removal information is available for public review on-line by viewing either the Statement of Account or Account History for non-cooperative properties, cooperative removals can only be viewed on DOF internal programs.

Sincerely,



Pierre Dejean
Assistant Commissioner

Cc: Michael Hyman, First Deputy Commissioner
Timothy Sheares, Deputy Commissioner
Rose Horton, Compliance Director
Sam Mayer, Senior Director – Internal Audit
Celia Carino, Director of Internal Audit
Sean Marani, Senior Internal Audit