

STATE OF NEW YORK

6328

2023-2024 Regular Sessions

IN ASSEMBLY

April 5, 2023

Introduced by M. of A. THIELE -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to assessment and taxation of lessees and users of certain tax exempt property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 12 of section 102 of the real property tax law is amended by adding a new paragraph (k) to read as follows:

(k) The possessory interest of a private lessee or contractor which uses real property owned by the United States or the state of New York, except real property owned by public authorities, where the property would be subject to real property taxation if owned by such lessee or contractor, except where the use is by way of a concession which is available for the use of the general public and is located in or adjacent to a public airport, park, market, fairground, road, pier, marina, railroad, busline, subway or similar property which is available for the use of the general public.

§ 2. The section heading and subdivision 1 of section 402 of the real property tax law are amended to read as follows:

United States or state property held under lease or contract [~~of sale~~]. 1. Whenever the legal title of real property is in the United States, or in the state of New York, but the use, occupation or possession thereof is in a person, partnership, association or corporation, or his or her or its successor in interest, under a lease, contract [~~of sale~~], option or other agreement [~~whereby a right to acquire the premises through an option, a first privilege or a first refusal is granted, or whereby upon one or more payments the legal title thereto is to be or may be acquired by such person, partnership, association or corporation~~], such that the interest is a possessory interest described in paragraph (k) of subdivision twelve of section one hundred two of this chapter, his or her or its interest in such real property

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 shall be assessed and taxed [~~as~~] for the same amount and to the same
2 extent as though the lessee, contractor or user were the owner of such
3 real property and shall be entered in the assessment roll in the same
4 manner as if such person, partnership, association or corporation held
5 the legal title to such property, except for the addition to the
6 description of the property of the name of the owner and of the words
7 "interest under lease", "interest under contract", "interest under
8 option", or other appropriate words descriptive of the interest in the
9 property so assessed. [~~Such assessment shall be at the full value of~~
10 ~~such interest.~~]

11 § 3. Subdivision 2 of section 402 of the real property tax law is
12 amended to read as follows:

13 2. [~~The assessors shall add to the assessment roll opposite the~~
14 ~~description of any such interest a notation stating that the real prop-~~
15 ~~erty itself so owned by the United States, or by the state, is not to be~~
16 ~~taxed. Every notice of sale or other process and every conveyance or~~
17 ~~other instrument affecting the title to any such property, consequent~~
18 ~~upon the non-payment of any such tax, shall contain a statement that~~
19 ~~such legal title is not sold or to be sold or affected]~~ Taxes shall be
20 assessed to the lessees, contractors or users of such real property and
21 collected in the same manner as taxes assessed to owners of real prop-
22 erty, except that such taxes shall not become a lien against the real
23 property of the United States or of the state of New York. When due,
24 such taxes shall constitute a debt due and owing from the lessee,
25 contractor or user to the municipal corporation or special district for
26 which the taxes were levied and shall be recoverable by action in
27 supreme court.

28 § 4. Section 402 of the real property tax law is amended by adding a
29 new subdivision 4 to read as follows:

30 4. Possessory interests, as described in paragraph (k) of subdivision
31 twelve of section one hundred two of this chapter, shall only be taxable
32 as provided in this section if the governing body of the municipal
33 corporation in which the possessory interests are located, after public
34 hearing, adopts a local law, ordinance or resolution so providing,
35 provided, however, the provisions of this section shall not be applica-
36 ble where a possessory interest is making payments in lieu of taxes
37 which payment is equal to the taxes that would be paid had the property
38 been taxable. Any such local law, ordinance or resolution shall apply
39 alike to all possessory interests which are located within the municipal
40 corporation. Possessory interests in existence on the effective date of
41 the local law, ordinance or resolution shall be partially exempt from
42 taxation for the next succeeding four years in accordance with this
43 section; provided, however, that (a) if the lease, contract, option or
44 other agreement is renegotiated or renewed and such renegotiation or
45 renewal becomes effective during those four years, the partial exemption
46 shall not be available subsequent to the effective date of the new
47 agreement, and (b) if the lease, contract, option or other agreement
48 contains any provision assigning liability between the parties in the
49 event that real property taxes are imposed, the partial exemption shall
50 not be available to possessory interests created thereunder. Except in
51 the instances set forth in this subdivision, for the first taxable
52 status date occurring subsequent to the effective date of the local law,
53 ordinance or resolution, taxable possessory interests shall be exempt
54 from taxation by any municipal corporation in which located to the
55 extent of eighty percent of the assessed value; for the second taxable
56 status date, to the extent of sixty percent; for the third taxable

status date, to the extent of forty percent; and for the fourth taxable status date, to the extent of twenty percent. Notwithstanding any other provision of law in this chapter, possessory interests on parcels which have been designated as military land shall be fully exempt from school property tax if the school district whereupon such military land parcels are situated receives Impact Aid funds from the federal government pursuant to 30 CFR Part 222.

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.