

# STATE OF NEW YORK

6849

2021-2022 Regular Sessions

## IN ASSEMBLY

April 12, 2021

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:

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

3 (j) The possessory interest of a private lessee or contractor which  
4 uses real property owned by the United States or the state of New York,  
5 except real property owned by public authorities, where the property  
6 would be subject to real property taxation if owned by such lessee or  
7 contractor, except where the use is by way of a concession which is  
8 available for the use of the general public and is located in or adja-  
9 cent to a public airport, park, market, fairground, road, pier, marina,  
10 railroad, busline, subway or similar property which is available for the  
11 use of the general public.

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

14 United States or state property held under lease or contract [~~of~~  
15 ~~sale~~]. 1. Whenever the legal title of real property is in the United  
16 States, or in the state of New York, but the use, occupation or  
17 possession thereof is in a person, partnership, association or corpo-  
18 ration, or his or its successor in interest, under a lease, contract [~~of~~  
19 ~~sale~~], option or other agreement [~~whereby a right to acquire the prem-~~  
20 ~~ises through an option, a first privilege or a first refusal is granted,~~  
21 ~~or whereby upon one or more payments the legal title thereto is to be or~~  
22 ~~may be acquired by such person, partnership, association or corpo-~~  
23 ~~ration], such that the interest is a possessory interest described in  
24 paragraph (j) of subdivision twelve of section one hundred two of this  
25 chapter, his or its interest in such real property shall be assessed and~~

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

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

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

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

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

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

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

7 § 5. This act shall take effect on the first of January next succeed-  
8 ing the date on which it shall have become a law.