

City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



AUDIT AND SPECIAL REPORTS

Marjorie Landa

Deputy Comptroller for Audit

Audit Report on the New York City
Department of Finance's Administration
of the Senior Citizen Homeowners'
Exemption Program

SR16-087A

July 7, 2016

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, NY 10007

SCOTT M. STRINGER
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July 7, 2016

To the Residents of the City of New York:

My office has audited the New York City Department of Finance (DOF) to determine whether DOF ensured that property owners receiving the Senior Citizen Homeowners' Exemption (SCHE) meet the eligibility requirements of the program. We audit City agencies such as DOF as a means of increasing accountability and ensuring that City resources are used effectively, efficiently and in the best interest of the public.

This audit found that DOF improperly credited the SCHE to 3,890 properties that were not eligible resulting in a loss to the City of at least \$48,529,687. DOF failed to remove the SCHE from at least 3,246 properties after the homeowners had died. This resulted in a loss of property tax revenue of at least \$35,976,029 from Fiscal Years 2012 through 2017. In addition, DOF failed to correctly prorate the exemption amounts granted to 573 properties that contain four or more units, which resulted in a loss of property tax revenue of at least \$11,176,036 from Fiscal Years 2011 through 2016. DOF also allowed corporate owners of at least 71 properties to receive 307 exemptions for which they were not eligible. This resulted in a loss of property tax revenue of at least \$1,377,622 from Fiscal Years 2011 through 2016. Additionally, DOF improperly credited properties of deceased homeowners and corporate-owned properties with Enhanced School Tax Relief (STAR) exemptions totaling \$10,647,896. Thus, this audit identified \$59.2 million in lost tax revenue to the City. Finally, we found that DOF failed to enforce the requirement that homeowners reapply for the SCHE every two years as required by Section 467 of the New York State Real Property Tax Law which may have allowed the SCHE and the Enhanced STAR exemptions to continue after properties were no longer eligible.

The audit made twelve recommendations, including that DOF verify whether all the homeowners who applied for the SCHE are deceased and remove the SCHE and Enhanced STAR exemption from those properties retroactively from the date of death; recover the \$35,976,029 in erroneous SCHE exemptions that were applied to properties after the qualifying homeowner(s) were deceased if DOF determines that the subsequent owner was not eligible for the SCHE; recover the \$10,460,540 in erroneous Enhanced STAR exemptions that were applied to properties after the qualifying homeowners were deceased if DOF determines that the subsequent owner was not eligible for the Enhanced STAR; recover the \$11,176,036 in excessive exemptions that were granted to properties containing four or more units; and recover the \$1,564,978 in erroneous exemptions (\$1,377,622 in SCHE and \$187,356 in Enhanced STAR) that were granted to the properties owned by either a corporation or LLC.

The results of the audit have been discussed with DOF officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report. If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER AUDIT AND SPECIAL REPORTS

Audit Report on the New York City Department of Finance's Administration of the Senior Citizen Homeowners' Exemption Program

SR16-087A

EXECUTIVE SUMMARY

This audit of the New York City Department of Finance (DOF) concerns its administration of tax benefits granted to property owners under the Senior Citizen Homeowners' Exemption program (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 Senior Citizen Homeowners' Exemption 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 owners' income.

New York State Real Property Tax Law (RPTL), Section 467 (Section 467), established a partial property tax exemption for senior citizens who own one, two, or three family homes, condominiums, or cooperative apartments.¹ Section 467 states that any homeowner who has been granted an exemption must file a completed application every twenty-four 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.² 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.³

Homeowners who receive a SCHE also automatically qualify for and receive an Enhanced School Tax Relief (STAR) exemption based on their income and homeownership status.⁴ If SCHE was found to be inappropriately applied in prior years, New York State's *Exemption Administration*

¹ NYS RPTL § 467(6)(c)

² NYS SBEA Volume 3 – Opinions of Counsel SBEA No. 54

³ NYS Volume 10 – Opinions of Counsel SBRPS No. 64

⁴ A prior audit by our office reviewed instances where corporations and LLCs improperly received STAR exemptions, although they were not entitled to receive such an exemption. *Audit Report on the Department of Finance's Administration of the School Tax Relief Program*, Audit Number FM15-070A, issued June 17, 2015.

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.”

Audit Findings and Conclusion

DOF improperly credited the SCHE to 3,890 properties that were not eligible resulting in a loss to the City of at least \$48,529,687. DOF failed to remove the SCHE from at least 3,246 properties after the homeowners had died. This resulted in a loss of property tax revenue of at least \$35,976,029 from Fiscal Years 2012 through 2017. In addition, DOF failed to correctly prorate the exemption amounts granted to 573 properties that contain four or more units. These properties received 3,219 excessive exemption amounts to which they were not entitled, which resulted in a loss of property tax revenue of at least \$11,176,036 from Fiscal Years 2011 through 2016. DOF also allowed corporate owners of at least 71 properties to receive 307 exemptions for which they were not eligible. This resulted in a loss of property tax revenue of at least \$1,377,622 from Fiscal Years 2011 through 2016. Additionally, DOF improperly credited properties of deceased homeowners and corporate owned properties with Enhanced STAR exemptions totaling \$10,647,896. Thus, this audit identified \$59.2 million in lost tax revenue to the City.

Finally, DOF failed to enforce the requirement that homeowners reapply for SCHE every two years as required by Section 467. The lack of a reapplication process may have allowed properties to continue getting the SCHE and the Enhanced STAR exemptions for many years after they were no longer eligible.

Audit Recommendations

The audit made 12 recommendations, including that DOF should:

- Verify whether all the homeowners that applied for the SCHE are deceased and remove the SCHE and Enhanced STAR exemption from those properties retroactively from the date of death.
- Ensure that it implements controls to remove the exemptions from properties whose owners are deceased, retroactively to the date of death.
- Recover the \$35,976,029 in erroneous SCHE exemptions that were applied to properties after the qualifying homeowner(s) were deceased if DOF determines that the subsequent owner was not eligible for SCHE.
- Recover the \$10,460,540 in erroneous Enhanced STAR exemptions that were applied to properties after the qualifying homeowner(s) were deceased if DOF determines that the subsequent owner was not eligible for the Enhanced STAR.
- Recover the \$11,176,036 in excessive exemptions that were granted to properties containing four or more units.
- Recover the \$1,564,978 in erroneous exemptions (\$1,377,622 in SCHE and \$187,356 in Enhanced STAR) that were granted to the properties owned by either a corporation or LLC.

Agency Response

DOF generally agreed with the audit's recommendations and stated that it would address the issues identified. Further, the agency stated that it "appreciates the Comptroller's audit findings regarding the administration of the Senior Citizen Homeowner Exemption (SCHE) Program." However, with regard to the recommendations that DOF recoup prior erroneous exemptions, DOF officials stated that "[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 to 'innocent purchasers' who might have been unaware of a benefit on their property -- for example, after an ownership change. Many home owners pay their taxes through mortgage service companies and may not be fully aware of the specifics as to how their taxes are computed."

AUDIT REPORT

Background

DOF is responsible for implementing and monitoring tax benefits granted under 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 Senior Citizen Homeowners' Exemption 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 owners' income. (A schedule of the percentage amounts of the exemptions available is contained in the appendix to this report).

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 twenty-four months from the date such exemption was granted. In 1974, SBEA issued an opinion stating that property owned in the name of a corporation may not be granted the SCHE. In 1998, 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 467.⁵

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 be more than \$37,399,⁶ 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.

Section 467 requires homeowners to complete a homeowner tax benefits application when the property owner initially applies for SCHE and, in cities of one million or more, every twenty-four months thereafter. All initial applications must be submitted by March 15th in order for the exemption to begin on July 1st of the same year. DOF's *Instructions for Homeowner Tax Benefits* states that all owners must provide their name, date of birth and social security number in order for an application to be processed. New York State Department of Taxation & Finance has an on-line renewal application for partial exemption for real property of senior citizens that is to be filed with the local assessor by the taxable status date (i.e., March 15th).

⁵ NYS Volume 10 – Opinions of Counsel SBRPS No. 69.

⁶ 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.

Homeowners that receive a SCHE, also automatically qualify for and receive an Enhanced School Tax Relief (STAR) exemption based on their income and homeowner status. If 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
- **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.)

DOF's Property Division has a Compliance Unit that is responsible for ensuring that new applications are processed correctly, that benefits are removed upon a determination that the household is no longer eligible due to either a property's transfer or death of the recipient, and that adjustments made by the Tax Commission are instituted correctly. DOF informed us that in December 2014, the Compliance Unit started a pilot program to identify recipients receiving homeowner tax benefits who had died during that month, according to Social Security Administration (SSA) death records. The Compliance Unit sends letters to those homes identified by the match to verify the information and inform the household that a new application is needed for the benefits to continue. Where there is no response to one of these letters, the Compliance Unit informed us that it will request the exemption be removed by DOF's Finance Information Technology Unit. The Compliance Unit has not investigated any recipient that died prior to December 2014, even though DOF has identified deceased recipients by performing periodic, but not regular, automated batch computer matches of homeowner tax benefit recipients against SSA records.

During Fiscal Year 2016, there were 51,436 properties that received the SCHE exemption totaling approximately a \$680 million reduction in assessed values.

Objective

The objective of this audit was to determine whether DOF ensures that property owners receiving the Senior Citizen Homeowners' Exemption meet the eligibility requirements of the program.

Scope and Methodology Statement

We conducted this performance audit in accordance with 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit includes property owners who were receiving a Senior Citizen Homeowners' Exemption as of July 1, 2015. We expanded our scope for those owners who may have improperly received exemptions, to calculate the extent and effect of these improper exemptions, for exemptions granted as of July 1, 2010, 2011, 2012, 2013, and 2014. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The findings in this report were discussed with DOF officials during and at the conclusion of this audit. A preliminary draft was sent to DOF officials and was discussed at an exit conference held on May 31, 2016. On June 3, 2016, we submitted a draft report to DOF officials with a request for written comments. We received a written response from DOF officials on June 17, 2016. In its response, DOF generally agreed with the audit's recommendations and stated that it would address the issues identified. Further, the agency stated that it "appreciates the Comptroller's audit findings regarding the administration of the Senior Citizen Homeowner Exemption (SCHE) Program." However, with regard to the recommendations that DOF recoup prior erroneous exemptions, DOF officials responding to the audit stated that "[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 to 'innocent purchasers' who might have been unaware of a benefit on their property -- for example, after an ownership change. Many home owners pay their taxes through mortgage service companies and may not be fully aware of the specifics as to how their taxes are computed."

While we agree that DOF should be mindful of fairly treating individuals, we note that on January 15th of each year owners are sent a *Notice of Property Value* that identifies the specific exemptions that the property is receiving, the total amount of the exemptions applied to the current tax year, as well as the total amount of the exemptions that will be applied to the upcoming tax year. These notices go directly to the individual owners. DOF should therefore take into consideration the fact that individual owners have been made aware of the exemptions applied to each property when determining the fairness of recoupment.

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

FINDINGS AND RECOMMENDATIONS

DOF improperly credited the SCHE to 3,890 properties that were not eligible, resulting in a loss to the City of at least \$48,529,687. DOF failed to remove the SCHE from at least 3,246 properties after the homeowner(s) had died. This resulted in a loss of property tax revenue of at least \$35,976,029 from Fiscal Years 2012 through 2017. In addition, DOF failed to correctly prorate the exemption amounts granted to 573 properties that contain four or more units. These properties received 3,219 excessive exemption amounts to which they were not entitled, which resulted in a loss of property tax revenue of at least \$11,176,036 from Fiscal Years 2011 through 2016. DOF also allowed corporate owners of at least 71 properties to receive 307 exemptions for which they were not eligible. This resulted in a loss of property tax revenue of at least \$1,377,622 from Fiscal Years 2011 through 2016. Additionally, DOF improperly credited properties of deceased homeowners and corporate owned properties with Enhanced STAR exemptions totaling \$10,647,896. Thus, this audit identified \$59.2 million in lost tax revenue to the City.

Finally, DOF failed to enforce the requirement that homeowners reapply for SCHE every two years as required by Section 467. The lack of a reapplication process may have allowed properties to continue getting the SCHE and the Enhanced STAR exemptions for many years after they were no longer eligible.

DOF Failed to Remove the SCHE from Properties of Deceased Owners

DOF failed to remove the SCHE from 3,246 properties after the death of the property owner(s).⁷ To determine the extent to which the SCHE has been provided to properties after the eligible owners had died, we compared DOF's Fiscal Year 2016 list of all property owners that received SCHE and their respective social security numbers against SSA's death records and identified 3,246 properties that improperly received a SCHE after the death of the property owners. For the 3,246 properties, we determined the number and amount of SCHEs improperly granted since the date of the homeowner's death or July 1, 2011 whichever came later. Altogether, these 3,246 properties incorrectly received 17,354 exemptions totaling \$35,976,029 since Fiscal Year 2012.⁸

For example, we found that a co-op apartment building with the borough, block and lot (BBL) identified as Borough 1 (Manhattan), Block 2070, and Lot 39, received SCHE for one of the apartments in the building for \$22,191 in Fiscal Year 2012, \$23,080 in Fiscal Year 2013, \$23,193 in Fiscal Year 2014, \$22,681 in Fiscal Year 2015, \$24,095 in Fiscal Year 2016, and \$25,541 in Fiscal Year 2017 for a total of \$140,781. However, the owner of the co-op that is receiving the SCHE died January 4, 2000.

The table below shows by fiscal year the total number and the total dollar amount of exemptions that were not removed from deceased owners.

⁷ For properties with more than one applicant (e.g. spouse), we determined whether the other applicant(s) was also deceased.

⁸ If a homeowner died prior to July 1, 2011, the related properties would have received additional exemptions incorrectly, which were not included in the \$36 million we calculated.

Table I

Dollar Amount of Exemption Not Correctly Removed From Property of Deceased Owners

<u>Fiscal Year</u>	<u>Number of Exemptions Not Correctly Removed from Deceased Owners</u>	<u>Dollar Amount of Exemption Granted</u>
<u>Fiscal Year 2017</u>	3,148	\$7,292,566
<u>Fiscal Year 2016</u>	3,246	\$7,199,944
<u>Fiscal Year 2015</u>	3,024	\$6,403,482
<u>Fiscal Year 2014</u>	2,841	\$5,666,637
<u>Fiscal Year 2013</u>	2,663	\$5,099,523
<u>Fiscal Year 2012</u>	<u>2,432</u>	<u>\$4,313,877</u>
<u>Total</u>	<u>17,354</u>	<u>\$35,976,029</u>

Our review of DOF’s quarterly tax bills for 44 of the 3,246 randomly selected properties that incorrectly received the SCHE after their owners’ death found that they also received the Enhanced STAR exemption. New York State Department of Finance states that the application for SCHE is also “your application for the Enhanced STAR exemption; no separate STAR application is needed. If you qualify for the Senior Citizens’ Exemption, you automatically qualify for the Enhanced STAR Exemption.” Therefore, the 3,246 properties that had been incorrectly credited with 17,354 SCHEs, also were incorrectly credited with an Enhanced STAR after the homeowners’ death. We calculate that 17,354 incorrectly credited Enhanced STAR exemptions resulted in additional tax reductions of \$10,460,540.

DOF Failed to Prorate the Exemption in Properties Containing Four or More Units

DOF failed to prorate the exemptions in 573 properties that contain four or more units so that it was applied only to the unit that was the eligible owner’s primary residence. Our review of DOF’s quarterly tax bills, the notice of property value and Final Assessment Roll for Fiscal Years 2011 through 2016 identified 573 properties that were granted excessive SCHE amounts to which they were not entitled. These 573 properties each had four or more units but did not have their exemption correctly prorated to the unit that was the owner’s primary residence. Section 467 states that if a property contains four or more units, the exemption must be prorated to the unit utilized as the owner’s primary residence.

We prorated the SCHE to the owner-occupied unit in each of the 573 properties and calculated the correct reduction to which the property was entitled. The difference between the SCHE that

DOF applied to the 573 properties and the prorated amount to which the properties were legally entitled resulted in DOF underbilling and foregoing tax revenue of \$11,176,036.

For example, among the 573 properties we identified, we found a 16-unit apartment building with the borough, block and lot (BBL) identified as Borough 4 (Queens), Block 3483, and Lot 21, that received exemptions of \$21,211 in Fiscal Year 2012, \$23,484 in Fiscal Year 2013, \$24,930 in Fiscal Year 2014, \$27,228 in Fiscal Year 2015, and \$29,068 in Fiscal Year 2016 for a total of \$125,921. Prorating the exemption to one of the 16 units would reduce the SCHE to \$7,870 for the six years. DOF failure to prorate the exemption for this property resulted in DOF underbilling and foregoing additional tax revenue of \$118,051 for this building.

Our review included properties in the following building classes:

Table II
Building Classifications Reviewed

<u>DOF Building Classifications</u>	<u>DOF Property Characteristics</u>
C1	OVER SIX FAMILIES WITHOUT STORES
C2	FIVE TO SIX FAMILIES
C3	FOUR FAMILIES
C4	OLD LAW TENEMENT ⁹
C5	CONVERTED DWELLINGS OR ROOMING HOUSE
C7	WALK-UP APT. OVER SIX FAMILIES WITH STORES
S3	PRIMARILY 3 FAMILY WITH 1 STORE OR OFFICE
S4	PRIMARILY 4 FAMILY WITH 1 STORE OR OFFICE
S5	PRIMARILY 5-6 FAMILY WITH 1 STORE OR OFFICE
S9	SINGLE OR MULTIPLE DWELLING WITH STORES OR OFFICES

The table below shows the total dollar amount of excessive exemption granted to owners by fiscal year and building class.

⁹ DOF officials stated this building class is most similar to a residential apartment building.

Table III

Dollar Amount of Excessive Exemption Granted to 4+ Unit Properties

	Building Class C1, C2 C3, and C7	Building Class C4 and C5	Building Class S3 and S9	Building Class S4 and S5	Total
<u>Fiscal Year 2016</u>	\$1,884,663	\$114,544	\$153,575	\$49,861	\$2,202,643
<u>Fiscal Year 2015</u>	\$1,838,529	\$107,261	\$144,042	\$48,327	\$2,138,159
<u>Fiscal Year 2014</u>	\$1,727,839	\$101,015	\$138,853	\$46,078	\$2,013,785
<u>Fiscal Year 2013</u>	\$1,558,713	\$94,537	\$125,942	\$44,323	\$1,823,515
<u>Fiscal Year 2012</u>	\$1,403,443	\$86,063	\$120,421	\$38,026	\$1,647,953
<u>Fiscal Year 2011</u>	<u>\$1,144,402</u>	<u>\$79,640</u>	<u>\$98,597</u>	<u>\$27,342</u>	<u>\$1,349,981</u>
<u>Total</u>	\$9,557,589	\$583,060	\$781,430	\$253,957	\$11,176,036

The table below shows the total number of excessive exemptions granted to owners by fiscal year and building class.

Table IV

Number of Excessive Exemptions Granted to 4+ Unit Properties

	Building Class C1, C2 C3, and C7	Building Class C4 and C5	Building Class S3 and S9	Building Class S4 and S5	Total
<u>Fiscal Year 2016</u>	503	24	37	9	573
<u>Fiscal Year 2015</u>	503	23	36	9	571
<u>Fiscal Year 2014</u>	496	23	36	9	564
<u>Fiscal Year 2013</u>	472	23	34	9	538
<u>Fiscal Year 2012</u>	451	22	34	8	515
<u>Fiscal Year 2011</u>	<u>401</u>	<u>21</u>	<u>29</u>	<u>7</u>	<u>458</u>
<u>Total</u>	2826	136	206	51	3,219

Properties Owned by a Corporation or a Limited Liability Company Improperly Received Senior Citizen Homeowners' Exemptions from DOF

We identified 71 properties owned by corporations or LLCs that improperly received Senior Citizen Homeowners' Exemptions based on a review of DOF's list of exemptions granted, quarterly tax bills, and Final Assessment Roll for Fiscal Years 2011 through 2016.¹⁰ The owners of these 71 properties did not meet the SCHE eligibility requirements because they were not owned by an individual as indicated by SBEA Volume 3 – Opinions of Counsel SBEA No. 54. Rather the properties were owned by either a corporation or a LLC as of January 5, the taxable status date of each fiscal year.¹¹ For the 71 properties, we reviewed the date an LLC or corporation purchased each on the latest deed in DOF's Automated City Register Information System (ACRIS) and determined the number and total dollar amount of the exemptions that were incorrectly granted since Fiscal Year 2011. In total, we found 71 properties that had incorrectly received 307 exemptions totaling \$1,377,622 since Fiscal Year 2011.

These included a 38-unit apartment building with the borough, block and lot (BBL) identified as Borough 3 (Brooklyn), Block 5099, and Lot 123, that incorrectly received exemptions of \$35,751 in Fiscal Year 2011, \$39,658 in Fiscal Year 2012, \$41,177 in Fiscal Year 2013, \$41,473 in Fiscal Year 2014, \$43,779 in Fiscal Year 2015, and \$46,174 in Fiscal Year 2016 for a total of \$248,012. According to records in ACRIS, this property has been owned by an LLC since April 7, 2005, and was not entitled to the exemption. The table below shows the total number and the total dollar amount of exemptions incorrectly granted to owners who did not meet the ownership requirements by fiscal year.

¹⁰ The first quarterly tax bill covering the period July 1 through October 1 indicates the exemption amount the property will receive for the entire year.

¹¹ Taxable status date for a fiscal year is determined the January 5th that immediately precedes the commencement of such fiscal year and is the date as of which the condition and ownership of real property is considered for the purposes of determining the eligibility of the property for the exemption (e.g, for Fiscal Year 2016, the determination date was January 5, 2015).

Table V

Dollar Amount of Exemption Granted to Ineligible Ownership

<u>Fiscal Year</u>	<u>Number of Inappropriate Exemptions Granted due to Ineligible Ownership</u>	<u>Dollar Amount of Exemption Granted</u>
<u>Fiscal Year 2016</u>	71	\$318,067
<u>Fiscal Year 2015</u>	68	\$296,286
<u>Fiscal Year 2014</u>	56	\$242,910
<u>Fiscal Year 2013</u>	44	\$204,183
<u>Fiscal Year 2012</u>	35	\$165,792
<u>Fiscal Year 2011</u>	33	\$150,384
<u>Total</u>	<u>307</u>	<u>\$1,377,622</u>

In addition, all 71 properties that incorrectly received SCHE also incorrectly received \$187,356 in Enhanced STAR exemptions from Fiscal Years 2011 through 2016. A prior audit by our office found instances where corporations and LLCs received STAR exemptions although they are not entitled to receive such an exemption.¹²

DOF Failed to Enforce Biennial Renewal Requirement

DOF failed to enforce the requirement that homeowners reapply for SCHE every two years. Section 467 indicates that homeowners are required to reapply for the SCHE every two years in municipalities with over 1 million residents. However, DOF officials stated that they have not enforced reapplication from homeowners receiving SCHE for approximately ten years. Without renewal applications, DOF is not able to determine if the property has been transferred to another owner and is no longer eligible for the SCHE.

We selected the first 4,000 entries on the Fiscal Year 2016 Assessment Roll and compared the property information with the list of properties and property owners receiving SCHE in Fiscal Year 2016 that DOF officials submitted to us. We found that in 736 instances, the names of the property owners on the Fiscal Year 2016 Assessment Roll did not match the names on the list of property owners receiving the SCHE in 2016. Since DOF does not require homeowners to reapply for a SCHE, DOF has no means of determining if the 736 instances where there was a change in ownership disqualified the property's eligibility for a SCHE. Most (528 of the 736) of the changes on the Assessment Roll occurred in the first name only, which suggests that a property transfer may have taken place between family members. The ownership changes could be the result of

¹² *Audit Report on the Department of Finance's Administration of the School Tax Relief Program*, Audit Number FM15-070A, issued June 17, 2015.

the death of one owner and transfer of the property to a spouse or child, or as part of an estate plan by property owners.

In the case of an estate planning motivated transfer, so long as the senior citizen former owner continues to reside in the property, it might retain its SCHE eligibility. For example, a senior citizen might legally convey property to a descendant, but retain a life estate and remain in the residence until his/her death, in which case, the property would remain eligible for a SCHE. Similarly, a transfer to a revocable/irrevocable trust may trigger an ownership name change, but if the grantor continues to reside in the property, it might remain eligible for SCHE. Therefore, a change in ownership as a result of estate planning does not necessarily disqualify a property owner from receiving SCHE. However, enforcing the biennial reapplication requirement would help DOF determine whether the changes in owners' names change the properties' entitlement to a SCHE and to an Enhanced STAR or whether the properties are no longer eligible.

Regardless, enforcement of the biennial renewal policy would help to mitigate discrepancies and ensure that only those who qualify for the SCHE are receiving it. DOF could also provide extra assistance to seniors to ensure that everyone who is eligible does not inadvertently lose the SHE due to difficulties that could be encountered in the reapplication process.

Recommendations

DOF should:

1. Verify whether all the homeowners that applied for the SCHE are deceased and remove the SCHE and Enhanced STAR exemption from those properties retroactively from the date of death.

DOF Response: “DOF agrees. As we implement biennial renewals to ascertain qualified recipients, we plan to continue to match SCHE recipients on a monthly basis to the Social Security Death Master File (SSDMF) and remove benefits on properties that no longer qualify for the benefit.”

2. Ensure that it implements controls to remove the exemptions from properties whose owners are deceased, retroactively to the date of death.

DOF Response: “DOF agrees. We will implement biennial renewals and continue to match SCHE recipients on a monthly basis to the SSDMF and remove benefits accordingly.”

3. Recover the \$35,976,029 in erroneous SCHE exemptions that were applied to properties after the qualifying homeowner(s) were deceased, if DOF determines that the subsequent owner was not eligible for SCHE.

DOF Response: “DOF will revoke benefits from properties where previously qualified homeowners are now deceased.”

Auditors’ Comments: While it is appropriate that DOF is revoking the exemptions from ineligible property owners, it should also recover the \$35,976,029 in benefits that were erroneously granted.

4. Recover the \$10,460,540 in erroneous Enhanced STAR exemptions that were applied to properties after the qualifying homeowner(s) were deceased if DOF determines that the subsequent owner was not eligible for the Enhanced STAR.

DOF Response: “DOF will revoke benefits from properties where previously qualified homeowners are now deceased.”

Auditors’ Comments: While it is appropriate that DOF is revoking the exemptions from ineligible property owners, it should also recover the \$10,460,540 in benefits that were erroneously granted.

5. Correct exemptions granted to properties with four or more units that were not appropriately prorated to the owners’ primary residence unit.

DOF Response: “DOF agrees. We will properly prorate the exemption to the owner’s primary residence unit.”

6. Ensure that it implements controls to properly prorate the SCHE to the owner’s unit being utilized as a primary residence in properties containing four or more units.

DOF Response: “DOF agrees. The Compliance Unit will run reports to properly prorate the SCHE to the owners unit being utilized as a primary residence in properties containing four or more units. Moreover, DOF will reemphasize and assure through additional training that staff understand and follow the current Standard Operating Procedures and the importance of prorating benefits correctly. Additionally, supervisors will perform quality assurance checks.”

7. Recover the \$11,176,036 in excessive exemptions that were granted to properties containing four or more units.

DOF Response: “DOF will correctly prorate benefits for properties containing four or more units.”

Auditors’ Comments: While it is appropriate that DOF is prorating the exemptions for properties containing four or more units, it should also recover the \$11,176,036 in excessive benefits.

8. Remove the exemptions from properties that, according to DOF’s ACRIS, are owned by either a corporation or LLC.

DOF Response: “DOF agrees. We will remove the exemption as of the upcoming tax year (2016/2017), and notice the properties accordingly and give current owners the opportunity to reapply if they feel that they otherwise qualify for the benefit.”

9. Ensure that it implements controls to prevent a property owned by a corporation or LLC from receiving the exemption.

DOF Response: “DOF agrees. The Compliance Unit will routinely run reports to identify transfers to corporations or LLCs and remove exemptions accordingly and current owners will be given the opportunity to reapply if they feel that they otherwise qualify for the benefit.”

10. Recover the \$1,564,978 in erroneous exemptions (\$1,377,622 in SCHE and \$187,356 in Enhanced STAR) that were granted to the properties owned by either a corporation or LLC.

DOF Response: “DOF agrees. We will remove the erroneous exemptions as, of the upcoming tax year (2016/2017) and plan to recoup those erroneously received by corporations and/or LLCs. The properties will be noticed accordingly and current owners will be given the opportunity to reapply if they feel that they otherwise qualify for the benefit.”

11. Require homeowners to reapply on a biennial basis as mandated by Section 467 and provide additional assistance to eligible elderly property owners to enable them to reapply for the SCHE, if such assistance is determined to be necessary.

DOF Response: “DOF agrees. In an effort to comply with statutory renewal requirements for the SCHE exemptions, DOF will launch the renewal of the entire SCHE population of ~50,000 recipients, starting July 2016. Since DOF has not conducted renewals since 2005 due to prior policy decisions, a full renewal of this population will allow DOF to return to compliance with Real Property Tax Laws (RPTL) Section 467 and correctly identify eligibility status for the recipient population. To assist the seniors during the renewal process, DOF will send subsequent notices/alerts to ensure that this population has ample time to comply. Seniors will have until March 15, 2017 to submit the renewal application.”

12. Modify the Real Property Assessment Data to contain computer edit checks that will automatically:
 - a. Reject the SCHE for properties that are owned by corporations and LLCs; and

- b. Prorate the Senior Citizen Homeowners' exemptions for properties that contain more than 4 units.

DOF Response: "(a). DOF agrees. We will strengthen our quality control to prohibit corporations or LLCs from receiving the personal exemptions.

(b). DOF agrees. We will strengthen our quality control to ensure that SCHE exemptions are prorated for properties containing four or more units."

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit includes property owners receiving a Senior Citizen Homeowners' Exemption as of July 1, 2015. We expanded our scope for those owners who may have improperly received or granted excessive exemptions to calculate the extent and effect of these improper exemptions for exemptions granted as of July 1, 2010, 2011, 2012, 2013, and 2014.

To achieve our audit objective, we reviewed DOF's Standard Operating Procedures for Personal Exemptions — Processing an Application to establish the approval process for Fiscal Year 2016. To gain an understanding of the exemption approval process, we interviewed DOF's Deputy Director of Operations. The results were documented in memoranda.

We used the New York State *Real Property Tax Law § 467 Persons Sixty-Five Years of Age or Older, New York State Volume 3 – Opinions of Counsel SBEA Number 54, New York State Volume 10 – Opinions of Counsel SBRPS Number 64, and New York State Volume 10 – Opinions of Counsel SBRPS Number 69* as audit criteria for eligibility.

We requested a list from DOF of all properties, and their owners' social security numbers, that received the exemption in Fiscal Year 2016. In order to determine the completeness of that file, we utilized the Fiscal Year 2016 *Final Assessment Roll* to extract 50 BBLs that, according to the file received from DOF, did not receive the Senior Citizen Homeowners' Exemption but are located in developments where the exemption was granted to other units. The June 2015 quarterly tax bill was researched for these BBLs and produced no deviation from the file sent by DOF.

In Fiscal Year 2016, there were 51,436 properties that received the SCHE exemption totaling a \$681.9 million reduction in assessed values.

To determine whether DOF removed the SCHE from properties where the applicant is deceased, we matched all the social security numbers of property owners that DOF listed as receiving the exemption in Fiscal Year 2016 against the Social Security Administration's death records. In addition, we requested a listing of the SCHE granted for Fiscal Years 2011 through 2016. DOF provided the SCHE tax exemption amounts credited to those properties from Fiscal Year 2012 through 2017. We then calculated the dollar value of taxes that DOF incorrectly exempted since the date of death or July 1, 2011, whichever was later.

To determine whether DOF granted excessive Senior Citizen Homeowners' Exemptions to properties with 4 or more units, we used data analytics to identify and extract properties with building class codes indicating 4 or more units from the Fiscal Year 2016 Assessment Roll. We examined Fiscal Year 2016 Final Assessment Rolls for each BBL, which verified building class, and tax bills for Fiscal Years 2011, 2012, 2013, 2014, 2015 and 2016, issued every June, for each of the identified properties.

To determine whether DOF may have improperly granted the Senior Citizen Homeowners' Exemption to properties owned by a non-person entity, we used data analytics to identify and extract properties with a corporate or LLC name from the file provided by DOF listing all properties receiving the SCHE in Fiscal Year 2016. We examined ownership records in the New York City Automated City Register Information System (ACRIS) and tax bills for Fiscal Years 2011, 2012, 2013, 2014, 2015 and 2016, issued every June, for each of the identified properties.

APPENDIX

Table Showing Percentage the SCHE will be Reduced Based on Income

If the Owners' Income Is Between	(SCHE) Can Reduce The Assessed Value By
\$0 and \$29,000	50%
\$29,001 and \$29,999	45%
\$30,000 and \$30,999	40%
\$31,000 and \$31,999	35%
\$32,000 and \$32,899	30%
\$32,900 and \$33,799	25%
\$33,800 and \$34,699	20%
\$34,700 and \$35,599	15%
\$35,600 and \$36,499	10%
\$36,500 and \$37,399	5%



Property Division
Property Exemptions
Administration Office
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Pierre Dejean
Assistant Commissioner
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212-291-4220 tel
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June 17, 2016
Ms. Marjorie Landa
Deputy Comptroller for Audit
Office of the City Comptroller
1 Centre Street, Room 1100 North
New York, NY 10007

Re: Audit Report on the New York City Department of Finance's Administration of the Senior Citizen Homeowner's Exemption Program SR16-087A

Dear Deputy Comptroller Landa:

The Department of Finance (DOF) appreciates the Comptroller's audit findings regarding the administration of the Senior Citizen Homeowner Exemption (SCHE) Program and the opportunity to respond to the Draft report.

Background:

The Senior Citizen Homeowner Exemption (SCHE) provides a partial tax relief for senior citizens who own one, two, or three family homes, condominiums, or cooperative apartments, and whose income is less than \$37,400 a year. Depending on the range of income, the exemption can reduce the senior's property assessed value by 5 to 50 percent. Homeowners who receive a Senior Citizen Exemption automatically qualify for the Enhanced STAR benefit.

In essence, DOF agrees with the conclusions of the audit, which emanate from DOF's decisions made back in 2005. Back then, the personal exemptions application process did not require supporting documentation from applicants; the information was largely self-certified, and no renewals were done. DOF is taking steps to correct the problem. In the last year, we have been working with OMB to secure resources to start renewals for all our exemptions programs, and the FY17 budget allocates resources for such a purpose. DOF will process renewals starting in FY17 and will ensure that appropriate controls are in place.

The Comptroller's report includes recommendations addressing the recouping of prior-year ineligible benefits from both business entities and individuals. While 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 to "innocent purchasers" who might have been unaware of a benefit on their property -- for example, after an ownership change. Many

home owners pay their taxes through mortgage service companies and may not be fully aware of the specifics as to how their taxes are computed.

Program Requirements:

- All owners must be 65 years of age or older in the calendar year they apply for the benefit
- The combined income of all owners cannot be more than \$37,399, and
- All owners must occupy the property and have it as their primary residence unless:
 - One of the owners is a non-resident because he or she used to be a spouse of the resident owner and is not living there because of divorce, legal separation or abandonment.
 - One of the owners is absent because he or she is receiving health-related services as an in-patient of a residential health care facility.

In the most recent “Annual Report on Tax Expenditures” for FY 2016, it was reported that DOF administers 50,000 SCHE exemptions. The total in tax expenditures for this program is valued at \$121.6 million for New York City. As a result of not doing renewals since 2005 the Comptroller’s audit resulted in a finding of a \$59.2 million revenue loss.

Responses to Recommendations:

1. **Verify whether all the homeowners that applied for the SCHE are deceased and remove the SCHE and Enhanced STAR exemption from those properties retroactively from the date of death.**

Response: DOF agrees. As we implement biennial renewals to ascertain qualified recipients, we plan to continue to match SCHE recipients on a monthly basis to the Social Security Death Master File (SSDMF) and remove benefits on properties that no longer qualify for the benefit.

2. **Ensure that it implements controls to remove the exemptions from the properties whose owners are deceased, retroactively from the date of death.**

Response: DOF agrees. We will implement biennial renewals and continue to match SCHE recipients on a monthly basis to the SSDMF and remove benefits accordingly.

3. **Recover the \$37,586,448 in erroneous SCHE exemptions that were applied to properties after the qualifying homeowner were deceased.**

Response: DOF will revoke benefits from properties where previously qualified homeowners are now deceased.

4. **Recover the \$11,084,444 in erroneous Enhanced STAR exemptions that were applied to properties after the qualifying homeowner(s) were deceased.**

Response: DOF will revoke benefits from properties where previously qualified homeowners are now deceased.

5. **Correct exemptions granted to properties with four or more units that were not appropriately prorated to the owners’ primary residence unit.**

Response: DOF agrees. We will properly prorate the exemption to the owner's primary residence unit.

- 6. Ensure that it implements controls to properly prorate the SCHE to the owner's unit being utilized as a primary residence in properties containing four or more units.**

Response: DOF agrees. The Compliance Unit will run reports to properly prorate the SCHE to the owners unit being utilized as a primary residence in properties containing four or more units. Moreover, DOF will reemphasize and assure through additional training that staff understand and follow the current Standard Operating Procedures and the importance of prorating benefits correctly. Additionally, supervisors will perform quality assurance checks.

- 7. Recover the \$11,848,652 in excessive exemptions that were granted to properties containing four or more units.**

Response: DOF will correctly prorate benefits for properties containing four or more units.

- 8. Remove the exemptions from properties that, according to DOF ACRIS, are owned by either a corporation or LLC.**

Response: DOF agrees. We will remove the exemption as of the upcoming tax year (2016/2017), and notice the properties accordingly and give current owners the opportunity to reapply if they feel that they otherwise qualify for the benefit.

- 9. Ensure that it implements controls to prevent a property owned by a corporation or LLC from receiving the exemption.**

Response: DOF agrees. The Compliance Unit will routinely run reports to identify transfers to corporations or LLCs and remove exemptions accordingly and current owners will be given the opportunity to reapply if they feel that they otherwise qualify for the benefit

- 10. Recover the \$1,635,814 in erroneous exemptions that were granted to the properties owned by either a corporation or LLC.**

Response: DOF agrees. We will remove the erroneous exemptions as of the upcoming tax year (2016/2017) and plan to recoup those erroneously received by corporations and/or LLCs. The properties will be noticed accordingly and current owners will be given the opportunity to reapply if they feel that they otherwise qualify for the benefit.

- 11. Require homeowners to reapply on a biennial basis as mandated by Section 467 and provide additional assistance to eligible elderly property owners to enable them to reapply for SCHE, if such assistance is determined to be necessary.**

Response: DOF agrees. In an effort to comply with statutory renewal requirements for the SCHE exemptions, DOF will launch the renewal of the entire SCHE population of ~50,000 recipients, starting July 2016. Since DOF has not conducted renewals since 2005 due to prior policy decisions, a full renewal of this population will allow DOF to return to compliance with Real Property Tax Laws (RPTL) Section 467 and correctly identify eligibility

status for the recipient population. To assist the seniors during the renewal process, DOF will send subsequent notices/alerts to ensure that this population has ample time to comply. Seniors will have until March 15, 2017 to submit the renewal application.

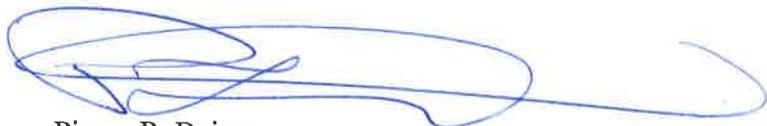
12. Modify the Real Property Assessment Data to contain computer edit checks that will automatically:

- a. Reject the SCHE for properties that are owned by corporations and LLCs; and**
- b. Prorate the Senior Citizen Homeowners' exemptions for properties that contain more than 4 units.**

Response:

- (a).** DOF agrees. We will strengthen our quality control to prohibit corporations or LLCs from receiving the personal exemptions.
- (b).** DOF agrees. We will strengthen our quality control to ensure that SCHE exemptions are prorated for properties containing four or more units.

Sincerely,



Pierre R. Dejean
Assistant Commissioner

C:

Jacques Jiha, Ph.D., Commissioner
Michael Hyman, First Deputy Commissioner
Timothy Sheares, Deputy Commissioner
Sam Mayer, Senior Director, Internal Audit
Doreen Berksteiner, Director, Homeowner Tax Benefits