Staff: Jim Caras

 Special Counsel

 Ray Majewski

 Deputy Director and Chief Economist

 Emre Edev

 Assistant Director



 T H E C O U N C I L

 REPORT OF THE FINANCE DIVISION

 TANISHA EDWARDS, CFO AND DEPUTY CHIEF OF STAFF

 **COMMITTEE ON FINANCE**

# Hon. Justin Brannan, Chair

August 3, 2022

**PRECONSIDERED INT. NO. 600**: By the Speaker (Council Member Adams) and Council Member Brannan

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to a rebate of real property taxes for certain owners of real property.

**ADMINISTRATIVE CODE:** Adds §11-240.2 to the Administrative Code.

On August 3, 2022, the Committee on Finance, chaired by Council Member Justin Brannan, will hold a hearing on a preconsidered Introduction, sponsored by the Speaker and Council Member Brannan, a local law to amend the administrative code of the city of New York, in relation to a rebate of real property taxes for certain owners of real property.

The Council worked with the State Legislature on A 10440 and S 9399, State legislation which would authorize the City to provide a real property tax rebate against real property taxes for certain owners of real property in the city of New York for the fiscal year commencing on the first of July, two thousand twenty-one. On June 10, 2022 the Governor signed this state legislation which became Chapter 216 of the Laws of 2022 (the “State Law”).

This local law would implement State Law by providing a $150 real property tax rebate for homeowners where the property is their primary residence and the income of the homeowners is not more than $250,000.

**STATE LAW**

The State Law amends the State Real Property Tax law to authorize the City to provide, by local law, a rebate of real property taxes for eligible properties for fiscal year 2022. The rebate would be the lesser of $150 or the property’s annual real estate tax liability.

The State Law provides that to be eligible for the rebate: (1) the property must be a one, two or three family residence or a dwelling unit in a cooperative or condominium; and (2) the property must be the primary residence of the owner as of June 15, 2022 and for the 90 days preceding that date. The State Law also requires that, to be eligible for the rebate, “the qualified gross income of all of the owners for whom such property serves as their primary residence” cannot exceed $250,000.

The State Law provides that owners of eligible properties who receive a STAR exemption or credit in the current fiscal year do not file an application for the rebate. Essentially, unless the Commissioner of the Department of Finance (DOF) determines that STAR recipients are not eligible for the rebate, they will automatically receive the rebate. The State Law authorizes the City, by local law, to establish a procedure for applicants to demonstrate primary residence but only for owners not receiving the STAR exemption or credit for the current fiscal year. Those who are not receiving a STAR exemption or credit in the current fiscal year may file an application with the DOF if they meet the eligibility criteria of the State Law. For an eligible property that serves as the primary residence of more than one owner, all such owners would have to file a joint application. The State Law provides that the application be filed electronically by the deadline or deadlines established in the local law but allows the DOF Commissioner to waive the electronic filing requirement upon a showing that the applicant lacks the means or ability to file electronically. The burden of showing that the requirements for the rebate are met are on the applicant for the rebate. If DOF denies an application for a rebate, the State Law requires them to send a notice to the applicant stating the reason for the denial, but failure by DOF to send the notice or the applicant to receive it would not affect the City’s ability to collect the property taxes.

The State Law contains provisions authorizing DOF to recover erroneously issued rebates within six years. It also provides for penalties for material misstatements in rebate applications that led to the granting of the rebate of $500 in addition to the recovery of the erroneously issued rebate. An application would be deemed to contain a material misstatement where the applicant: (1) claimed the property was their primary residence when it was not; (2) claimed they owned the property when they did not; or (3) claimed the qualified gross income of owners was $250,000 or less when it turns out the qualified gross income was “substantially higher,” (meaning $275,000 or more).

PRECONSIDERED INT. NO.

Preconsidered Int. No. would implement the $150 real property tax rebate for homeowners authorized in the State Law, by adding a new section, 11-240.2, to the Administrative Code. The proposed local law contains the eligibility requirements contained in the State Law: (1) that the property be a one, two or three family residence or a cooperative or condominium; (2) that it be the primary residence of the owners; and (3) that the qualified gross income of the owners not exceed $250,000.

In accordance with the State Law, the preconsidered Int. provides that recipients of the STAR exemption and credit are not to file applications for the rebate and if they meet all requirements of the law and DOF does not determine that they are ineligible, they will be entitled to the rebate. Those who are not receiving the STAR exemption or credit for the current fiscal year but otherwise satisfy the requirements may apply.

 The proposed local law provides that an application may be filed electronically before November 15, 2022 but also allows for electronic filing after November 15, 2022 but on or before March 15, 2023 “when an applicant demonstrates, to the satisfaction of the commissioner…, extenuating circumstances, including but not limited to the death or illness of an immediate family member, that prevented such applicant from filing an application on or before November 15, 2022.” Additionally, in accordance with the State Law, DOF may waive the electronic filing requirement.

The proposed local law puts the burden of eligibility for the rebate on the property owner, in accordance with the State Law. The proposed local law requires owners who must file an application to demonstrate that the property is their primary residence by completing a certification, but also authorizes DOF to require proof, which may include a driver’s license, the most recent income tax return, or voter registration. DOF may require proof of residency and of income from any owner seeking a rebate. Consistent with the State Law, in the case of those receiving a STAR exemption or abatement and therefore not filing an application, such proof of residency would only be required if a question as to primary residence arose.

The proposed local law also provides that DOF mail out notices to those whose applications are approved, and notices of denial to those whose applications are denied stating the reason for any such denial. DOF may also revoke any approved rebate by sending a notice to an owner by June 30, 2023. These determinations are to be considered final unless an owner seeks administrative review from DOF within 90 days of the notice of denial or revocation. An owner receiving a STAR exemption or credit who does not file an application, and does not receive a rebate or a notice of denial, has until July 1, 2023 to seek administrative review.

Finally, in accordance with the State Law, DOF has six years to recover a rebate (or portion thereof) if it was calculated in error or if the owner was not entitled to a rebate. The proposed local law contains penalties for owners who make material misstatements in their applications of five hundred dollars ($500) in addition to recovering the rebate in accordance with the State Law.

The proposed local law would take effect immediately.