

## Chapter 375, TAXATION

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

### ARTICLE I, Tax on Utility Companies [Adopted 10-5-1970 (Sub-Part II of the 1970 Code)]

#### § 375-1. Tax on furnishing of utility services imposed; amount.

Pursuant to the authority granted by § 20b of the General City Law of the State of New York, a tax equal to 1% of its gross income from and after July 1, 1937, is hereby imposed upon every utility doing business in the City of Binghamton which is subject to the supervision of the State Department of Public Service, which has a gross income for the 12 months ending May 31 in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law, and a tax equal to 1% of its gross operating income is hereby imposed from and after July 1, 1937, upon every other utility doing business in the City of Binghamton which has a gross operating income for the 12 months ending May 31 in excess of \$500, which taxes shall have application only within the territorial limits of the City of Binghamton and shall be in addition to any and all other taxes and fees imposed by any other provisions of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the City of Binghamton notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

#### § 375-2. Definitions. [Amended 12-4-2006 by L.L. No. 2-2006]

The terms "gross income," "gross operating income," "person" and "utility" shall be defined as provided in § 186-a of the Tax Law.

#### § 375-3. Records to be kept.

Every utility subject to tax under this article shall keep such records of its business and in such form as the Comptroller may require, and such records shall be preserved for a period of three years, except that the Comptroller may consent to their destruction within that period or may require that they be kept longer.

#### § 375-4. Returns to be filed; frequency, form and contents.

Every utility subject to tax hereunder shall file, on or before September 25, December 25, March 25 and June 25, a return for the three calendar months preceding each such return date, including any period for which the tax imposed hereby or by any amendment hereof is effective, each of which returns shall state the gross income or gross operating income for the period covered by each such return. Returns shall be filed with the Comptroller on a form to be furnished by him or her for such purpose and shall contain such other data, information or matter as the Comptroller may require to be included therein. Notwithstanding the foregoing provisions of this section, any utility whose average gross income or average gross operating income, as the case may be, for the aforesaid three-month period is less than \$1,500 may file a return annually on June 25 for the 12 preceding calendar months and the Comptroller may require any utility to file an annual return, which shall contain any data specified by him or her, regardless of whether the utility is subject to tax under this article. Every return shall have, annexed thereto, an affidavit of the head of the utility making the same, or of the owner or of a co-partner thereof or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true.

#### § 375-5. Payment of tax.

At the time of filing a return as required by this article, each utility shall pay to the Comptroller the tax imposed by this article for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

#### § 375-6. Determination of tax upon failure to file proper return.

In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Comptroller, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from the

Comptroller, or if no return is made for any period, the Comptroller shall determine the amount of tax due from such information as he or she is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. The Comptroller shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Comptroller for a hearing, or unless the Comptroller, of his or her own motion, shall reduce the same. After such hearing, the Comptroller shall give notice of his or her decision to the person liable for the tax. The decision of the Comptroller may be reviewed by certiorari, if application therefor is made within 30 days after the giving of notice of such decision. An order of certiorari shall not be granted unless the amount of any tax sought to be reviewed, with penalties thereon, if any, shall be first deposited with the Comptroller and an undertaking filed with him or her, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such order be dismissed or the tax confirmed, the applicant for the order will pay all costs and charges which may accrue in the prosecution of the certiorari proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties as a condition precedent to the granting of such order.

**§ 375-7. Mailing of notices.**

Any notice authorized or required under the provisions of this article may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him or her in the last return filed by him or her under this article, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.

**§ 375-8. Penalty for violation of time limitations.**

Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the Comptroller, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

**§ 375-9. Refunds of taxes and penalties paid.**

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Comptroller or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Comptroller shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Comptroller. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Comptroller as hereinbefore provided unless the Comptroller, after a hearing as hereinbefore provided, or of his or her own motion, shall reduce the tax or penalty or it shall have been established in a certiorari proceeding that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this article. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Comptroller may receive additional evidence with respect thereto. After making his or her determination, the Comptroller shall give notice thereof to the person interested, and he or she shall be entitled to a certiorari order to review such determination, subject to the provisions hereinbefore contained relating to the granting of such an order.

**§ 375-10. Tax to constitute part of operating costs of utility.**

The tax imposed by this article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

**§ 375-11. Proceedings to enforce payment of tax and penalty.**

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Corporation Counsel shall, upon the request of the Comptroller, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Comptroller. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of the Tax Law is made a lien.

**§ 375-12. General authority of Comptroller.**

In the administration of this article, the Comptroller shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his or her powers and the performance of his or her duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his or her official duty under this article, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

**§ 375-13. Confidentiality.**

- A. Except in accordance with the proper judicial order or as otherwise provided by law, it shall be unlawful for the Comptroller, or any agent, clerk or employee of the City of Binghamton to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City of Binghamton in an action or proceeding under the provisions of this article, or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a person, or his or her duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this article, together with any relevant information which in the opinion of the Comptroller may assist in the collection of such delinquent taxes; or the inspection by the Corporation Counsel or other legal representatives of the City of Binghamton of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this article.
- B. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding six months, or both, and if the offender be an officer, agent, clerk, or employee of the City of Binghamton, he or she shall be dismissed from office, and shall be incapable of holding any office or employment in the City of Binghamton for a period of five years thereafter.
- C. Notwithstanding any provisions of this article, the Comptroller may exchange with the chief fiscal officer of any other city in the State of New York information contained in returns filed under this article, provided such other city grants similar privileges to the City of Binghamton, and provided such information is to be used for tax purposes only, and the Comptroller shall, upon request, furnish the State Tax Commission with any information contained in such returns.

**§ 375-14. Disposition of taxes and penalties received.**

All taxes and penalties received by the Comptroller for taxes heretofore or hereafter imposed under this article shall be credited and deposited by him or her in the general fund of the City of Binghamton.

**§ 375-15. Review of Comptroller's decision to be exclusive remedy.**

The remedy provided by this article for review of a decision of the Comptroller shall be the exclusive remedy available to any taxpayer to judicially determine the liability of such taxpayer for taxes under this article.

**ARTICLE II, Complaints Related to Assessments [Adopted 10-5-1970 (Sub-Part V of the 1970 Code)]**

**§ 375-16. Procedures to be followed.**

Complainants who file complaints with the Assessor and Board of Review of the City of Binghamton in relation to assessments shall comply with the procedure set forth in this article in addition to the procedure set forth by other applicable statutes or provisions of law.

**§ 375-17. Filing of statement; appearance before Board of Review.**

Such complainants shall file with the Assessor and Board of Review a statement under oath specifying the respect in which the assessment complained of is incorrect, which statement must be made by the person assessed or whose property is assessed, or by some person authorized to make such statement and who has knowledge of the facts stated therein. If such statement is made by a person other than the person assessed or whose property is assessed, there must be submitted to the Assessor and Board of Review a written power of attorney, duly acknowledged, showing the authorization of the person therein designated to make such statement. If not satisfied that such assessment is erroneous, the Assessor and/or Board of Review may require the person assessed, or his or her agent or representative, or any other person, to appear before them and be examined concerning such complaint, and to produce any papers relating to such assessment with respect to his or her property for the purpose of taxation.

**§ 375-18. Effect of failure to appear before Board.**

If any such person submitting such a complaint, or his or her agent or representative, shall willfully neglect or refuse to attend and be so examined, or to answer any material question put to him or her, such person shall not be entitled to any reduction of his or her assessment.

**§ 375-19. Information to be contained in statement.**

The complainant shall file with the Assessor and Board of Review a statement, under oath, specifying the necessary information with regard to the following items concerning complainant's property on which a reduction of assessment is sought, which information shall be for the period of one year preceding the first day of July next preceding the time of the filing of the complaint:

A. Operating expenses and other items:

- (1) Repairs.
- (2) Plumbing.
- (3) Management.
- (4) Taxes.
- (5) Water rents.
- (6) Coal or other fuel.
- (7) Light and power.
- (8) Fire insurance.
- (9) Liability insurance.
- (10) Other insurance.
- (11) Itemized statement of janitor service and other labor service.

- (12) Depreciation on each building and on machinery and equipment.
- (13) All other operating expenses.

B. Income:

- (1) Rentals received from each tenant of each building, and terms and provisions of leases.
- (2) Other income, including an itemized statement of income received from each and every source by owner from said property.
- (3) A schedule of area rents and annual rental charge for each tenant.
- (4) A schedule of rentals and vacant space, showing location, floor area and rental paid where occupied or price asked where vacant.
- (5) A schedule showing the percentage of vacancies as of July 1 next preceding the date of filing of the complaint.

C. The date and cost of purchase of each parcel of land, or land and improvements, covered by the complaint.

D. The date and cost of construction of improvements on each of the premises covered by the complaint.

E. In addition to the above items, the complainant shall submit such additional information as is requested on the form of application for revision of real property assessment prepared by or under the supervision of the Assessor of the City of Binghamton.

**§ 375-20. Complaints regarding property purchased at auction. [Added 3-1-2004 by Ord. No. 04-15]**

A. Any purchaser of property offered for sale by the City may grieve the purchased property's assessment pursuant to New York State Real Property Tax Law.

B. There shall be no waiting period after a purchase and before an assessment may be grieved.

**ARTICLE III, Consumer Utility Tax [Adopted 10-5-1970 (Sub-Part VII of the 1970 Code)]**

**§ 375-21. Definitions.**

When used in this article, the following terms shall have the meanings indicated:

CHARGE -- The amount of the consideration for property or service subject to tax under this article, whether receivable in money or otherwise, including all receipts, cash, credits and property of any kind or nature and all fixed charges incidental thereto.

COMPTROLLER -- The Comptroller of the City of Binghamton.

PERSON -- An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

PURCHASER -- A person who purchases property or to whom services are rendered, the use or consumption of which are subject to the tax imposed by this article.

RETURN -- Includes any return filed or required to be filed as herein provided.

VENDOR -- A person selling property or rendering services, the use or consumption of which is subject to the tax imposed by this article.

**§ 375-22. Imposition of tax; collection.**

A. Commencing February 1, 1949, there shall be paid by the purchaser and collected by the vendor a tax at the rate of 3% of the charge for the consumption or use within the City of the following: telephony and telegraphy and telephone or telegraph service of whatsoever nature, except:

- (1) Service paid for by inserting coins in coin-operated telephones available to the public.
  - (2) Transactions by or with this City, the State of New York or any municipality or other political subdivision of the state where it is the purchaser, user or consumer and also by or with the United States insofar as it is immune from taxation.
  - (3) Transactions by or with organizations contributions to which are deductible in computing personal income taxes as provided in Tax Law § 601 et seq.
- B. Telephone or telegraph service shall be deemed used or consumed within this City if such services originate within this City, or, in the case of collect messages, terminate within this City, except that where the services rendered include the furnishing to subscribers located in this City of service such as stock market quotations, baseball scores, racing results and similar services, such services are subject to the tax imposed by this article, irrespective of the City in which such services may originate.
- C. Upon each charge to a purchaser for property or service subject to tax under this article, the tax to be collected by the vendor shall be stated and charged separately therefrom; provided, however, that the Comptroller shall permit a vendor to combine the charge and the tax if the bill to the purchaser indicates a method of determining the amount of the tax and if the vendor maintains records satisfactory to the Comptroller showing such tax. The tax shall be paid by the purchaser to the vendor as trustee for and on account of this City and the vendor shall be liable for the collection thereof. The vendor shall be personally liable for the tax collected under this article, and the vendor shall have the same right in respect to collecting the tax from the purchaser, or in respect to nonpayment of the tax by the purchaser, as if the tax were a part of the charge.
- D. Where the purchaser has failed to pay and a vendor has failed to collect a tax imposed by this article, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the purchaser directly to the Comptroller and it shall be the duty of the purchaser to file a return thereof with the Comptroller and to pay the tax imposed thereon to the Comptroller within 30 days after the bill to the purchaser is rendered.
- E. The Comptroller may, whenever he or she deems it necessary for the proper enforcement of this article, provide by regulation that the purchaser shall file returns and pay directly to the Comptroller the tax herein imposed, at such times as returns are required to be filed and payment over made by the vendor.
- F. The tax imposed by this article shall be paid with respect to charges for property or service used or consumed on or after February 1, 1949, although made under a contract dated prior to said date. Where property is sold or service rendered on a periodic, monthly or other term basis, the bill for such property or service for such month or other term shall be a charge subject to the tax hereby imposed and the tax shall become applicable upon all bills based on meters read on or after a day after February 1, 1949, which is  $\frac{1}{2}$  of the number of days of such normal periodic term basis; provided, however, that where such bills are for telephone or telegraph service, the tax shall apply to all charges on such bills dated on or after February 1, 1949, for which no previous bill was rendered, except, however, charges for service furnished before the date of the first of such bills. Where the charge has been ascertained to be worthless, the amount thereof may be deducted by the vendor in computing charges subject to tax or, in case the tax has been paid, a credit or refund of the amount of the tax may be allowed under regulations of the Comptroller.
- G. For the purpose of proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all amounts received by a vendor from any property or service of a kind specified in Subsection A of this section are subject to tax until the contrary is established, and

the burden of proving that any such amount is not taxable hereunder shall be upon the vendor or the purchaser.

**§ 375-23. Collection of tax from purchaser.**

The Comptroller shall by regulation prescribe a method or methods or a schedule or schedules of the amounts to be collected from purchasers in respect to any charge for property or service with respect to which a tax is imposed by this article so as to eliminate fractions of \$0.01.

**§ 375-24. Records.**

Every vendor shall keep records of charges, of the tax payable thereon and records of purchases of property or services of a kind subject to tax under this article in such form as the Comptroller may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Comptroller or his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the Comptroller may consent to their destruction within that period or may require that they be kept longer.

**§ 375-25. Returns.**

- A. Every vendor shall file with the Comptroller a return of the taxes payable for the quarterly periods ending March 31, June 13, September 13, and December 31 of each year. Such returns shall be filed within 30 days from the expiration of the period covered thereby. The Comptroller may permit or require a return to be made by shorter or longer periods and upon such dates as he or she may specify.
- B. The form of the return shall be prescribed by the Comptroller and shall contain such information as he or she may deem necessary for the proper administration of this article. The Comptroller may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice, and may inspect the books and records of any person pertaining to his or her receipts.
- C. If a return required by this article is not filed or if a return when filed is incorrect or insufficient on its face, the Comptroller shall take the necessary steps to enforce the filing of such a return or of a corrected return.

**§ 375-26. Payment of tax.**

At the time of filing a return each vendor shall pay to the Comptroller the taxes imposed by this article, as well as all other moneys collected by the vendor acting or purporting to act under the provisions of this article. All the taxes for the period for which a return is required to be filed shall be due from the vendor and payable to the Comptroller on or before the date fixed for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of the taxes due.

**§ 375-27. Assessment and determination of tax.**

If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Comptroller from such information as may be obtainable. If a purchaser refuses to pay the tax imposed by this article or if for any reason it is impossible for the vendor to collect the tax from the purchaser, the vendor shall report to the Comptroller the name and address of such purchaser, the nature of the property sold or service rendered, and the amount charged therefor. Upon receipt of such information the Comptroller shall forthwith assess such tax directly against such purchaser. Written notice of such assessment shall be given to the person liable for the collection or payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax unless the person against whom it is assessed, within 90 days after the giving of notice of such assessment, shall apply in writing to the Comptroller for a hearing, or

unless the Comptroller of his or her own motion, shall reassess the same. After such hearing the Comptroller shall give written notice of his or her determination to the person against whom the tax is assessed. The determination of the Comptroller shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within 90 days after the giving of the notice of such determination. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Comptroller and an undertaking filed with the Comptroller, in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs which may accrue in the prosecution of the proceeding.

**§ 375-28. Refunds.**

- A. In the manner provided in this section the Comptroller shall refund or credit any tax erroneously, illegally or unconstitutionally collected if written application to the Comptroller for such refund shall be made within two years from the payment thereof. For like cause and within the same period a refund may be so made on the initiative and order of the Comptroller. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. Such application may also be made by a vendor who has collected and paid such tax to the Comptroller, provided that the application is made within two years of the payment by the purchaser to the vendor, but no refund of money shall be made to the vendor until he or she shall first establish to the satisfaction of the Comptroller, under such regulations as the Comptroller may prescribe, that he or she has repaid to the purchaser the amount for which the application for refund is made. The Comptroller, in lieu of any refund required to be made, may allow credit therefor on payments due from the applicant.
- B. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of and the Comptroller may receive evidence with respect thereto. After making his or her determination, the Comptroller shall give notice thereof to the applicant, who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided such proceeding is instituted within 90 days after the giving of the notice of such determination and provided that a final determination of tax was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Comptroller in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs which may accrue in the prosecution of such proceeding.

**§ 375-29. Remedies exclusive.**

The remedies provided by §§ 375-28 and 375-29 of this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article.

**§ 375-30. Proceedings to recover tax.**

- A. Whenever any vendor or any purchaser or other person shall fail to collect and pay over any tax or to pay any tax, penalty or interest imposed by this article as herein provided, the Corporation Counsel shall, upon the request of the Comptroller, bring an action to enforce the payment of the same. If, however, the Comptroller believes that any such vendor, purchaser or other person subject to the provisions of this article is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason he or she deems it necessary in order to protect revenues under this article, he or she may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

- B. As an additional or alternative remedy, where the tax shown to be due upon a return is not paid at the time of filing such return, or an assessment of tax made under § 375-27 of this article is not paid within 10 days from the date of the notice of such assessment, or where the Comptroller believes that any vendor, purchaser or other person subject to the provisions of this article is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason he or she deems it necessary in order to protect revenues under this article, he or she may issue a warrant, directed to a Constable of the City Court of the City of Binghamton, commanding him or her to levy upon and sell the real and personal property of the person liable for the tax which may be found within this City, for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the Comptroller and to pay to him or her the money collected by virtue thereof within 60 days after the receipt of such warrant. The constable shall, within five days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrant he or she shall be entitled to the same fees, which he or she may collect in the same manner. In the discretion of the Comptroller a warrant of like terms, force and effect may be issued and directed to any officer or employee of this City, and in the execution thereof such officer or employee shall have all the powers conferred by law upon constables but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the Comptroller may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the City had recovered judgment therefor and execution thereon had been returned unsatisfied.

**§ 375-31. General powers of Comptroller.**

In addition to all other powers granted to the Comptroller, he or she is hereby authorized and empowered:

- A. To make, adopt and amend rules and regulations appropriate to the carrying out of this article and the purposes thereof;
- B. To extend, for cause shown, the time of filing any return for a period not exceeding 60 days and, for cause shown, to waive, remit or reduce penalties or interest;
- C. To request information from the Department of Taxation and Finance or the Department of Public Service of the State of New York or the officials of any political subdivision of this state or the Treasury Department of the United States relative to any person; and to afford information to such departments, officials or Treasury Department relative to any person, any other provision of this article to the contrary notwithstanding;
- D. To require vendors to keep such records as he or she may prescribe;
- E. To delegate his or her functions hereunder to the Deputy Comptroller or another employee or employees of the City;
- F. To prescribe methods for determining the charges for property or services subject to tax under this article or for the classification of such charges as taxable or nontaxable;

G. To assess, reassess, determine, revise and readjust the taxes imposed by this article.

**§ 375-32. Administration of oaths and compelling testimony.**

- A. The Comptroller or his or her employees or agents duly designated and authorized by him or her in writing shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of his or her powers and duties under this article. The Comptroller shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his or her duties hereunder and of the enforcement of this article and to examine them in relation thereto.
- B. A Justice of the Supreme Court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Comptroller under this article.
- C. Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Comptroller shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$500 or imprisonment for not more than one year, or both such fine and imprisonment.
- D. The officers who serve the Comptroller's summons or subpoena and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his or her duly appointed deputies or any officers or employees of this City designated to serve such process.

**§ 375-33. Penalties and interest.**

- A. Any person who, without intent to evade the tax imposed by this article, fails to pay the tax when due shall pay interest at the rate of 6% per annum from the due date of the tax to the date of payment, or to the 10th day after the date of the notice of assessment of such tax, whichever date is earlier. If such tax is assessed and is not paid within 10 days from the date of the notice of assessment, such person, in addition to such interest, shall pay a penalty of 5% of the amount of tax due plus interest at the rate of 1% of such tax for each full month after the date of the notice of assessment during which the tax remains unpaid.
- B. Any person who, with intent to evade the tax imposed by this article, fails to pay the tax when due shall pay a penalty equal to the amount of tax due plus interest at the rate of 1% of such tax for each full month from the due date of the tax to the date of payment.
- C. Any vendor or purchaser willfully failing to file a return required by this article, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this article, which is willfully false, and any vendor willfully failing or refusing to collect such tax from the purchaser, and any vendor willfully failing to keep the records required by this article, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$500 or imprisonment for not more than one year, or both such fine and imprisonment.
- D. The certificate of the Comptroller to the effect that a tax has not been paid or that information has not been supplied pursuant to the provisions of this article shall be presumptive evidence thereof.

**§ 375-34. Confidentiality.**

- A. Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Comptroller or any officer or employee of this City to divulge or make known in any manner the charges, receipts, expenses or other information relating to or contained in any return required under this article. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City in an action or proceeding under the provisions of this article, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the courts may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return filed in connection with his or her tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the Corporation Counsel or other legal representatives of the City of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this article may be instituted. Returns shall be preserved for three years and thereafter until the Comptroller permits them to be destroyed.
- B. It shall be a misdemeanor to violate any provision of this section and if the offender be an officer or employee of the City he or she shall be dismissed from office and be incapable of holding any public office or employment in the City for a period of five years thereafter.

**§ 375-35. Notices and limitations of time.**

- A. Any notice authorized or required under the provisions of this article shall be in writing and shall be served personally or by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him or her pursuant to the provisions of this article or in any application made by him or her or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.
- B. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by this City to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this article. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.
- C. Where, before the expiration of the period described herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

**§ 375-36. Disposition of revenues.**

All moneys received by the Comptroller under this article shall be paid into the treasury of the City and shall be credited to and deposited in the general fund thereof and shall be available for any City purpose of the City.

**§ 375-37. Construction and enforcement.**

This article shall be construed and enforced in conformity with Chapter 278 of the Laws of 1947, as amended by Chapter 651 of the Laws of 1948, pursuant to which it is enacted.

**ARTICLE IV, Assessments and Collection [Adopted 10-5-1970 (Ch. 2, Art. V, §§ 2-217 through 2-223, of the 1970 Code)]**

**§ 375-38. Assignment of tax certificates.**

The City Treasurer hereby is authorized, empowered and directed to assign any tax certificate now held by the City to any person who shall pay to him or her for the City the amount due to the City on such certificate, together with any additional sum which may be justly due and owing to said City upon such parcel of land.

**§ 375-39. Cancellation of assessments after completion of tax roll.**

The City Council will make no change of property legally assessed upon the tax roll of the City, canceling assessments of or taxes on any property upon said roll, by reason of any change in the exempt status of said property, after the completion of said roll.

**§ 375-40. Duties of certain City officers. [Amended 9-4-07 by Ord. No. 45-2007]**

- A. The City Clerk shall immediately, upon the approval of the Mayor and the Board of Estimate and Apportionment of an ordinance directing the construction of a local improvement, any part of which may be assessed against the owners of lands affected thereby, transmit a copy thereof to the Commissioner of Assessment and Taxation.
- B. Whenever the Commission of Public Works shall construct or repair any sidewalk or remove any snow or ice therefrom in accordance with § 92 of the Second Class Cities Law or remove any obstruction from any stream under § C-178 of the Supplemental Charter, or shall make any other charge which may become a lien against the property affected thereby, he or she shall, in case said charge is not paid to him or her within the time provided by law, notify the Assessor and the City Treasurer of the names of the owners of the property, the lots affected thereby and the amount of such charge.
- C. Whenever a copy of an ordinance as provided in Subsection A hereof shall be delivered to the Assessor, he or she shall immediately deliver to the City Treasurer a statement showing the nature of the contemplated improvement and the lots or parcels of land which will become subject to assessment therefor.
- D. The Assessor shall, so far as possible, ascertain the mailing address of the grantee or devisee named in any deed presented to him or her and shall transmit the same to the City Treasurer.
- E. The City Treasurer shall, as soon as convenient, compile and thereafter keep a card index of each lot or parcel of land upon the City Tax Map which shall contain a memorandum of all taxes and assessments except those for which a tax sale certificate has been recorded in Broome County Clerk's office and except those upon the general tax roll for the current year against said lot or parcel of land and of all ordered improvements and charges made by the Commissioner of Public Works.

- F. Notwithstanding any other provision of this Code to the contrary, in each and every instance when the City is authorized to add unpaid fees or expenses to the real property tax roll for collection, the City Treasurer will add a one hundred dollar (\$100) administrative fee to such tax levy.

**§ 375-41. Foreclosure of tax lien by proceeding in rem; applicability of state law. [Added 11-16-1970 by Ord. No. 96-70]**

From and after January 1, 1971, the City of Binghamton elects to adopt the provisions of Title 3 of Article 11 of the Real Property Tax Law for the purpose of enforcing the collection of delinquent taxes in such tax district.

**§ 375-42. Notice to mortgagee or lienor. [Added 1-19-1988 by Ord. No. 5-88]**

- A. Any owner of real property in the City of Binghamton, any mortgagee thereof, or any person having a lien or claim thereon or interest therein shall file with the City Treasurer an "in rem" card stating his or her name, post office address, a description of the premises by reference to the Tax Map number, and the date the card was filed.
- B. The City Treasurer shall maintain a file of the "in rem" cards and shall mail a notice of foreclosure and any other process required by Article 11, Title 3 of the Real Property Tax Law to all persons who shall have filed "in rem" cards whenever the parcels as to which such cards were filed are included in a list of delinquent taxes filed pursuant to Article 11, Title 3 of the Real Property Tax Law.

**§ 375-43. Sale of personal property located in City-owned in rem properties. [Added 1-21-1997 by Ord. No. 97-3]**

The Council of the City of Binghamton does hereby authorize the City's Board of Estimate and Apportionment to review and authorize the sale of personal property located in City-owned in rem properties for less than \$1,000.

**ARTICLE V, Service Charges on Exempt Real Property [Adopted by L.L. No. 5-1971 (Sub-Part XXXV of the 1970 Code)]**

**§ 375-44. Charges imposed; authority.**

Pursuant to and in accordance with the provisions of Chapter 417 of the Laws of New York of 1971, service charges authorized by said Chapter 417 are hereby imposed on real property located within the City of Binghamton as specified hereinafter, which real property is otherwise exempt by law from taxation. EN

**§ 375-45. "Service charge" defined.**

"Service charge" means a charge, other than a special ad valorem levy or special assessment, imposed upon real property by or on behalf of the City of Binghamton, to defray the cost of services, and improvements necessary or convenient in providing such services, for the following purposes: police protection; fire protection; street and highway construction, maintenance and lighting; sanitation; and water supply. All improvements specified in Clause (a) of Subdivision 1 of § 490 of the Real Property Tax Law shall be deemed such improvements.

**§ 375-46. Property against which service charge imposed.**

The service charge authorized by said Chapter 417 and imposed by this article shall be imposed against the following real property, located within the City of Binghamton, exclusive of property used exclusively for religious, charitable, hospital, education or cemetery purposes:

- A. Public property.

(1) All real property for which exemption from taxation is allowed by the following sections of the Real Property Tax Law of the State of New York (titles of said sections are set out following each section number):

- 404 State of New York
- 406 Municipal corporations
- 412 Public authorities
- 412-a Industrial development agencies

(2) The foregoing is subject to the following exceptions:

- (a) Real property owned by the City of Binghamton within its corporate limits which is otherwise exempt from taxation shall be exempt from any such service charge, special ad valorem levy or special assessment imposed by or on behalf of such municipal corporation;
- (b) Property owned by the City of Binghamton not within its corporate limits which is otherwise exempt from taxation, either wholly or partially, shall be exempt from any such service charge, special ad valorem levy or special assessment imposed or on behalf of any municipal corporation in which such property is located, provided the governing board thereof shall so agree in writing; and
- (c) This section shall not apply to the real property of any of those public authorities specified in Clause (c) of Subdivision 1 of § 400 of the Real Property Tax Law.

B. Private property. All real property for which exemption from taxation is allowed by the following sections of the Real Property Tax Law of the State of New York (titles of said sections are set out following each section number):

- 421 Nonprofit organizations
- 424 Institutes of arts and sciences
- 426 Opera houses
- 427 Performing arts buildings
- 428 Fraternal organizations
- 432 Theatrical corporations created by Congress
- 434 Academies of music
- 428 Real property held by trustees of a hospital, playground and library, hospital for benefit of City
- 440 Infant homes
- 442 Soldier monument corporation
- 444 Historical societies
- 450 Agricultural societies
- 452 Veteran's organizations
- 464 Incorporated associations of volunteer fire fighters
- 472 Pharmaceutical societies
- 474 Dental societies
- 486 Nonprofit medical and dental indemnity, and hospital service corporations
- 488 Retirement systems

**§ 375-47. Computation of service charge rates.**

Any service charge to which any real property is subject as provided in Chapter 417 of the Laws of New York of 1971 and as imposed herein shall be imposed at a rate which shall be a percentage of the rate of tax imposed on real property for which no exemption is allowed; such percentage shall be computed and applied as provided in Subdivision C of § 498 of the Real Property Tax Law.

**§ 375-48. Property also subject to special ad valorem levies and special assessments.**

Pursuant to and in accordance with Section 7 of Chapter 417 of the Laws of New York of 1971 and § 490 of the Real Property Tax Law, real property located within the City of Binghamton subject to service charges as provided hereinabove shall also be subject to special ad valorem levies and special assessments.

**§ 375-49. Effective date.**

This article shall take effect April 1, 1972.

**ARTICLE VI, Exemption for Businesses [Adopted 10-3-1977 by L.L. No. 12-1977 (Sub-Part LIV of the 1970 Code)]**

**§ 375-50. Authorized.**

Pursuant to and in accordance with the provisions of § 485 of the Real Property Tax Law as amended by Chapter 798 of the Laws of 1976, real property situate within the bounds of the City of Binghamton, New York, and owned by eligible business facilities as defined in § 115 of the Commerce Law shall be exempt from real property taxation imposed for purposes of the City of Binghamton.

**§ 375-51. Improvements eligible for exemption; term.**

An eligible business facility, as certified by the New York State Job Incentive Board, pursuant to § 120 of the Commerce Law shall be exempt from taxes imposed for purposes of the City of Binghamton of any increase in the value thereof which is attributable to expenditures certified by said Board to have been paid or incurred by the owner or operator for capital improvements commenced on or after the date upon which the area in which the eligible business facility is located became an eligible area pursuant to § 115 of the Commerce Law, consisting of the construction, reconstruction, erection or improvement of depreciable real property included in such facility. Such exemption shall be applicable for a period not to exceed 10 years, and shall be continued from year to year during such period only if the certificate of eligibility with respect to such business facility is not revoked or modified and is renewed or extended as provided in § 120 of the Commerce Law.

**§ 375-52. Period of exemption.**

Such real property shall be exempt for a period of 10 years to the extent of 100% of the increase in assessed value which is attributable to such Board-certified expenditures by the owner or operator for capital improvements.

**§ 375-53. Application required.**

Such exemption shall be granted only upon an application by the owner or operator of such facility on a form prescribed by the State Board, to which there shall be attached a copy of a certificate of eligibility issued by the New York State Job Incentive Board. Such application shall be filed with the Assessor on or before the appropriate taxable status dates. Copies of such application shall be filed simultaneously with the State Board and with the New York State Job Incentive Board.

**§ 375-54. Determination by Assessor.**

The Assessor shall consider the application for such exemption and if the same is in order shall determine the assessed value of such exemption in accordance with the certificate of eligibility and enter such value on the exempt portion of the tax roll. The eligible business facility shall then be exempt from real property taxes commencing with the assessment roll prepared on the next following taxable status date.

**§ 375-55. Redetermination of exemption.**

If an exemption has once been granted for a business facility under this article and the Assessor receives notice that a certificate of eligibility of such facility has been revoked or modified, he or she shall redetermine the assessed value of any such exemption in accordance with such revocation or modification. If upon such redetermination it appears for a year for which an exemption has been granted that such facility has been ineligible or that the assessed value of such exemption as redetermined is less than the assessed value of such exemption as shown on the assessment rolls for such year, then a tax shall be levied at the rate of tax for such

year upon so much of the assessed valuation of such exemption, as shown on such assessment rolls, as may be ineligible or excessive. Such tax shall be levied as an omitted assessment in the manner provided in § 550 of the Real Property Tax Law. Any such redetermination shall be made no later than three years after the applicant for exemption last received benefit of any exemption under this article.

**§ 375-56. When effective; applicability.**

This article shall take effect immediately but shall not apply for any real property taxes levied by the City of Binghamton for the year commencing January 1, 1977, and ending December 31, 1977.

**ARTICLE VII, Veterans Exemption [Adopted 4-24-1985 by L.L. No. 7-1985 (Sub-Part LVIII of the 1970 Code)]**

**§ 375-57. Maximum exemption level. [Amended by L.L. No. 1-1993]**

Pursuant to § 458-a(2)(c)(ii) of the Real Property Tax Law, this Council hereby elects to adopt the maximum exemption level for Paragraphs (a), (b) and (c) of § 458-a at \$12,000, \$8,000 and \$40,000 respectively.

**ARTICLE VIII, Exemption for Nonprofit Sub-Grantee Developers [Adopted 2-21-1990 by L.L. No. 2-1990 (Sub-Part LXXII of the 1970 Code)]**

**§ 375-58. Authority.**

The City of Binghamton is hereby authorized to grant a partial real property tax exemption to not-for-profit subgrantee developers under the New York State Low-Income Housing Trust Fund, based upon the provisions of § 421-e of the Real Property Tax Law.

**§ 375-59. Amount; term; conditions.**

Said partial real property exemption shall be in an amount not in excess of 40% of the increased assessed value based upon the improvements, for a period not to exceed 10 years. The actual property assessment shall not, however, be decreased or reduced.

**§ 375-60. Determination of amount.**

The actual amount of said exemption in each case, within the parameters set forth in § 375-59 above, shall be determined jointly by the Director of Housing, Planning and Community Development, the Director of Finance and the Assessor.

**ARTICLE IX, Homestead Base Proportions [Adopted 2-24-1993 by L.L. No. 3-1993 (Sub-Part LXXVIII of the 1970 Code)]**

**§ 375-61. State law adopted.**

The provisions of Real Property Tax Law § 1903, concerning homestead base proportions, are hereby adopted.

**§ 375-62. Established by ordinance of City Council; applicability.**

The homestead base proportions shall be established by ordinance of the Council of the City of Binghamton in accordance with the rules of the State Board of Real Property Services, and shall apply to taxes levied on the 1993-1994 final assessment roll and to taxes levied on subsequent rolls, until this article shall be repealed.

**ARTICLE X, Senior Citizens Exemption [Adopted 12-19-1994 by L.L. No. 6-1994 (Sub-Part XXV of the 1970 Code)]**

**§ 375-63. Scope of exemption. [Amended by L.L. No. 4-1997; 12-1-2003 by L.L. No. 1-2003; 10-3-2005 by L.L. No. 3-2005]**

Pursuant to and in accordance with the provisions of § 467 of the Real Property Tax Law, real property situate within the City of Binghamton, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband or wife or by siblings (for the purposes of this section, "sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption), one of whom is 65 years of age or over, shall be exempt from real property taxation by the City of Binghamton to the extent provided in the following schedule:

**AGED EXEMPTION: Sliding Scale for City, County and School Purposes**

<u>Exemption</u>	<u>Income Limits</u>
50%	\$23,999 or lower
45%	\$24,000 to \$24,999
40%	\$25,000 to \$25,999
35%	\$26,000 to \$26,999
30%	\$27,000 to \$27,899
25%	\$27,900 to \$28,799
20%	\$28,800 to \$29,699
15%	\$29,700 to \$30,599
10%	\$30,600 to \$31,500
0%	Greater than \$31,500

**§ 375-64. Conditions for exemption. [Added by L.L. No. 4-1997; amended 12-1-2003 by L.L. No. 1-2003; 10-3-2005 by L.L. No. 3-2005]**

No exemption shall be granted:

- A. If the income of the owner or the combined income of the owners of the real property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$31,500. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except that where the husband or wife, or ex-husband or ex-wife, is absent from the property as provided in Subsection D(2) of this section, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or money earned through employment in the federal foster grandparent program. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion or wear and tear of real or personal property held for the production of income.
  
- B. Unless the owner shall have held an exemption under this section for his or her previous residence or unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 12 consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death, which then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferee spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such

owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of 12 consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of 12 consecutive months shall be deemed satisfied. [Amended 12-4-2006 by L.L. No. 2-2006]

- C. Unless the property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section.
- D. Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property; except where:
  - (1) An owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse or co-owner for care in the facility, and provided further that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or
  - (2) The real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met, provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be 62 year of age or over.

**§ 375-65. Application for exemption.**

Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the state board to be furnished by the assessing authority and shall furnish the information and be executed in the manner required or prescribed in such forms, and shall be filed in the Assessor's office on or before the appropriate taxable status date.

**§ 375-66. Penalties for false statement in application.**

Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemptions for a period of five years.

**ARTICLE XI, Homestead Status for Cooperative Apartments [Adopted 7-20-1998 by Ord. No. 98-101 (Ch. 22A, Art. I, § 22A-1, of the 1970 Code); Amended 2-22-2017 by LL No. 17-01]**

**§ 375-67. Eligibility.**

- A. Pursuant to City of Binghamton Local Law 17-01, dated February 8, 2017, the assessor of the City of Binghamton is directed to transfer cooperative apartments in the City of Binghamton, County of Broome, from the non-homestead tax class to the homestead tax class and to adjust the homestead and non-homestead tax shares accordingly. Said transfer shall take effect as of the March 1, 2017, tax status date and shall be reflected in the 2017/18 School and 2018 City/County real property tax bills and thereafter.
- B. All exemptions, including veterans' exemption, shall apply to the owners of said cooperative apartments.

**ARTICLE XII, Exemption for Improvements to Historic Property [Adopted 1-19-1999 by Ord. No. 99-1 (Ch. 22A, Art. II, §§ 22-A2 through 22-A4, of the 1970 Code)]**

**§ 375-68. Adoption of statutory exemption.**

The Council of the City of Binghamton does hereby determine that it is in the best interest of the City of Binghamton to adopt New York State Real Property Tax Law § 444-a in its entirety.

**§ 375-69. Permission to assess taxes.**

The Council of the City of Binghamton hereby grants permission to the Mayor and Tax Assessor to assess taxes on historic landmarks in the above-mentioned manner.