

Real Property Tax Levy Limit ("Tax Cap") Law

Summary

- In layman's terms, we may not adopt a budget where the tax levy exceeds the prior year's tax levy by more than 2 percent, or the rate of inflation (CPI-U), whichever is less.
- The tax cap limits the tax levy, **not** the assessed value or the actual tax rate.

The expectation of taxpayers is that the tax rate will not increase more than 2 percent and that is not the case with this legislation.

Historical Information

	<u>Tax Levy</u>	<u>% increase</u>	<u>Tax Rate</u>	<u>% increase</u>
2011	\$5,698,354.25	2.5%	10.475878	1.26%
2010	\$5,561,629.87	3.1%	10.345259	1.55%
2009	\$5,394,769.18	4.2%	10.187076	1.62%
2008	\$5,178,035.61		10.02464	

Summary (con't)

- Tax cap was enacted June 24, 2011 and is applicable to the City's FY 12/13 budget
- The tax cap law expires June 15, 2016, but is tied to rent control legislation. If rent control is extended, the tax cap will also be extended
- Council has the authority to override the tax cap
- If we enact a levy in excess of the tax cap, the excess must be placed in a reserve to be used towards the next year's tax levy. Even if the excess was calculated inadvertently due to technical or clerical error.

2% or Rate of Inflation

- Inflation factor is the “change in the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the coming fiscal year”.
- OSC will calculate this for us.

Adjustments

- Tax base growth factor:
 - based on real brick and mortar development
 - not based on general increases in the economy or assessment values
 - determined by the Department of Tax and Finance
- Transfer of function:
 - costs and/or savings from the transfer of a government function from one municipality to another
 - not to be confused with shared services
 - determined by OSC

Exclusions – Pension Contributions

- caused by growth in each retirement system's statewide average contribution rate in excess of 2 percentage points
- not based on the actual growth in our pension contribution from one year to the next
- OSC will provide us with the statewide average contribution rate – they are usually released in August
- the calculation for this exclusion takes into account the City's projected salary base as provided by the NYS Retirement System
- union and arbitration awards causing spikes in this salary base are not taken into account

Exclusions – Court Orders

- Expenditures resulting from court orders or judgments arising out of tort actions that exceed 5% of the total tax levied in the prior fiscal year.
 - Costs arising from non-tort actions (including tax certiorari) are not excluded from the levy cap
 - Only for amounts greater than 5% of total tax levied in prior year, not for the entire amount
 - For example:
 - Judgment = \$300,000
 - Prior tax levy = \$5,000,000
 - 5% of that prior tax levy = \$250,000
 - \$300,000 - \$250,000 = \$50,000 is excludable

Formula for Determining the Tax Cap

provided by OSC

Base Formula

$$\left[\left(\begin{array}{c} \text{Prior} \\ \text{fiscal} \\ \text{year tax} \\ \text{levy} \end{array} \times \begin{array}{c} \text{Tax} \\ \text{base} \\ \text{growth} \\ \text{factor}^* \end{array} \right) + \begin{array}{c} \text{PILOTs} \\ \text{receivable} \\ \text{in the prior} \\ \text{fiscal year} \end{array} \right] \times \begin{array}{c} \text{Allowable} \\ \text{levy growth} \\ \text{factor (1.00} \\ \text{to 1.02)**} \end{array} - \begin{array}{c} \text{PILOTs} \\ \text{receivable} \\ \text{in coming} \\ \text{fiscal year} \end{array} = \text{Tax Levy Limit}$$

+ Transfer of Function

$$\text{Tax Levy Limit} + \begin{array}{c} \text{Net of Transfer of} \\ \text{Government} \\ \text{Function (as} \\ \text{determined by OSC)} \end{array} = \text{Tax Levy Limit, Adjusted for Transfer of Function}$$

+ Exclusions

Tax Levy Limit, Adjusted for Transfer of Function

$$+ \begin{array}{l} \text{Tax levy necessary for} \\ \text{expenditures from} \\ \text{court orders/judgments} \\ \text{arising from tort} \\ \text{actions for any amount} \\ \text{in excess of 5\% of the} \\ \text{total taxes levied in the} \\ \text{prior fiscal year} \end{array} \text{ AND } \begin{array}{l} \text{Levy necessary to pay} \\ \text{for increases to the} \\ \text{system average} \\ \text{actuarial contribution} \\ \text{rate (or normal} \\ \text{contribution rate) of} \\ \text{pension funds over 2} \\ \text{percentage points} \end{array} \text{ AND } \begin{array}{l} \text{School} \\ \text{districts ONLY:} \\ \text{capital tax} \\ \text{levy} \end{array} =$$

Tax Levy Limit, Adjusted for Transfers, Plus Exclusions

Estimated Calculation for the City

Determine the total amount of taxes levied for 11/12:

5,578,354.30	City of Batavia tax levy
<u>+ 119,999.95</u>	Special District Taxes – BID assessment
5,698,354.25	
<u>x 1.0016</u>	Tax base growth factor
5,707,471.62	
<u>+ 88,547.00</u>	Prior year PILOT receivable (FY 2011/2012)
5,796,018.62	
<u>X 1.02</u>	2% tax cap limit
5,911,938.99	
<u>- 89,000.00</u>	Estimated PILOT receivable-up coming fiscal year (FY 2012/2013)
5,822,938.99	Tax levy limit BEFORE adjustments

We are assuming no transfer of function adjustment for this calculation.

Estimated Calculation for the City (con't)

Pension exclusion:

	<u>ERS</u>	<u>PFRS</u>
SFY 12/13 system average	18.90%	25.80%
Less: SFY 11/12 system average	<u>16.30%</u>	<u>21.60%</u>
Percentage point difference	2.60%	4.20%
Less: Local responsibility not excludable	<u>2.00%</u>	<u>2.00%</u>
Excludable portion	.60%	2.20%
Projected salaries from NYS Retirement System	3,400,119	4,568,730
Multiplied by the excludable portion	<u>.60%</u>	<u>2.20%</u>
Pension excluded from tax cap	20,400.71	100,512.06
Total excluded		\$120,912.77

Estimated Calculation for the City (con't)

\$5,822,938.99

Levy after adjustments

+ 120,912.77

Pension exclusion

\$5,943,851.76

TAX LEVY LIMIT

4.31% levy increase over the prior year (FY 11/12)

	<u>Tax Levy</u>	<u>% increase</u>	<u>Tax Rate</u>	<u>% increase</u>
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Carryover

- If the levy ends up being less than the levy limit, up to 1.5% of that year's tax levy limit may be added to the levy limit for the next fiscal year
- The actual levy will be used as the starting point for next year's calculation
- The carryover amount can only be carried over for one year
 - For example:
 - Calculated levy limit = \$5,900,000
 - Actual tax levied = \$5,600,000
 - Amount available to carry over is \$88,500 ($.015 \times 5,900,000$)

The Comptroller's Role

- City will be required to submit the Tax Cap calculation to the state before adopting budget (suggested submission date for a municipality whose year ends 3/31 is December)
- OSC will not certify the City's calculation
- OSC will not correct inaccurate data
- OSC has determined the tax cap will be auditable for compliance

Override

- Council may adopt a local law to override the tax levy limitation
 - the local law requires 60% vote for passage, 6 out of 9
 - The local law is good for that fiscal year only
 - The local law is required to be voted on and adopted prior to the adoption of the budget
 - The local law authorizes you to override. It does not mean that you have to or will go over the levy limit. It can be done to protect yourself in the event of a default budget or clerical/technical error that may not be found until audit years later
 - NYCOM and our auditors are strongly encouraging municipalities to consider overriding for the first year, at the very least, to protect ourselves as noted above

Note: This presentation contains draft numbers and information that is subject to change as additional information is obtained from the New York State Office of the State Comptroller.

If you have any questions, please call
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