

**Real Property Tax Levy Limit  
("Tax Cap") Law  
Year 2**

# Review

- Tax cap limits **total levy, not the assessed value or tax rate.**
- The City may not adopt a budget that requires a tax levy that exceeds the prior year's levy by more than 2 percent or the rate of inflation, without an override resolution.
- It's not always 2%
- Exclusions and adjustments can drive variations
  - Net effect of PILOTs
  - Exclusions
  - Tax base growth factor

Even if the levy increases by 2%, the impact on individual tax bills may vary

Note: Tax rate = Levy / Total taxable assessed value

# Acronyms

- OSC – New York State Office of the State Comptroller
- PILOT – Payment in Lieu of Taxes
- ERS – Employee Retirement System
- PFRS – Police and Fire Retirement System
- SFY – State Fiscal Year

## 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 calculates this for us; however, at this time, they have not calculated this for municipalities with fiscal years ending March 31. Therefore we are assuming the multiplier will be 2%

# 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
  - Last year, the City's tax base growth factor was 1.0016 - this year it is 1.0057
- 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
  - If this were applicable to the City, OSC would determine the net amount to be used in our tax cap calculation

## 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
- 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
  - Not applicable to the City

# 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

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

## Calculation Changes for Year Two

- Municipalities whose levy in the prior fiscal year was above the tax cap are required to place the overage into a reserve account. This amount plus interest, in year two, is to be subtracted in the calculation, thereby reducing the tax levy limit.
- Municipalities whose levy in the prior fiscal year was below the tax cap limit BEFORE EXCLUSIONS, can carryover the lesser of: 1) the difference between the tax levy limit and the actual levy, or 1.5 % of the prior year tax levy limit.
- The City does not qualify for the carryover.

## Estimated Calculation for the City

Begin with the total amount of taxes levied for 12/13:

5,709,109.22	City of Batavia tax levy 2012/2013
+ 5,400.45	Omitted taxes
+ <u>119,999.95</u>	Special District Taxes – BID assessment
5,834,509.66	
x <u>1.0057</u>	Tax base growth factor
5,867,766.37	
+ <u>89,000.00</u>	Prior year PILOT revenue budget (FY 2012/2013)
5,956,766.37	
X <u>1.02</u>	2% tax cap limit
6,075,901.69	
- <u>60,900.00</u>	Estimated PILOT revenue (FY 2013/2014)
6,015,001.69	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 13/14 system average contribution rate	20.90%	28.90%
Less: SFY 12/13 system average contribution rate <u>25.80%</u>		<u>18.90%</u>
Percentage point difference	2.00%	3.10%
Less: Local responsibility not excludable	<u>2.00%</u>	<u>2.00%</u>
Excludable portion	.00%	1.10%
Projected salaries from NYS Retirement System	3,536,832	5,019,070
Multiplied by the excludable portion	<u>.00%</u>	<u>1.10%</u>
Pension excluded from tax cap	0.00	55,209.77
Total excluded		\$ 55,209.77

Note: This is a decrease of \$65,703 when compared to last year's pension exclusion of \$120,912.77. Also note this does not take into consideration the increase in the City's actual retirement expense, projected to increase \$298,108 in fiscal year 2013/2014, or 17.1%.

# Estimated Calculation for the City (con't)

\$6,015,001.69	Levy after adjustments
+ 55,209.77	Pension exclusion
<u>\$6,070,211.46</u>	TAX LEVY LIMIT
- 5,400.45	Omitted taxes
- <u>119,999.95</u>	Special District Taxes – BID assessment
<b>\$5,944,811.02</b>	Actual levy limit

3.62% levy increase over the prior year (FY 12/13)

	<u>Tax Levy</u>	<u>% increase</u>	<u>Tax Rate</u>	<u>% increase</u>
2012	\$5,709,109.22	2.3%	10.712323	2.26%
2011	\$5,578,354.30	2.5%	10.475878	1.26%
2010	\$5,441,629.80	3.2%	10.345259	1.55%
2009	\$5,274,769.22	4.3%	10.187076	1.62%

## The Comptroller's Role

- City will be required to submit the Tax Cap calculation to the state before adopting budget
- OSC will not certify the City's calculation
- 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

## Reporting Compliance for the previous fiscal year (per OSC as of 8/27/12)

Type	Total Entities	Levy Limits Submitted	%	Planning to Override	%	Average Levy Limit Increase	Average Proposed Levy Increase
County	57	57	100%	12	21%	3.3%	1.0%
City	61	60	98%	12	20%	3.3%	2.3%
Town	932	868	93%	178	21%	3.0%	10.3%
Village	551	509	92%	41	6%	3.0%	3.5%

## OSC Compliance Reviews

- OSC conducted statewide reviews of 1,106 local governments and school districts
- Out of 1,106 reviewed, 73% were within the limit, 9% exceeded the tax limit and 18% enacted the override
- 37% of those reviewed had no error
- 70% of those with errors, still did not exceed the limit

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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