The Real Property Tax Levy Limit for Local Governments
Library Issues

Presented to
By
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Overview of The Tax Cap

- Enacted June 24, 2011
- Expires June 15, 2016 unless rent control extended

**Basic principle:** Local governments and school districts 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, whichever is less, unless they officially override the tax levy limitation.
Who is Covered by the Cap?

- Not covered: New York City

- Directly covered/reporting entities:
  - All counties, cities (except NYC), towns, villages
  - Fire districts
  - Independent school districts
  - Special districts that have a separately elected or independent appointed board and can either tax or require a tax to be levied on their behalf:
    - Special districts with separately-elected commissioners
Who is Covered by the Cap (cont)?

- Indirectly covered:
  - “Big 4” school districts of Buffalo, Rochester, Syracuse and Yonkers are covered under their cities’ caps
  - Special districts that do not have a separately elected or independent appointed board or cannot either tax or require a tax to be levied on their behalf are covered by the limit on their municipal entity
    - Town or county water, sewage, drainage, refuse and fire protection districts
How Are Libraries Treated?

- Libraries are all considered to fall under the “local government” section of the law.

- Most will have to submit tax cap forms:
  - School district library levies
  - Special legislative library district levies
  - Association and municipal library levies imposed through a public vote, even if the vote was held in a prior year

- Exceptions:
  - Association and municipal library funds received through contractual or voluntary arrangements
  - Libraries that are solely funded by such arrangements need not file a separate levy limit
Basic Calculation for Fiscal Years Starting in 2012

- Tax levy for 2011 (2011-12) 
  X Tax base growth factor (Tax & Finance) 
  + PILOTs receivable 2011 (2011-12) 
  X Allowable levy growth factor (2% or inflation) 
  - PILOTs receivable in 2012 (2012-13) 
  + Adjustments for transfer of function 
  + Exclusions (tort, pension and capital) 
  = Total amount you can levy within the limit 

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Not for school districts

School districts only

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OSC
Calculation Elements: Tax Base

Growth Factor

- Determined by Tax and Finance
- Adjusts for “brick and mortar” development that increases the value of a district’s full taxable property, not market fluctuations
- If a library covers an area that is not identical to an existing school district or municipal boundary, Tax and Finance should compute a separate growth factor
  - Call T&F if there isn’t one; not complete yet
Calculation Elements: PILOTs

- Payments in lieu of taxation (PILOTs) are added to the base of the prior fiscal year (2011-12)
- PILOTs are subtracted out of the levy limit of the coming fiscal year (2012-13)
- The net effect is generally almost neutral
- Can affect whether you are over; be careful to estimate based on best information
- Unlikely to affect most libraries
Calculation Elements: Adjustment for Transfer of Function (LGs only)

- If government functions are transferred between local governments:
  - OSC determines costs and savings
  - Local governments adjust the tax cap accordingly
  - School districts are **not** eligible for this adjustment
  - Unlikely to affect libraries

- Local government notifies OSC if such an adjustment is needed
  - Regional office will gather details to help OSC determine if the situation is a transfer of function and calculate any adjustment
Calculation Elements: Levy Growth Factor (Inflation or 2%)

- OSC will calculate this number, based on CPI-U released by the Bureau of Labor Statistics each month.
- It will be available 5 ½ months before start of new fiscal year.
- It will usually add 2%, but can be lower or flat.
- Per guidance from Tax and Finance, you may **not** estimate this factor.
- You may not calculate your limit without this factor.
Calculation Elements – Exclusions

- The law allows local governments and school districts to exclude levy necessary to support the following:
  - Pension contributions due to increases in the statewide contribution rate over 2 percentage points, applied to projected salary base
  - 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
- School districts may also exclude the local portion of capital expenditures
Pension Exclusion for Local Govts

Excludable rates for 2012 (2012-13):
- ERS: 0.6% of projected SFY 2012-13 salary base
- PFRS: 2.2% of projected SFY 2012-13 salary base
- TRS: 0.49% of estimated SY 2011-12 salary base

The pension exclusion is not based on pension contribution growth from one year to the next:
- Nowhere near as large as that
- Media often misrepresent it as the larger number

Data available in Aug or Sept; CY libraries may calculate levy without this, but cannot estimate

Based on statewide rate calculation, not local averages

Must use OSC-projected ERS/PFRS salary base; no local adjustment allowed
Use Online Salary Base from EPR

Use the salary base in the column marked “Projected Salaries 04/01/2012-03/31/2013”

<table>
<thead>
<tr>
<th>Tier</th>
<th>Plan ID</th>
<th>Options</th>
<th>Salary Estimates 04/01/2011 - 03/31/2012</th>
<th>Project Factor</th>
<th>Projected Salaries 04/01/2012 - 03/31/2013</th>
<th>Plan Option</th>
<th>Pension Contribution</th>
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Sub Totals $12,608,794

** 2011 Actual Salaries double inflated

Estimated 2013 Regular Pension Contribution, Including GTLI $12,534,652

Due February 1, 2013 Payments

<table>
<thead>
<tr>
<th>Due February 1, 2013 Payments</th>
<th>divide by factor</th>
<th>Pre Pay December 15, 2012 Payments</th>
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<tbody>
<tr>
<td>2005 Ch. 260, Laws of 2004 Amortization Payment Installment 8 of 10</td>
<td>$68,362</td>
<td>$67,946</td>
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<tr>
<td>2006 Ch. 260, Laws of 2004 Amortization Payment Installment 7 of 10</td>
<td>$16,327</td>
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<td>2011 Ch. 57, Laws of 2010 Amortization Payment Installment 2 of 10</td>
<td>$20,531</td>
<td>$20,406</td>
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</table>

Total Adjustments $105,220

1.006117 = $104,580
Use Online Pension Exclusion Calculator

Salary Base for bill to be paid in fiscal years beginning 2012:
- State and Local Employee Retirement System (ERS)
- Police and Fire Retirement System (PFRS)
- Teachers Retirement System (TRS)

Excludable Percentage:
- State and Local Employee Retirement System (ERS)
- Police and Fire Retirement System (PFRS)
- Teachers Retirement System (TRS)

Pension Exclusion:
- ERS
- PFRS
- TRS

SFY 2012-13 Salary Base: 12,534,652
2012-13 Percentages:
- State and Local Employee Retirement System (ERS): 0.60%
- Police and Fire Retirement System (PFRS): 2.40%
- Teachers Retirement System (TRS): 0.49%

Calculates exclusion(s): 75,208
Next Year’s Calculation: Carryover

- If a local government or school district levies less than the levy limit in a given year, the amount not levied in that year may be carried over to the next year’s levy limit, up to a total of 1.5% of that year’s limit.

- This may **not** include exclusions not taken.
If You Get the Calculation Wrong

- If, due to a clerical or technical error, actual levy exceeds the levy limit, the excess must be placed in a *reserve*.

- This excess amount, plus any interest, must be used to offset the levy in next fiscal year.

- See **new** accounting bulletin on our website for how to do this.
Reporting Requirements

- Local governments and school districts must calculate their own tax levy limit and report the data elements they use to the State.
- Reporting must be done on OSC online form:
  - Reporter enters data elements
  - Form calculates the formula automatically
  - Data elements centrally located:
    - Allowable levy growth factor pre-populated in form
    - Link to Tax & Finance’s tax base growth factor
    - Pension exclusion calculator is on website
    - ERS salary base available through Retirement System
Exceptions

- OSC (or SED) calculates the limit:
  - If a local government dissolves, OSC calculates the limit for the government that takes over its obligations
  - If two or more local governments consolidate (OSC)
  - When two or more school districts reorganize (SED)

- In the first year of a new government entity, that entity has no levy limit

- Reminder: OSC will calculate costs/savings adjustments associated with transfer of function activities, but LGs must calculate own caps
Many libraries have not yet filed
Association libraries did not, until now, have to report to us
We have assigned a municipal ID and PIN to every library (and library system)
If you do not know if you must report, call
Library Timing Issues

<table>
<thead>
<tr>
<th>Local Government or School Fiscal Year</th>
<th>Form and Data Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>01/1/2012-12/31/2012</td>
<td>Mid-Sept 2011*</td>
</tr>
<tr>
<td>03/1/2012-02/28/2013</td>
<td>Mid-Sept 2011</td>
</tr>
<tr>
<td>04/1/2012-03/31/2013</td>
<td>Mid-Oct 2011</td>
</tr>
<tr>
<td>06/1/2012-05/31/2013</td>
<td>Mid-Dec 2011</td>
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<tr>
<td>07/1/2012-06/30/2013</td>
<td>Mid-Jan 2012</td>
</tr>
<tr>
<td>08/1/2012-07/31/2013</td>
<td>Mid-Feb 2012</td>
</tr>
</tbody>
</table>

* NOTE: Allowable levy growth factor available Mid-July, Tax base growth factor will probably be available in August for municipalities and special districts, but perhaps later for school districts; ERS/PFRS exclusion data available in late August or early September
Library Timing Issues (cont.)

- CY special act library boards must often pass budgets prior to September; Tax and Finance has determined that budget dates must change.
- Libraries have reported to the State Library on a “reporting year”, possibly not related to actual local fiscal year.
- Local fiscal years are possibly unrelated to budget years of budget vote entities.
- Will have to address these issues – please help us by answering survey on budget / local fiscal year.
  - If you passed a 2012 budget before the law existed, please call our hotline for further guidance.
The Override Provision

- The law allows local governments and school districts to override the levy limit in any given year.
  - An override is good for that fiscal year only; cannot “opt out” of the tax cap permanently.
  - There is no limit to the number of successive years of overrides possible.
  - If override is successful, the amount levied becomes the base for the next fiscal year’s levy limit.
Override: Supermajority Needed

- Local governments and special districts (including libraries) need to get a 60% vote of their governing board to override the limit before adopting a budget
  - Counties, cities, towns and villages must pass a local law
  - Fire districts and special districts, like library districts, must pass a resolution
- Schools must put the override to their voters and get a 60% supermajority public vote
Use of Override by Libraries in First Year of Tax Cap

- Libraries that must (or already did) enact budgets in advance of data and form being available this year should override the tax levy limit
- This is not a long-term strategy; levy limit should be calculated before budget is enacted
Regardless of whether the tax cap is overridden or not...

- The levy limit must be calculated each year.
- The information necessary to calculate the cap must be submitted to OSC, and, for school districts, to SED and Tax & Finance.
- School districts must add their levy limit to their Property Tax Report Card.
Comptroller’s Post-Audit Authority

- The Comptroller has the authority to conduct audits of local governments and school districts for compliance with the new law.
- If OSC discovers excess levy on post-audit, we can direct a local government to put it into reserve.
- We will add levy limit issues to our existing risk assessment and audit process.
Being Pro-Active: Guidance and Web Resources

- Our goal is to avoid any audit findings caused by lack of information or training
- Our website is continuously being updated with new information
- Our report form will help with the simultaneous calculation and reporting of the levy limit
Local Government and School Accountability

Real Property Tax Cap Information

The State Legislature and the Governor recently enacted legislation that establishes a “property tax cap” on the amount that a local government’s or school district’s property tax levy can increase each year. Chapter 97 of the Laws of 2011 (Part A-Property Tax Cap) establishes a tax levy limit (hereafter referred to as the “property tax cap”) that affects all local governments, most school districts in New York State, except New York City, and a host of other independent taxing entities such as library, fire and water districts. The law is effective for local fiscal years beginning in 2012 and for the 2012-13 school year.

Under this law, the growth in the property tax levy, the total amount to be raised through property taxes charged on the municipality’s taxable assessed value of property, will be capped at 2 percent or the rate of inflation, whichever is less, with some exceptions. Local communities have the ability to override the cap.

This information is being provided to local government officials to assist them with implementing the property tax cap and will be updated frequently. Initially, this site will provide guidance for those local governments that will be the first to develop budgets under the new law (e.g., those that operate on a calendar year fiscal year) and will be updated in the future to provide information and guidance to school districts, local governments with fiscal years that do not coincide with the calendar year, local taxing entities and taxpayers. Please continue to check back regularly for updated information.
Levy Limit Resources and Contact Information

- OSC Property Tax Website: www.osc.state.ny.us/localgov/realprop/index.htm
- OSC Property Tax Hotline: (518) 473-0006
  Email: LGSAMonitoring@osc.state.ny.us
- Retirement System (Salary Projection Data)
  Email: RTEmpSer@osc.state.ny.us
- Department of Taxation and Finance
  www.tax.ny.gov/research/property/cap.htm
- State Education Department: www.nysed.gov
Thank You

Division of Local Government and School Accountability
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