Property Tax Cap
Chapter 97 of the Laws of 2011

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Agenda

- Conceptual overview of property tax cap
- Sample calculation of tax levy limit
- Reporting requirements
- Budget vote requirements
- Voter approval
- Questions???

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Property Tax Cap
Chapter 97 of the Laws of 2011

- Begins with the 2012-13 school year budget
- In effect through at least 2016-17. Thereafter, it remains in effect only so long as regulation and control of residential rents and evictions (i.e., rent control) laws are in place.
- Chapter 97 leaves the current contingency budget requirements/restrictions in place

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Property Tax Cap
Chapter 97 of the Laws of 2011

- Not really a "cap"
- Sets a **higher threshold for voter approval** of budgets IF proposed tax levy increase exceeds the "tax levy limit"
  - 60% or more vs. simple majority (more than 50%)
- "Tax levy limit" calculated by each district and will vary by district
- "Tax levy limit" is also NOT a limit—just a threshold for what level of voter support is needed

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Total Levy to support proposed budget

Tax Levy Limit

+

Coming school year exemptions

=

Maximum Allowable Tax Levy

(requiring simple majority)

Tax Levy Limit

Prior year tax levy

x

Tax base growth factor, if any

+

Payments in lieu of taxes (PILOTs)receivable during prior year

–

Taxes levied for exemptions during prior year (not ERS & TRS)

=

Adjusted Prior Year Tax Levy

x

Allowable levy growth factor (lesser of 2% or CPI)

–

Payments in lieu of taxes (PILOTs) receivable in the coming year

+

Available carryover, if any

=

"Tax Levy Limit"

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Sample Tax Levy Limit Calculation

Prior year tax levy	5,000,000
Tax base growth factor	x 1.01
	5,050,000
Prior year PILOT	+100,000
	5,150,000
Prior year exemptions (capital levy, court orders)	- 200,000
Adjusted Prior Year Levy	**4,950,000**
Allowable Growth Factor (lesser of CPI or 2%)	x 1.02
	5,049,000
PILOTs for coming year	- 100,000
	= 4,949,000
Available Carryover	+ 0
TAX LEVY LIMIT	**= 4,949,000**

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Prior Year Tax Levy

- Taxes levied in the prior year including exemptions

- For 2012-13 school year
  - 2011-12 tax levy

Tax Base Growth Factor

- Quantity Change Factor = The percentage by which the full value of the taxable real property in the school district **increases due to physical or quantity change,** compared with the prior year tax roll (growth in full value due to new construction, additions and improvements to real property, etc.).

- Tax Base Growth Factor = 1 + Quantity Change Factor; only calculated if quantity change factor is a positive number.

- Source: New York State Tax and Finance Department (ORPS)

- Factor will be made available by February 15th

Prior Year PILOT

- Payments in lieu of taxes (PILOT) owed to the district in the prior school year
- For 2012-13 school year
  - 2011-12 PILOT payments
- Not all districts will have PILOT payments

Prior Year Exemptions

- Capital Tax Levy = Tax levy necessary to support capital local expenditures

- Capital Local Expenditures = The tax levy associated with budgeted expenditures resulting from the construction, acquisition, reconstruction, rehabilitation or improvement of school district capital facilities or capital equipment, including debt service and lease expenditures, and transportation capital debt service.

- Court Orders/Judgments = Tax levy necessary for expenditures resulting from court orders or judgments arising out of tort actions for any amount that exceeds 5% of total tax levied in prior school year.

  (excludes tax certioraris)

- Excludes prior year pension exemption

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Adjusted Prior Year Tax Levy

- Prior year levy adjusted for:
  - Tax base growth factor
  - Prior year PILOT
  - Prior year exemptions

Allowable Growth Factor

- Allowable Levy Growth Factor = Lesser of: 1.02 OR (1 + Inflation Factor); Minimum of 1.0.
- Inflation Factor = CPI change, carried out four decimal places.
  - Same as CPI used for contingent budget cap
- Source: US Department of Labor

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PILOTs for coming year

- Payments in lieu of taxes (PILOT) to be collected in the coming school year

- For 2012-13 school year
  - 2012-13 PILOT payments

- Not all districts will have PILOT payments

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Available Carryover

- Districts may use taxing authority from the prior school year to increase the subsequent year's tax levy if taxes were increased in the prior school year by less than the amount allowed by the cap.

- Available Carryover = (Prior year tax levy limit – prior year tax levy), but no greater than:

  (1.5% x prior year tax levy limit).

- No Available Carryover (from 2011-12) for 2012-13

Tax Levy Limit

- Amount to be calculated and submitted to Comptroller's Office prior to March 1st of each year
- Prior to addition of allowable exemptions

Total Levy to support proposed budget

Tax Levy Limit

+

Coming school year exemptions

=

Maximum Allowable Tax Levy

(requiring simple majority)

Coming School Year Exemptions

•<u>Capital Tax Levy</u> = Tax levy necessary to support capital local expenditures

•<u>Capital Local Expenditures</u> = The tax levy associated with budgeted expenditures resulting from the construction, acquisition, reconstruction, rehabilitation or improvement of school district capital facilities or capital equipment, including debt service and lease expenditures, and transportation capital debt service.

•<u>Court Orders/Judgments</u> = Tax levy necessary for expenditures resulting from court orders or judgments arising out of tort actions for any amount that exceeds 5% of total tax levied in prior school year. (<u>excludes tax certioraris</u>)

Coming School Year Exemptions

- **The pension cost exemption applies only when ERS and/or TRS employer contribution rates increase by more than 2 percentage points over the prior year.**

- ERS Costs = Tax levy necessary for expenditures for coming school year for employer contributions caused by growth in the system average actuarial contribution rate, minus two percentage points.

- TRS Costs = Tax levy necessary for expenditures for coming school year for employer contributions caused by growth in the normal contribution rate, minus two percentage points

- For example, if an employer contribution rate for ERS and/or TRS increased by 2.2 percentage points, only an amount equal to applicable salary expenditures times .002 would be excluded from the tax levy cap. If an employer contribution rate increased by 1.98 percentage points over the prior year, no exclusion would be allowed from the cap on the tax levy for pension cost increases.

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Pension Calculation Example

Step 1: Calculate the change in the system average actuarial contribution rate for ERS or the normal contribution rate for TRS. The following example is based on the rate for ERS.

2012-13 System Average	Minus	2011-12 System Average	=	Percentage Points Difference
18.9% (0.189)	−	16.3% (0.163)	=	2.6%* (0.026)

Step 2: If the annual growth in the contribution rate is greater than 2 percentage points, the amount above 2 percentage points is the portion of the salary base that may be excluded.

% point difference	Minus	Local responsibility not excludable	=	Excludable Portion
2.6%	−	2.0%	=	0.6% (0.006)

Step 3: Multiply the excludable portion by the salary base (e.g. the salary base for your ERS employees in this example).

Excludable Portion	Multiply		=	
0.6% (0.006)	×	Salary Base	=	Exempt Amount

Step 4: Add exempt amount to the tax levy limit

(Note: Exclusions increase the amount of taxes you are allowed to levy)

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Maximum Allowable Levy Example

Prior year tax levy	5,000,000	
Tax base growth factor	x 1.01	
	5,050,000	
Prior year PILOT	+100,000	
	5,150,000	
Prior year exemptions (capital levy, court orders)	- 200,000	
Adjusted Prior Year Levy	**4,950,000**	
Allowable Growth Factor (lesser of CPI or 2%)	x 1.02	
	5,049,000	
PILOTs for coming year	- 100,000	
	= 4,949,000	
Available Carryover	+ 0	
TAX LEVY LIMIT	**= 4,949,000**	
Coming School Year Exemptions	+ 225,000	
Maximum Allowable Levy	**5,174,000**	**+3.48%**

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Does the public still vote on a budget?

- **YES!**
- School District Annual Meeting & Election -3rd Tuesday in May
  - May 15, 2012
- Proposed budget is presented
- Propositions for additional spending (buses, capital projects, etc.) are presented
- BOE Elections

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All budget deadlines/ requirements remain in place

- Legal notices

- Property tax report card is still required and will now include:
  - district tax levy limit
  - proposed tax levy before exemptions

- Public hearings and disclosure
  - Budget notice will now include:
    - district tax levy limit
    - proposed tax levy before exemptions
  - Budget statement

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What options does the BOE have?

Option 1: Propose a budget requiring a tax levy <u>before</u> exemptions <u>at or below</u> the Tax Levy Limit prescribed by law

- Requires a simple majority (50% + 1 voter approval)

Option 2: Propose a budget requiring a tax levy <u>before</u> exemptions <u>above</u> the Tax Levy Limit

- Requires a "super majority" (60% voter approval)
- Requires a statement on ballot indicating the required tax levy before exemptions exceeds the Tax Levy Limit

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What will the voter threshold be?

2012-13 Proposed Budget
less Estimated State Aid
less Appropriated Fund Balance & Reserves
less Other Revenues
2012-13 Proposed Tax Levy

2012-13 "Tax Levy Limit"
plus 2012-13 Exemptions
2012-13 "Maximum Allowable Levy"

If 2012-13 Proposed Tax Levy is less than or equal to 2012-13 Maximum Allowable Levy, then the voter approval necessary is "simple majority" (50% +1)

OR

If 2012-13 Proposed Tax Levy is greater than 2012-13 Maximum Allowable Levy, then the voter approval necessary is a "super majority" (60%)

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What happens if the budget is not approved by the public?

- If the proposed budget is not approved by the required margin:
  - the district may resubmit the original budget or submit a revised budget to the voters on the third Tuesday in June OR
  - adopt a contingency budget that **levies a tax no greater than that of the prior year (0% increase in tax levy).**
- If the resubmitted/revised budget proposal is not approved by the required margin:
  - the Board of Education must adopt a budget that levies a **tax no greater than that of the prior year (0% increase tax levy)** and the budget would be subject to contingent budget requirements.
- Districts will not be allowed to increase the tax levy to the extent necessary to fund items of expenditure excluded from the tax cap
  - No growth factor
  - No capital, court order/judgments or pension exemptions

Are contingent budget laws still in effect?

- Administrative cap is in effect
- Non-contingent expenses removed
- Expenditures are no longer subject to overall contingent budget spending cap
  (4% or 120% of CPI)

What new information must be reported?

- On or before March 1st:
- Information used to calculate tax levy limit:
  - Prior year tax levy
  - Tax base growth factor (ORPS)
  - Prior year PILOTS
  - Prior year exemptions (not pension exemptions)
  - Current PILOT payments
  - Available carryover
- Submit to Comptroller, Tax and Finance, SED
- Format to be determined
- **DISTRICTS ARE NOT REQUIRED TO HAVE PROPOSED BUDGETS AVAILABLE BY MARCH 1ST**

What happens if there is an error in the calculation of the cap?

- If, due to clerical or technical errors, the actual levy exceeds the maximum allowable tax levy:
  - The excess amount collected is placed in reserve
  - Excess amount and any interest earned will be used to offset the tax levy in the following year

In Brief…

- NYS has a property tax cap, not a "2% cap"
- The property tax cap limits the school district levy NOT the individual tax bill of resident taxpayers
- The actual allowable tax levy increase will vary by district
- The formula allows for certain expenses to be exempt from the cap therefore allowing the total tax levy increase to be greater than the "perceived cap"
- BOEs can present a budget that "overrides" the cap but will need 60% voter approval
- Voters are approving the budget (spending plan) not the tax levy
- The education community has many unanswered questions
- Education leaders need to inform their communities the facts the tax cap NOW!

Communication Challenges

- Misinformation and public expectations
  - Law doesn't cap tax increase; it sets a new threshold for voter approval based on the tax increase
  - 2% is out there
- Confusion WILL abound
  - Tax levy limit is reported; tax levy increase is reality
  - Districts set tax <u>levy</u>; voters will hear tax <u>bill</u>
- Fallout from municipalities decisions
- Exemptions-double edged sword
- Real consequences under contingent budget

Communication Strategies

- Reclaim the language
  - Refer to the “voter approval threshold” and eradicate any references to a “2% tax cap”
- Be mission focused
  - Don’t let budget development turn into an exercise in tax-cap in tax cap calculations
- Engage your public early and often about the choices, consequences and opportunities
- Champion the need for tax relief, but advocate for the other side of the coin--**mandate relief**
- Plan for opposition
- Get out the vote—and conduct an exit survey!

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