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Understanding New York's Property Tax Levy Cap as it relates to public schools

In this first year of New York's property tax cap, details about its provisions and implementation continue to evolve. This publication answers some questions that parents, taxpayers and school staff members may have, based on what is known as of this printing. School districts continue to await further clarification from the Office of the State Comptroller, Department of Taxation and Finance, State Education Department, Division of the Budget and the Governor's office. Additional details will be communicated as they become known.

For many years, New Yorkers have paid some of the highest property taxes in the country, spurring individuals and business owners to increasingly clamor for tax relief.

In June 2011, state leaders responded by enacting a law that places new restrictions on how school districts (and municipalities) may increase their tax levies. Although the new law has been referred to as a "2 percent tax cap," it does not in fact restrict any proposed tax levy increase to 2 percent. The law does, however, require at least 60 percent voter approval for a school budget if the proposed levy increase exceeds a certain amount.

Most New Yorkers do not want tax relief to come at the expense of their public schools.

That amount, called the "tax levy limit," will be determined by each district according to a complex formula outlined in the law, and will vary by district.

Although schools have the option to exceed their "tax levy limits" with voter approval, the reality is that any proposed school tax levy increase will be compared to this levy "limit"—or against the now-prevalent expectation of "2 percent"—adding to the pressures schools face to keep taxes low despite escalating costs, declining state aid and rising expectations for teaching and learning.

What will all of this mean for district residents as they prepare to vote on their local school budgets in May 2012? For starters, there will be new terminology to understand and new ways that schools will present budget information, in conjunction with this law.

More importantly, because community members have different priorities and perspectives, school leaders will be under intense pressure from some constituents who expect school districts to stay within their "tax levy limits" and others who will strongly advocate for districts to save valued programs and services by invoking what Gov. Andrew Cuomo calls the law's "built-in relief valve"—the 60 percent voter approval option.

One thing seems certain—the new tax cap legislation is likely to complicate the struggle to find meaningful tax relief *and* to build and sustain world-class schools.

Although the new law has been referred to as a "2 percent tax cap," it does not in fact restrict any proposed tax levy increase to 2 percent.

Tax levy limit

A calculated tax levy amount (according to a state formula) that sets the threshold needed for 60 percent voter approval. Despite its name, it does not set a limit on the tax levy that a school district can propose.

Q. Does the new tax cap law mean school tax levies can't increase by more than 2 percent?

No, the law does not prohibit tax levy increases greater than 2 percent. Despite how it's been described by some politicians and the media, the legislation signed into law in June requires every district to calculate its own "tax levy limit." Two percent (or the rate of inflation, if less) is just one of eight factors in this calculation.

The law also establishes a higher threshold of voter approval for a budget to pass if a district's proposed tax levy increase (before exemptions outlined in the law) exceeds its individual "tax levy limit."

Q. What is a "tax levy limit?"

For school districts, the "tax levy limit" is the highest allowable tax levy (before exemptions) that a school district can propose as part of its annual budget for which only the approval of a simple majority of voters (more than 50 percent) is required. Any proposed tax levy amount above this limit will require budget approval by a supermajority (60 percent or more) of voters.

Essentially, the "tax levy limit" sets a threshold requiring districts to obtain a higher level of community support for a proposed tax levy above a certain amount.

However, the new legislation does not place a limit on any taxes a school district would levy to pay for expenditures related to specific "exempt" items, including some court orders, some pension costs and local capital expenditures. These items are then added to the "tax levy limit" to arrive at the "allowable" tax levy limit.

The new law applies to the tax levy, not to tax rates or individual tax bills.

Q. How is the "tax levy limit" determined for school districts?

The law dictates an eight-step formula that each school district must use to calculate its individual "tax levy limit." In particular, the calculation adjusts a district's tax levy to reflect growth in the local tax base (if any) and the rate of inflation or 2 percent (whichever is lower).

Essentially, the "tax levy limit" sets a threshold requiring districts to obtain a higher level of community support for a tax levy above a certain amount.

Q. Does the law take into account that some expenses are currently outside a district's control?

Yes. Taxes that school districts levy to pay for certain expenses are "exempt" from the "tax levy limit" calculation. In other words, after a school district calculates its "tax levy limit," it then adds these exemptions to that amount, **allowing the district to propose a tax levy greater than the amount set by the "limit" without triggering the need for approval by 60 percent of voters.** These exemptions include:

- Voter-approved local capital expenditures.
- Increases in the state-mandated employer contribution rates for teacher and employee pensions that exceed two percentage points.
- Court orders/judgments resulting from tort actions of any amount that exceeds 5 percent of a district's current levy. Tax certioraris, however, are not exempt.

Far from being "loopholes," these exemptions seem to indicate an acknowledgement among lawmakers that schools have no ability to simply limit cost increases in these areas to the rate of inflation. As a result, a district's final tax levy (*after the levies for these exemptions are added in*) could be greater than its published "tax levy limit" and yet still be considered, under the law, within that limit.

Tax levy

The total amount of property taxes a school district must collect to balance its budget, after accounting for all other revenue sources including state aid. The tax levy is the basis for determining the tax rate for each of the cities, towns or villages that make up a school district.

Taxes that school districts levy to pay for certain expenses are "exempt" from the "tax levy limit" calculation.

Q. What will the property tax cap law mean for MY tax bill?

That remains to be seen. First, the new law applies to the tax levy, not to tax rates or individual tax bills. Second, it does not impose a universal 2 percent cap on taxes—or any other specific amount. The law does require a greater number of voters to approve a budget that exceeds a school district's individual "tax levy limit," as calculated by a complex formula. And third, there are several factors that dictate how an individual's

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Tax base growth factor

The year-to-year increase in the full value of taxable real property in a school district due to physical or quantity change (e.g., new construction, additions and improvements). Value changes due to market fluctuations are not included. This figure is part of the eight-step "tax levy limit" calculation, and will be provided to each district by the state's Department of Tax and Finance.

school tax bill is calculated after a school district sets the final tax levy—none of which are within the district's control. (This calculation process did not change under New York's property tax cap law.)

Tax bills continue to be calculated by using a property's assessed value (as determined by the local town assessor) and the tax rate—or the amount paid in taxes per $1,000 of assessed value. Tax rates are not solely determined by the tax levy approved by voters; they are often adjusted by the state using equalization rates, designed to equally distribute the tax burden across municipalities within a district. Tax bills can also be affected by STAR or other exemptions for which individual taxpayers may qualify.

Q. Does the public still vote on school district budgets?

Yes, school district residents will still vote on a proposed budget on the third Tuesday in May. Under the new law, the level of voter approval needed to pass a budget will now depend upon the amount of the tax levy required by the proposed budget.

If the tax levy (before exemptions) is at or below the "tax levy limit," a simple majority (more than 50 percent) is needed for budget approval.

If the tax levy (before exemptions) exceeds a district's "tax levy limit," the support of a supermajority (60 percent or more) of voters is required for budget approval.

School district residents will still vote on a proposed budget on the third Tuesday in May.

Q. How will I know if my district is proposing a tax levy above its "tax levy limit," requiring 60 percent voter approval?

By law, any school district that proposes a budget that requires a tax levy (before exemptions) above its "tax levy limit" must include a statement on the ballot indicating this to voters.

Particularly for poor and/or rural school districts with low property wealth and declining tax bases, staying within their "tax levy limits" will severely restrict their ability to generate revenues needed to sustain core educational programs.

Q. What happens if the budget is not approved by voters?

If a proposed budget is defeated by voters, a school district—as in the past—has the option of putting the same or a revised budget up for a revote, or adopting a contingent budget. If a proposed budget is defeated twice by voters, a district must adopt a contingent budget. Certain existing contingent budget requirements remain in effect that prohibit spending in specific areas including community use of buildings, certain salary increases and new equipment purchases.

More significantly, under the new law, **a district that adopts a contingent budget may not increase its current tax levy *by any amount*—which would impose, in effect, a zero percent cap.** As of this writing, it is unclear if exemptions will apply.

Allowable levy growth factor

One factor in the eight-step tax levy limit calculation, this figure accounts for inflationary change. It is limited to the lesser of 2 percent or the change in the consumer price index.

Q. Will the tax cap legislation affect all school districts equally?

The tax cap legislation will affect all districts to varying degrees, but it is clear that some will be affected much more than others. In particular, for poor and/or rural school districts with low property wealth and declining tax bases, staying within their "tax levy limits" will severely restrict their ability to generate the revenues needed to sustain core educational programs.

This discrepancy is largely rooted in what an increasing number of school leaders say is an unfair formula for distributing state aid to districts around the state.

Q. If the new law doesn't actually cap tax levy increases at 2 percent, how will it provide property tax relief?

With or without a law "capping" tax levy increases, school leaders know that many New Yorkers are struggling in this economy and agree that property tax relief is needed. At the same time, they have heard first-hand from residents what many polls have indicated: Most New Yorkers do not want tax relief to come at the expense of their public schools.

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The extent to which the new law results in the loss of educational programs will depend on levels of state education funding and whether state leaders offer any meaningful mandate-relief measures to help control rising costs.

However, living within the realities of the new law—while mandated costs escalate and the pressure to control taxes continues—will force difficult decisions.

The law seeks to control increases in school tax levies (a source of revenue), not to help curb escalating expenses. Except for a few modest mandate-relief measures, the law does nothing to help schools rein in costs. At the same time, New York State's public schools have lost more than $1 billion in state education funding in recent years, putting even greater pressure on local taxes to fund school programs.

The law may result in some measure of tax relief for residents. However, the extent to which the law will also result in the loss of educational programs will depend on levels of state education funding and whether state leaders offer any meaningful mandate-relief measures to help control rising costs.

Q. What can I do?

The property tax cap law poses an enormous challenge for public schools, and school leaders need to hear from their communities to help guide them through the difficult decisions that will need to be made. It is more important than ever to become informed about the complex issues shaping school district budgets and educational programs.

Please attend a budget meeting this winter/spring or contact your district with questions about its budget development. Make sure to visit your school district's website for more information.

And—whether you've ever done so in the past or not—**please remember to vote on your school budget on Tuesday, May 15!**