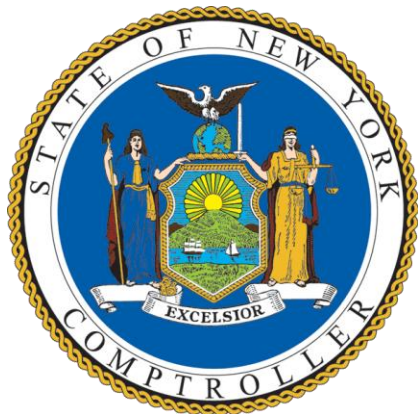

Overview of the Real Property Tax Levy Limit ("Tax Cap") Law

Presented by

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The Tax Cap

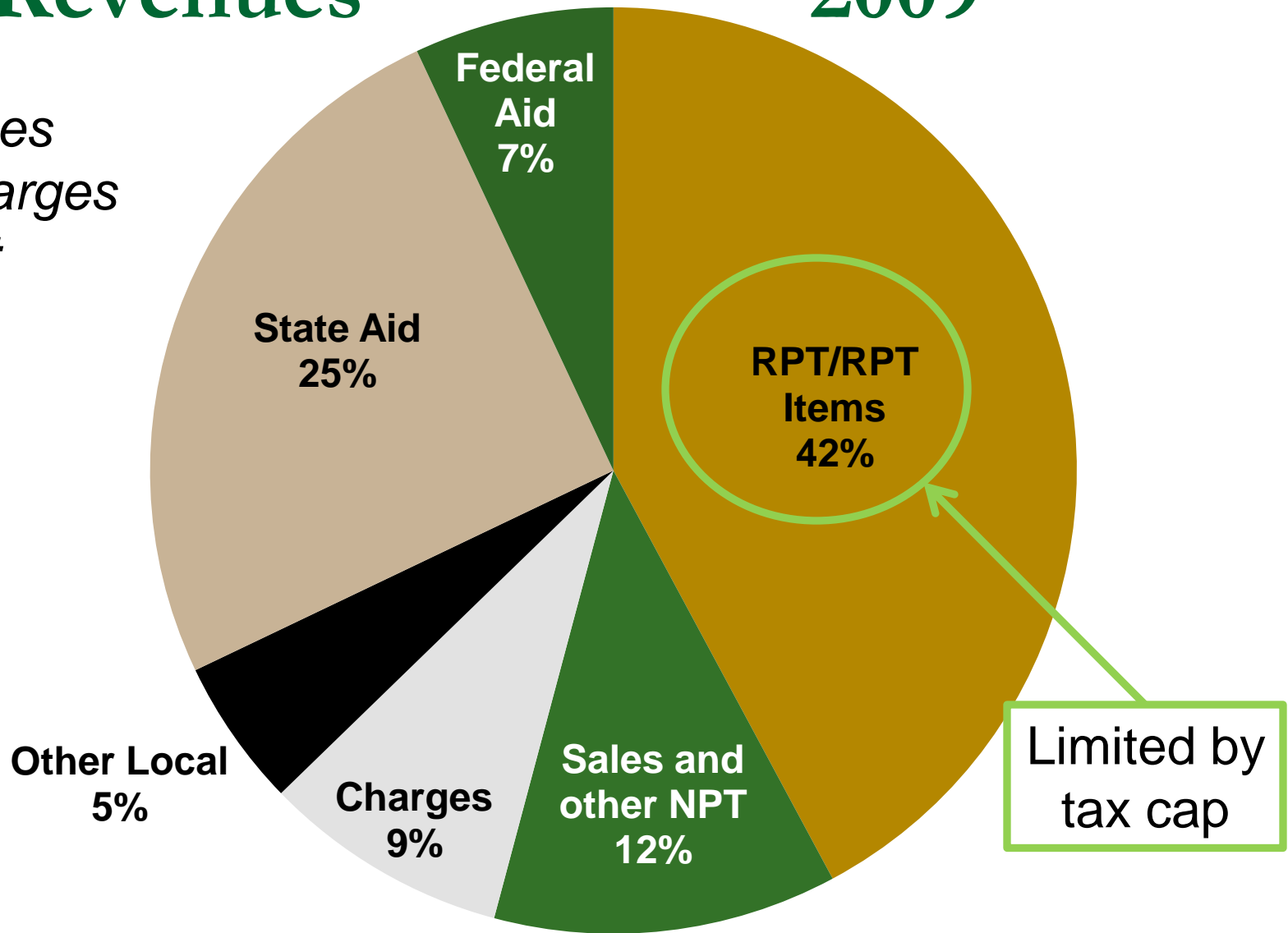
Chapter 97 of the Laws of 2011

- Enacted June 24, 2011
 - Program bill originated with Governor
 - Bill amended and passed as part of omnibus bill
- Establishes a Tax Levy Limit on all local governments and most school districts (excl. NYC)
- Starts with fiscal years beginning in 2012.
- Expires June 15, 2016 unless rent control extended

LG Revenues

2009

*User fees and charges are **not** limited.*



Summary

- Tax cap limits **total levy** set by local governments, **not** assessed value or tax rate.
- Local governments 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 the governing board first adopts a local law (or resolution) to override the tax levy limitation.

Which Local Governments are Covered by the Cap?

- Counties, Cities (except NYC), Towns, Villages, Fire Districts and School Districts (except Big 5)
- Covers all special districts, such as:
 - ❑ Town or county water, sewage, drainage, refuse districts
 - ❑ Most libraries
 - ❑ Special districts with separately elected boards of commissioners

Nuances – Rate of Inflation

- Law defines the “inflation factor” as: 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”
 - CPI-U (all urban consumers)
 - OSC will calculate for LGs as BLS releases numbers
- The inflation factor is never a reduction, even if there is deflation.

Override

- The law allows local governments and school districts to override the annual levy cap.
- An override is good for that fiscal year only; cannot “opt out” of the tax cap permanently.
- If override is successful, the amount levied becomes the base for the next fiscal year.

Override – Local Governments Other Than School Districts

- Must first enact a local law or resolution to override before adopting a budget that requires a tax levy above the limit
 - Counties, cities, towns and villages: local law
 - Special districts and fire districts: resolution
- Governing board must approve by at least 60% of voting power (i.e., 3 out of 5)
- Override requires weighted vote where applicable

Override – School Districts

- School districts must put the override to their budget voters
- Requires budget to pass by 60%
- Budget that does not exceed cap must pass with simple majority (>50%)
- If no budget approved, contingency budget may not include a levy higher than prior year's levy

Treatment of Special Districts and Fire Districts

- Fire districts have their own levy limit and are **not** part of their municipality's cap
- Some special districts have their own levy cap, some are included in the town, county, city or village's cap.

Special Districts: When Are They Part of the Municipal Limit?

- Capped separately:
 - Independently elected or separate independent appointed board
 - Has authority to levy a property tax or to require a municipality to levy a tax on their behalf
 - Independent commissioner-run districts, some library districts.
- Included in the municipality's levy cap calculation:
 - Special districts for which the tax levy is determined by the municipal governing board (e.g., town special districts governed by the town board)
 - Most water, sewer or lighting districts, fire protection districts

Adjustments to the Levy Limit

- Tax base growth factor: adjusts for “brick and mortar” development that increases a municipality’s full taxable property
 - Determined by Tax and Finance
 - Based on already-defined quantity change factor
 - Never a reduction
- Costs and/or savings from the transfer of function(s) from one local government to another (determined by OSC)

Carryover

- “Available Carryover”
 - If a local government levies less than the levy limit, up to 1.5 percent of that year’s tax levy limit may be added to the levy limit for the next fiscal year.
 - Unused exclusions may not be carried forward.
- There is no “available carryover” in the first fiscal year under the tax cap.

Reserve

- If actual levy exceeds the levy limit, the excess must be placed in a reserve.
- Excess amount, plus any interest, must be used to offset levy in next fiscal year.

Exclusions

- The law allows local governments 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
 - The local portion of capital expenditures (***school districts only***)

Pension Exclusion: What It's Not

- Not based on your specific contribution rate but rather the published statewide average actuarial contribution rate (ERS/PFRS) or the normal contribution rate (TRS)
- Not based on the actual growth in your pension contribution from one year to the next
- Not based on adjusted salary base. Must use projected base provided by Retirement System

Not Excluded – Mandates

- Chapter 97 of the Laws of 2011 did address some mandate issues.
- The cost of mandates, however, are NOT excluded from the tax cap, except for the pension and tort exclusions, mentioned above:
 - Health care costs
 - Environmental mandates
 - Local portion of State health/social service programs

Reporting

- Local governments must submit information necessary for calculating the tax levy limit to OSC prior to adopting budget
- School districts must also report to OSC, SED and Tax and Finance by March 1st
- OSC has developed online report form
 - User ID and PIN for every reporting entity
 - Enter elements and calculation automatically done
 - Allowable levy growth factor pre-populated

Formula Presentation

Base Formula

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

+ Transfer of Function

Tax Levy Limit

+

Net of Transfer of Government Function (as determined by OSC)

=

Tax Levy Limit, Adjusted for Transfer of Function

+ Exclusions

Tax Levy Limit, Adjusted for Transfer of Function

+

Tax levy necessary for expenditures from court orders/judgments arising from tort actions for any amount in excess of 5% of the total taxes levied in the prior fiscal year

AND

Levy necessary to pay for additional pension cost due to increases in the average actuarial/normal contribution rate of pension funds over 2 percentage points

AND

School districts ONLY: capital tax levy

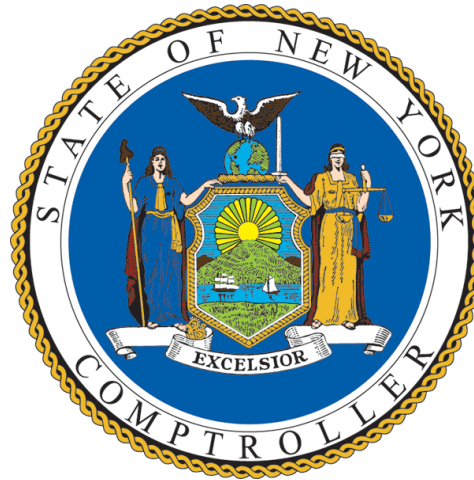
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Tax Levy Limit, Adjusted for Transfers, Plus Exclusions

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

Thank You



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