

New York State Office of the State Comptroller

Thomas P. DiNapoli • State Comptroller



Understanding the Constitutional Tax Limit

Cities

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Understanding Tax Limit – Cities

Real property taxes are the single largest source of revenue for local governments in New York State. In the standard budget process, property taxes are used to cover the difference between appropriations and estimated non-property tax revenues. The New York State Constitution places a legal limit on the authority of cities, as well as counties and villages, to impose property taxes. Statutes intended to enforce these constitutional provisions require the Comptroller to withhold certain local assistance payments if taxes are levied in excess of a municipality's tax limit.

The Constitutional tax limit should not be confused with another tax levy limit that is generally referred to as the Tax Cap. The Tax Cap, which was established by the State legislature in 2011, requires a separate filing by all local governments and school districts, except New York City and the "Big Five" dependent city school districts. For information about the Tax Cap, please see www.osc.state.ny.us/localgov/realprop/index.htm.

In the current fiscal environment, growing municipal budgets and shrinking non-property tax revenue streams generate pressure to increase property taxes, thus exhausting a greater percentage of the Constitutional tax limit. At the same time, if property values decline overall, the tax limit will decline as well. As a result of these factors (growing expenditures, diminishing non-property tax revenues and a declining or stagnant tax base), some municipalities are rapidly approaching their tax limits. With pressure on the property tax continuing, more local governments may find themselves in this predicament.

As a city advances towards its tax limit, it loses flexibility in its revenue structure and may not be able to sustain the current level of services provided to its citizens. Even routine cost increases can pose serious budget difficulties if there is no corresponding growth in non-property tax revenues. Also, both declines in property values and changes in the amounts excluded from the tax limit will impact the calculation of the taxing capacity of the city. Thus, a city can approach or exceed its tax limit even with no change in real property tax levies from year-to-year.

The Office of the State Comptroller wants to help local governments manage compliance with their tax limits as a component of a comprehensive financial plan. This booklet provides guidance on the implications of the Constitutional tax limit, information on its calculation and instructions for filing. We hope you find it useful in understanding the issues, and we encourage you to contact our office if further assistance is needed.

Taxing Capacity – How it Is Calculated

Simply stated, the Constitutional tax limit is the maximum amount of real property tax that may be levied in any fiscal year. It is computed by multiplying the value of taxable real property by a certain percentage enumerated in the Constitution. The more complex aspect of the process is determining whether the tax levy required by an annual budget stays within the limit.

Taxes levied for certain purposes are not subject to the tax limit. The Constitution and related statutes allow for taxes in the amount of certain appropriations to be excluded when determining the amount of levy that must be below the tax limit. This tax levy amount (total levy minus exclusions) is often referred to as tax levy subject to the limit.

Frequently, the tax levy is expressed as a percentage of the tax limit. For example, if a city with a \$1,000,000 tax limit levied taxes of \$800,000 (net of exclusions), the city would have used or exhausted 80 percent of its tax limit. A related term is the tax margin which refers to the difference between the tax levy and the tax limit. Using the example above, the city would have a tax margin of \$200,000.

There are four components in the calculation of the taxing capacity: the average full valuation of taxable real property, the tax limit percent, the tax levy and exclusions from the tax limit.

Understanding the Constitutional Tax Limit for Cities

Five-Year Average Full Valuation of Taxable Real Property

A key component of the tax limit calculation is the five-year average full valuation of taxable real property. This computation has several parts.

Five-Year Average: The calculation of this value ordinarily requires the use of five sets of assessment rolls – the last completed assessment roll and the four preceding rolls. In general, the last completed assessment roll is the most current final assessment roll for which a final State equalization rate has been established. The full valuation for each of these assessments should be added together and divided by five to establish the five-year average full valuation.

Five year averages for Big Five cities of New York, Buffalo, Rochester, Syracuse and Yonkers, and only these cities, are calculated using special equalization ratios, which are established to calculate a tax limit for a specific fiscal year only.

Full Valuation: The full valuation of the taxable real property on each of the assessment rolls used in the calculation of the average full valuation is computed by dividing the total taxable assessed valuation of the real property on the roll by the final State equalization rate (or special equalization ratio) established for that assessment roll.

Equalization Rate: State equalization rates, and special equalization ratios for the Big Five, are established by the New York State Office of Real Property Tax Services (ORPTS). An equalization rate is a measure of the percentage of full valuation at which taxable real property is assessed on an assessment roll. ORPTS establishes a separate State equalization rate or special equalization ratio for each year's assessment roll. The process of establishing State equalization rates involves the determination of tentative and final equalization rates. Only final State equalization rates and ratios may be used in tax limit calculations.

Tax Limit Percent

The State Constitution limits the taxing power of cities to 2 percent of the five-year average full valuation. For New York City, a tax limit of 2 1/2 percent applies. A city may also enact a local law, subject to a mandatory referendum, to establish a lower tax limit (e.g., 1 1/2 percent). However, enactment of such a local law does not affect the Constitutional tax limit and, therefore, does not reduce the threshold over which the State Comptroller is required to withhold certain local assistance payments.

Tax Levy – General City Purposes

The tax levy for purposes of determining a city's taxing capacity is the total amount of real property taxes levied for all funds in the city's annual budget.

The Big Five cities have school districts that are fiscally dependent on their respective city, and education in these cities must be funded within the Constitutional tax limit of the big cities.

Exclusions

Exclusions can have a considerable impact on a local government's taxing capacity. When determining the amount of a tax levy that is subject to the tax limit, the State Constitution allows for the exclusion of taxes in the amount of certain debt service payments and taxes in the amount of direct budgetary appropriations for most capital expenditures (see Local Finance Law section 11.00[a]). The amount of the taxes for these purposes is subtracted from the tax levy resulting in a lower tax levy subject to tax limit and a higher tax margin.

Understanding the Constitutional Tax Limit for Cities

Importance of the Tax Limit in the Budget Process

There is no absolute standard or target for a tax levy as a percent of the constitutional limit; however, based on our experience, cities that have exhausted over 80 percent of their tax limit are in a caution zone, while those over 90 percent are in a danger zone. In instances where municipalities have exceeded their tax limits, our research shows that those municipalities had exhausted 90 percent or more of the limit in the previous year.

Exclusions should be carefully monitored from year-to-year, as any changes will have an impact on taxing capacity. It should be noted that the availability of exclusions must be evaluated on an annual basis, and that exclusions may not be available on a recurring basis. For example, as debt is retired, debt service payments may decline causing the associated exclusion to also decline.

As shown in the sample tax limit computation (Figure 1), the proposed tax levy exhausts 89 percent of the city tax limit. For cities such as this that are nearing their tax limits, their ability to increase property taxes is severely limited, and their ability to maintain existing tax levels may be at risk, because even small variations in exclusions or real property valuation could cause the city to exceed its tax limit. Local governments must therefore be vigilant in managing their tax margin, particularly if they approach the caution zone (80 percent of their tax limit).

Figure 1

SAMPLE TAX LIMIT CALCULATION

Five-Year Total Full Valuation	\$ 8,604,639,769
Five-Year Average Full Valuation (1/5 of full valuation)	\$ 1,720,927,953
Constitutional Tax Limit (2% of 5-year average)	\$ 34,418,559
Tax Levy – General City Purposes	\$ 32,638,993
Less Total Exclusions	\$ 1,998,099
Tax Levy Subject to Tax Limit	\$ 30,640,894
Percentage of Tax Limit Exhausted	89.0%
Constitutional Tax Margin (\$34,418,559 - \$30,640,894)	\$ 3,777,665

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Instructions for Completing a City Constitutional Tax Limit Form

Filing Overview

Cities are required to annually file a Constitutional Tax Limit form with the State Comptroller **10 or more days before final budget adoption**, and to file a copy of the adopted budget **within 30 days of its adoption**.

Online Constitutional Tax Limit forms may be accessed by selecting the following link:

<https://portal.osc.state.ny.us/Enrollment/login>

The online form has two components: the pre-budget adoption part of the form that is due 10 or more days before final budget adoption, and the post-budget submission and certification that is due within 30 days of budget adoption.

Screen-by-screen instructions for navigating the online system can be accessed on the Constitutional Tax Limit webpage.

For the part of the online form that is for post-budget submission and certification, a city indicates the manner in which it is submitting its adopted budget, and it certifies its adopted budget. Adopted budgets may be submitted:

- Online with the online form (either by attachment or by providing a link), after submission of the CTL form
- By email attachment to LGSAMonitoring@osc.state.ny.us or
- By mail to our office at:

Office of the State Comptroller
Local Government and School Accountability
Monitoring & Analysis Unit 12-8-C
110 State Street
Albany, NY 12236-0001

In the past, cities were required to file a budget certification document with the adopted budget. This is no longer necessary because the budget certification is included in the online form.

If you need assistance in completing the Constitutional Tax Limit filing,
please contact the Monitoring and Analysis Unit at
(518) 408-4934 or toll free 1-866-321-8503 or
email: LGSAMonitoring@osc.state.ny.us

If you need assistance with accessing the form (password or login issues),
please select option 1 from the automated telephone menu or email LOCALGOV@osc.state.ny.us

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Tax Limit Form – Filing Instructions

After logging in on the OSC Online Services webpage, select the Local Government Constitutional Tax Limit Filing System from “My Apps” on the right side of the screen. Select the open report. On the next screen, complete and save the Verification information by entering the Budget Adoption Date.

Once the Verification information has been saved, the other pages of the form can be accessed by clicking on the links on the left side of the screen: Tax Limit Form, Schedules, etc.

Tax Limit Form – Taxable Assessed Value: For the most recent assessment roll used in the tax limit calculation, enter the total taxable assessed valuation of the taxable real property assessed on the roll. Total taxable assessed valuation is the aggregate assessed value subject to taxation as shown on the assessment roll, for city purposes. Taxable assessed valuation includes special franchise assessments but excludes pension and aged exemptions.

Tax Limit Form – Tax Levy: Enter the total tax levy for general city purposes. This includes levies for all funds in the city’s annual budget.

Tax Limit Form – Tax Limit Calculations

This section of the form is computed automatically from database valuation information and from entries made in other parts of the form and its schedules. The five-year average full valuation is the cornerstone for determining the Constitutional taxing power of a local government. Information regarding assessed values and State Equalization rates and ratios are used to calculate the five-year average full valuation. Your city’s online form includes prior year Constitutional tax limit data for your city that is currently in our database, and State Equalization rates and ratios provided by the State’s Office of Real Property Tax Services (ORPTS). Please review this data before completing your current form. Adjustments may have been made to the data that you originally submitted.

State Equalization Rates: These are pre-loaded into the form, from State equalization rates and special equalization ratios provided by ORPTS. ORPTS establishes a separate equalization rate or ratio for each year’s assessment roll. Information on equalization rates can also be found on the [ORPTS website](#). Any questions regarding equalization rates or special equalization ratios should be directed to ORPTS at (518) 474-5666.

This section of the form also includes summary data relating to levy adjustments and exclusions that are detailed in other parts of the form.

Exclusions From the City Constitutional Tax Limit

Debt Exclusions Schedule: Enter and save separate types of excludable debt service using the entry portion of the Debt Exclusions schedule of the form. Once you save an entry, you should see it listed in the correct category below the entry portion of the schedule.

With certain exceptions, the State Constitution generally provides that taxes in the amount required to pay principal and interest on a city’s indebtedness are not subject to the tax limit.

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Types of Excludable Debt

Revenue Producing Improvement Bonds and Notes: Enter amounts required to pay principal and interest on bonds and notes for revenue-producing public improvements or services other than water bonds and notes, such as electric utilities, sewer systems, and parking facilities. Revenue from such public improvements and amounts required for operations, maintenance and repairs should be entered on Schedule A. (See Schedule A section below.)

Water Bonds and Notes: Amounts required to pay principal and interest on bonds and notes issued for public improvements constructed to provide a supply of water, joint sewer projects and joint drainage projects are excludable. Enter such amounts even if the debt service on the bonds or notes will be paid from a source other than property taxes (e.g., rents or other user fees).

Capital Notes, Bond Anticipation Notes and Other Bonds: Enter the amounts required to pay principal and interest on capital notes, bond anticipation notes and bonds issued for purposes other than revenue-producing improvements, water supply improvements, joint sewage projects or joint drainage projects. Include principal and interest on bond anticipation notes **only if the notes are to be paid from a source other than bond proceeds**. Do not include principal and interest on tax anticipation notes, revenue anticipation notes or budget notes, unless the notes have been outstanding for more than five years after their original date of issue.

Types of Non-Excludable Debt

Debt service payments that **cannot** be excluded from a city's tax limit (that is, they **cannot** be CTL exclusions), generally include amounts required to pay principal and interest on:

- Bonds or notes issued for purposes other than financing capital improvements and contracted to be redeemed in one of the two fiscal years following the year of issue,
- Tax anticipation notes,
- Revenue anticipation notes,
- Certain pension bonds,
- Installment purchase contract debt, and
- Bonds or notes issued for revenue-producing public improvements or services to the extent that revenues from the improvement, after payment of the costs of operation, maintenance and repair, are available to pay debt service.

Schedule A – Revenues Designated For Debt Service

To complete Schedule A, make entries for each type of revenue-producing public improvement or service owned or operated by the city. Select the debt type (that is, excluded from constitutional **debt** limit by LFL section 123 or section 124.10, or not excluded from debt limit). For each type of public improvement or service, enter:

- The Nature of the Improvement.
- The Total Estimated Revenue. This is the revenue expected to be derived from the public improvement or service from sources other than taxes, assessments and subsidies by the city, such as fees, rates or other charges for use of the improvement or service.
- The Amount Appropriated for Operation Maintenance & Repair. This is the total amount appropriated for operation, maintenance and repairs for each type of public improvement or service (excluding depreciation and debt service).

Once you save an entry, you should see it listed in the correct category below the entry portion of the schedule.

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Schedule B – Other Revenues Pledged By Law or Contractual Obligations To Apply Against Debt Service (e.g., Unexpended Bond Proceeds)

Make entries for other non-property tax revenues that are designated by law or by contractual obligation to be applied against debt service, and for revenues other than real property taxes that are to be applied to the payment of any debt shown in the Debt Service Schedule. Do not duplicate revenues reported in Schedule A. Funds applied to debt service solely at the option of the municipality should not be included in this schedule. For each entry, provide the Page Number or Budget Code for the revenue, a description of the revenue (the authority, statute or charter provisions requiring that these revenues be applied to such debt service) and the amount.

Schedule C – Budgetary Appropriations for Objects or Purposes for Which a Period of Probable Usefulness Is Provided by Section 11.00 of the Local Finance Law

Whenever a city (other than New York City) provides a direct budgetary appropriation for the payment of the cost of an object or purpose for which a period of probable usefulness has been determined by law, the taxes required for such appropriation can be excluded from the tax limitation. Local Finance Law section 11.00 provides specific periods of probable usefulness for numerous objects and purposes. Each entry made on Schedule C must include selecting the appropriate paragraph of Local Finance Law Section 11 from the list provided from “Select Section 11” link. This will identify the purpose for which the appropriation is made and the authority for the exclusion. Do not include appropriations that are to be funded by specific aid such as CHIPS aid, and do not include appropriations that are to be financed by bonds or notes at a later date.

Other Exclusions Schedule (Down Payments on Bonds To Be Issued)

Under certain circumstances a municipality is required to provide a down payment of at least 5 percent of the estimated cost of a capital improvement or equipment purchase (Local Finance Law, section 107.00). If this share is provided by the tax levy, make an entry in this schedule for the amount of money raised for this purpose.

Review and Submission of Pre-Budget Part of the Form

Review your schedule entries and the pre-budget part of the Constitutional Tax Limit Form for accuracy. Failure to supply sufficient budget references and related information for debt or other exclusions as appropriated in the adopted budget may result in disqualification of such exclusions, which could adversely affect your municipality’s tax margin.

When satisfied that entries are correct, submit the pre-budget part of the form, which is due 10 or more days before final budget adoption.

Submission of Certified Adopted Budget

Please refer to the **Filing Overview** section above. This part of the form is due within 30 days of final budget adoption.

Need Assistance?

If you need assistance in completing the Constitutional Tax Limit filing, please contact the Monitoring and Analysis Unit at (518) 408-4934 or toll free 1-866-321-8503 or email: LGSAMonitoring@osc.state.ny.us

If you need assistance with accessing the form (password or login issues), please select option 1 from the automated telephone menu or email LOCALGOV@osc.state.ny.us