

Navigating through **Year Two** **of New York's** **Property Tax Levy Cap**

With year one of New York's property tax "cap" now behind us, details about the law's provisions and impact continue to evolve. This publication answers some questions that parents, taxpayers and school staff members might still have, based on lessons learned during the implementation of the law in 2012.

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



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

That amount, called the "tax levy limit," is calculated by each district according to a complex formula outlined in the law, and varies by district.

In the 2012-13 budget cycle, only five districts had an actual calculated levy limit (including exclusions) of 2 percent, while 575 school districts had a limit greater than 2 percent and

91 had a limit less than 2 percent.

Although districts have the option to exceed their tax levy limits with voter approval, the reality is that any proposed school tax levy increase is compared to this levy threshold—or against the prevalent but misguided expectation of "2 percent"—adding to the pressures schools face to keep taxes low despite

escalating costs, cuts in state aid and rising expectations for teaching and learning.

Last year, 92 percent of school districts proposed budgets that stayed within their calculated limits; 476 were below their limits and 146 were at their limits. Of the 48 districts that proposed exceeding their tax levy thresholds—triggering the requirement for 60 percent voter approval—19 saw their proposed budgets rejected by voters in May.

Statewide, the average proposed tax levy increase in 2012-13 was 2.24 percent.

As we navigate the tax "cap" law's second year, the learning curve remains steep, as districts learn about exclusions that didn't apply during year one, the effect of "carryover" from last year's calculations and more.

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

One thing seems certain—the tax levy limit legislation will likely continue to complicate the struggle to find meaningful tax relief and to build and sustain world-class schools.

Although the 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 is the highest allowable amount (before exclusions) that a school district can propose for which only the approval of a simple majority of voters (50 percent plus one) is required. Despite its name, it does not set a limit on the tax levy that a school district (or municipality) can propose.



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

Q. Does the 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 2011 requires each 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 exclusions 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 exclusions) 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 2011 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 maximum “allowable” tax levy limit.

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 proposed 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 exclusions 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 exclusions 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 exclusions are 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 exclusions are added in*) could be greater than its published tax levy limit and yet still be considered, under the law, within that limit.

Q. What does a district's “carryover” refer to?

Districts whose 2012-13 budgets carried levies below their tax levy limits will have to factor that difference into their 2013-14 tax levy limit calculations. This so-called “carryover” is determined by subtracting the actual 2012-13 total tax levy (in dollars) from the calculated 2012-13 tax levy limit (before exclusions). This figure, which can be no greater than 1.5 percent of the prior year's tax levy limit, is then added into the eight-step mathematical formula used to determine the 2013-14 tax levy limit. An estimated 106 school districts will have available carryover in 2013-14.

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

It's important to remember that the tax cap law only determines how much voter support is needed to pass a budget. It does not impose a universal 2 percent cap—or any other specific amount—on taxes. It applies to the tax levy, not to tax rates or individual bills.

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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.

Far from being “loopholes,” allowable exclusions seem to indicate an acknowledgement among lawmakers that schools have no ability to simply limit the cost increases in specific areas to the rate of inflation.

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.



Keep in mind, there are several factors that dictate how an individual's school tax bill is calculated after a school district sets the final tax levy—including changes in property values and equalization rates—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 exclusions 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 law, the level of voter approval needed to pass a budget depends upon the amount of the tax levy required by the proposed budget. If the tax levy (before exclusions) is at or below the tax levy limit, a simple majority (50 percent plus one) is needed for budget approval.

If the tax levy (before exclusions) 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 exclusions) 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. Adopting a contingent budget prohibits a district from spending any money in certain areas, including community use of school facilities (unless all costs are reimbursed to the district); new equipment purchases; non-essential maintenance; capital expenditures (except in emergencies); salary increases for non-instructional, non-unionized employees; and certain field trips and student supplies. Contingency rules also cap the growth of the administrative component of the budget. These requirements existed prior to the tax levy cap and remain in effect.

More significantly, under the law, **a district that adopts a contingent budget must keep its 2013-14 tax levy the same as or less than its 2012-13 tax levy—which in effect is a zero percent cap.**

In other words, a district that adopts a contingent budget would have to levy the same amount of taxes as in the current year—or less—without any adjustments for state pension rate increases, contractual obligations or any other costs, whether or not they are mandated.

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

The tax cap legislation affects all districts to varying degrees, but some are 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. In addition, school districts with a relatively small tax levy will generate much less revenue for every 1 percent tax levy increase, compared to school districts that have larger tax levies as their base. This difference will only get exacerbated over time.

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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.



The extent to which the 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.

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Q. If the law doesn't actually cap tax levy increases at 2 percent, how will it provide 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 firsthand from residents what many polls have indicated: Most New Yorkers do not want tax relief to come at the expense of their public schools.

However, living within the realities of the 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 \$6.1 billion in state education funding through the Gap Elimination Adjustment in recent years, putting more 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 continues to 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 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 21.**



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