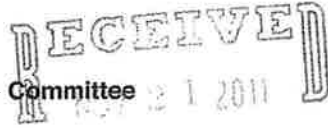




New York State Conference of Mayors and Municipal Officials

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Executive Committee

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Diana M. Smith
Mayor, Seneca Falls

November 18, 2011

First Vice President

William D. Nelson
Mayor, Ogdensburg

Re: Property Tax Cap

Second Vice President

Richard J. Donovan
Mayor, Minoa

Dear Mayor:

Treasurer

Gerald D. Jennings
Mayor, Albany

For the last several months, NYCOM has been working hard to educate our members – both on the phone and at the many tax cap workshops we have presented – about the various provisions of the tax cap law. One area that we continuously receive inquiries about is our guidance as to whether a municipality should enact a local law authorizing a property tax levy in excess of the cap.

Immediate Past President

Samuel Teresi
Mayor, Jamestown

It is important to remember that passing the local law does not mean you must exceed the cap – it simply gives your governing body the authority to do so. Yet, if a city council or village board of trustees decides to pass the local law authorizing such body to override the tax cap, the challenge for local officials will likely be trying to educate the public about the legitimate reasons for enacting such a local law.

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Additionally, local officials – even in those communities where the override option is not exercised – are going to have to help their residents understand that, in many ways, this “tax cap” is no cap at all. First and foremost, it does nothing to address state mandates, which are the real cost drivers in municipal budgets and are the true cause of New York’s high property taxes. Furthermore, the tax cap law contains exclusions (e.g., settlement amounts arising out of tort actions and the excludable amount of pension costs) which, in reality, make the 2% cap a 3% or 4% cap, maybe even higher – depending upon how much “additional room” under the cap a community obtains from such exclusions. Finally, it is important to note that the cap is on the tax levy and not the tax rate. The bottom line is, even with this theoretical 2% tax cap in place and a municipality electing not to exceed the cap, residents may still experience an increase of more than 2% – in some cases, potentially much more than 2% – in their tax bills.

Affiliate Representative

Kathie B. Montigelli
NYS Society of Municipal
Finance Officers

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While NYCOM strongly believes that the decision to override the cap must be made by each community based upon their own individual circumstances, there are a variety of issues to consider when making this determination, such as:

Fiscal Capacity – A municipality may come to the conclusion, after reviewing all options, including spending and workforce reductions, that it must exceed the cap in order to continue to provide the level of essential services demanded by its residents.

Executive Director
Peter A. Baynes

Under other scenarios, including the following, a municipality may not necessarily decide to override the cap, but it would elect to pass the local law nonetheless.

Precautionary Measure – A municipality may be concerned that, particularly in the first year of the tax cap law with many uncertainties surrounding its interpretation and implementation, there is the very real potential for a local government to exceed the cap unintentionally. Without the local law in place, this could result in the municipality, at some later date, having to set aside money in a reserve fund, the amount of which would depend on how long it takes for the inadvertent mistake to be discovered. Passing the local law should “protect” the municipality if such a mistake occurs.

Default Budgets – The “default budget” provisions in the Village Law and in many city charters – whereby a mayor’s proposed budget becomes effective if the governing body does not act by a date certain – could lead to budgetary stalemates that result in the automatic enactment of a budget that includes a property tax levy in excess of the cap. If no local law to override the cap is in effect at such time, an automatic reduction in the levy to the capped amount will be necessary, thereby resulting in an immediately out-of-balance budget. Once again, the early passage of a local law authorizing the municipality to impose a levy in excess of the cap will help a municipality whose budget may be adopted by “default” avoid this situation.

Local Control – A municipality may choose to pass the local law to simply set aside the tax cap as an artificial device imposed as the state’s way to put the onus on local officials for what are in reality mandate-driven property tax increases. This action would, in turn, allow for a community-based discussion of local service priorities and the appropriate balance of spending cuts and revenue increases to fund such services, just as cities and villages do each and every year.

You, as local officials, are acutely aware of the pain caused by New York’s property tax problem. For the past year, NYCOM and our members have strongly made the case that a tax cap without significant mandate relief is a cop-out and will fail to yield meaningful and sustainable property tax relief. To date, the primary way local governments are keeping their tax levies under the cap for 2012 is by draining their limited amounts of fund balance. Clearly this approach is of very short-term value and increases long-term risks. Only through mandate relief that allows you to locally control your costs can New York achieve property tax relief and economic revitalization.

If you have thoughts or concerns regarding these critically important issues, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter A. Baynes', with a long horizontal line extending to the right.

Peter A. Baynes
Executive Director

cc: Managers, Administrators, Fiscal Officers