New York State Comptroller
THOMAS P. DiNAPOLI

Town of Guilderland

Sales Tax Revenue Allocation

2025M-62 | November 2025

Division of Local Government and School Accountability

Contents

Audit Results

Town of Guilderland

Audit Objective	Audit Period
Did the Town of Guilderland (Town) officials properly budget for and allocate sales tax revenue?	January 1, 2020 – March 31, 2025

Understanding the Audit Area

Counties are authorized to share some of their sales and use tax collections with certain local governments. The Town's financial activities affect different tax bases because a village is located within the Town. As a result, it is important for Town officials to accurately budget for and allocate sales tax revenue to maintain equity among taxpayers.

During the audit period, the County distributed nearly $74.3 million in sales tax revenue to the Town.

Audit Summary

Town officials did not properly budget for and allocate sales tax revenue totaling $14.8 million, during the audit period. While town taxpayers who lived outside the village did not receive all the benefits they should have from the County sales tax distributions, taxpayers with real property located within the Village received an extra benefit from the County sales tax distributions. As a result, taxpayer inequities occurred. See Appendix B for the Town and Village boundary map.

The report includes two recommendations that, if implemented, will improve the Town's process in properly budgeting for and allocating sales tax revenue. Except as specified in Appendix C, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix D includes our comments on issues raised in the Town's response letter.

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and New York Office of the State Comptroller's (OSC) authority as set forth in Article 3 of the New York State General Municipal Law (GML). Our methodology and standards are included in Appendix E.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of the GML. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Town Clerk's office.

Sales Tax Revenue Allocation: Finding and Recommendations

Town officials are responsible for budgeting and allocating sales tax revenues in accordance with New York State Tax Law (Tax Law) Section 1262(c) to maintain equity between funds with different tax bases. When a county shares its sales tax with towns that have elected to receive their share in cash, the towns must appropriately budget and account for those revenues. Sales tax received by a town, which includes one or more villages that receive its own sales tax in cash from the county, must generally be used to reduce taxes for activities levied on property in the town outside such villages, which are accounted for in the town-outside-village (TOV) funds. After all such real property taxes are eliminated, then the remaining sales tax balance may be used, among other things, to reduce town-wide (TW) funds' real property taxes. More details on the criteria used in this report, as well as resources we make available to local officials that can help officials improve operations (Figure 3), are included in Appendix A.

Finding 1 – Town officials did not properly budget for and allocate sales tax revenue.

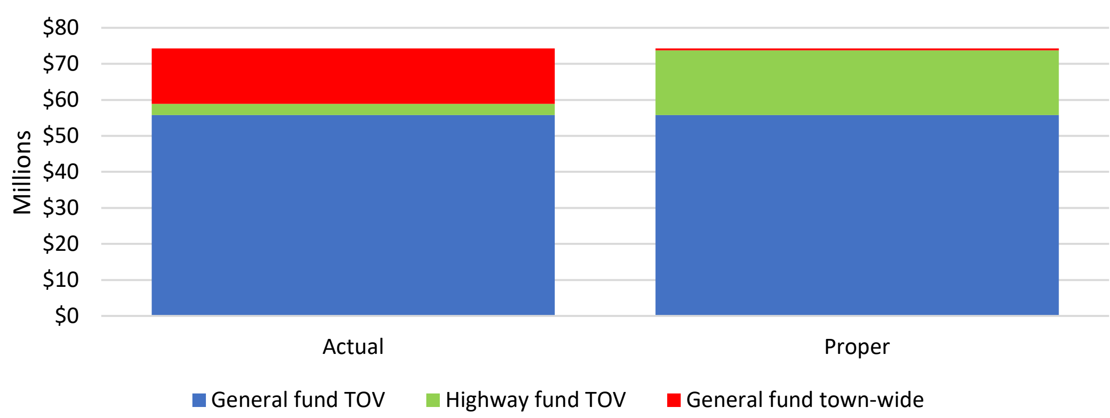
Town officials did not properly allocate sales tax revenue to reduce taxes for activities levied on property in the TOV. During the audit period, the County distributed nearly $74.3 million in sales tax revenue to the Town. During fiscal years 2020 through 2024, Town officials improperly budgeted for and allocated sales tax revenue totaling approximately $14.8 million to the general fund TW before reducing the TOV funds' tax levies to zero.

Town officials allocated sales tax revenue totaling $74.3 million among the general fund TOV, highway fund TOV and general fund TW. The general fund TOV did not have any tax levy during these fiscal years. However, the highway fund TOV had levies totaling $17 million, of which $14.8 million was improperly levied. Town officials should have allocated sales tax revenue instead of levying property taxes in the highway fund TOV (Figure 1). Consequently, general fund TW tax levies were $14.8 million less than they should have been (Figure 2).

Figure 1: Sales Tax Allocation and Tax Levy (millions rounded to the nearest $100,000)

	2020	2021	2022	2023	2024	Total
Actual Sales Tax Allocation Highway Fund TOV	$0	$1.0	$0.8	$0.5	$0.9	**$3.2**
Actual Tax Levy Highway Fund TOV	3.6	3.3	3.3	3.4	3.4	**17.0**
Sales Tax Allocated to General Fund TW That Should Have Been Used to Reduce the Highway Fund TOV Tax Levy	$2.8	$3.2	$2.0	$3.4	$3.4	**$14.8**

Figure 2: Actual vs. Proper Allocation of Sales Tax Revenue



Although there were no sales tax distributions to the Town for the period January 1, 2025 through March 31, 2025, the Town's adopted budget for fiscal year 2025 included a tax levy totaling $3.5 million in the highway fund TOV and budgeted sales tax revenue allocation to the general fund TW totaling $3 million.

The Supervisor, Comptroller and fiscal officer told us they were unaware sales tax revenue was required to be used to eliminate TOV tax levies before allocating it to the general fund TW. Because Town officials did not properly allocate sales tax revenue, taxes totaling $14.8 million were unnecessarily levied in TOV funds and taxpayer inequities occurred. As a result, TOV taxpayers did not receive all the benefits they should have from the County sales tax distributions. Further, Town taxpayers with real property located within the Village received an extra benefit from the County sales tax distributions at the expense of taxpayers with real property located outside the Village.

Recommendations

Town officials should:

1. Allocate sales tax revenue to eliminate any unnecessary tax levies on the TOV area.
2. Consult with legal counsel to determine the remedies available to address the taxpayer inequities identified in this report.

Appendix A: Profile, Criteria and Resources

Profile

The Town, located in Albany County, is governed by an elected five-member Board composed of the Supervisor and four Board members. The Village of Altamont is located within the Town's borders. The Board is responsible for the Town's general management and financial operations oversight. The Supervisor, the appointed Comptroller, the appointed fiscal officer, and department heads develop the annual budget to present to the Board to review, amend if warranted, and adopt.

Criteria – Sales Tax Revenue Allocation

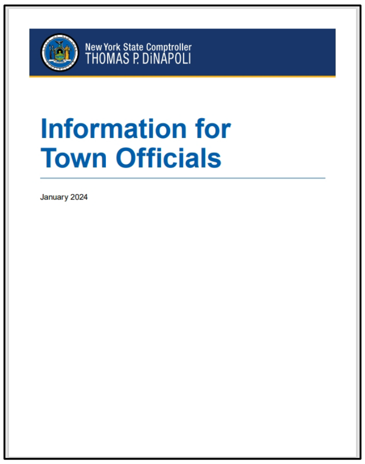
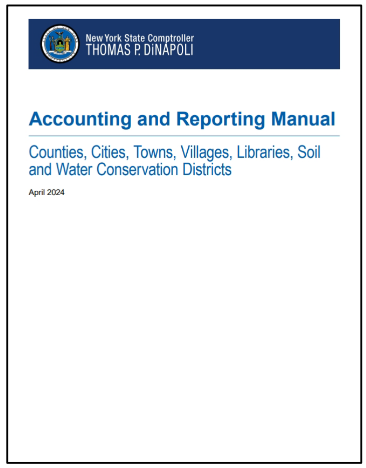
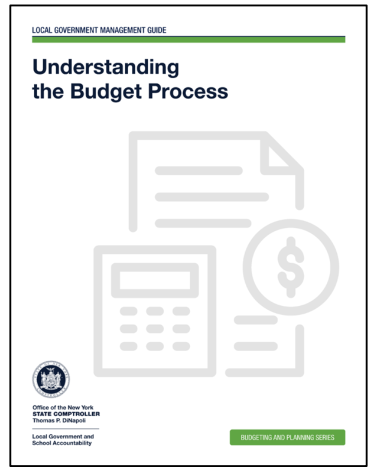
Counties are authorized to share some of their sales and use tax collections with certain local governments. When a county shares its sales tax with towns that have elected to receive their share in cash, the towns must appropriately budget and account for those revenues. Tax Law Section 1262(c) requires sales tax received by a town, which includes one or more villages that receive its own sales tax in cash from the county, to first be used to reduce taxes for activities levied on property in the town outside such villages, which are accounted for in the TOV funds. After all such real property taxes are eliminated, then sales tax may be used to reduce TW funds' real property taxes.

Because the Town's financial activities affect different tax bases, it is important for officials to accurately budget and allocate sales tax revenue in the proper funds to maintain equity among taxpayers and comply with statutory requirements.

Additional Sales Tax Resources

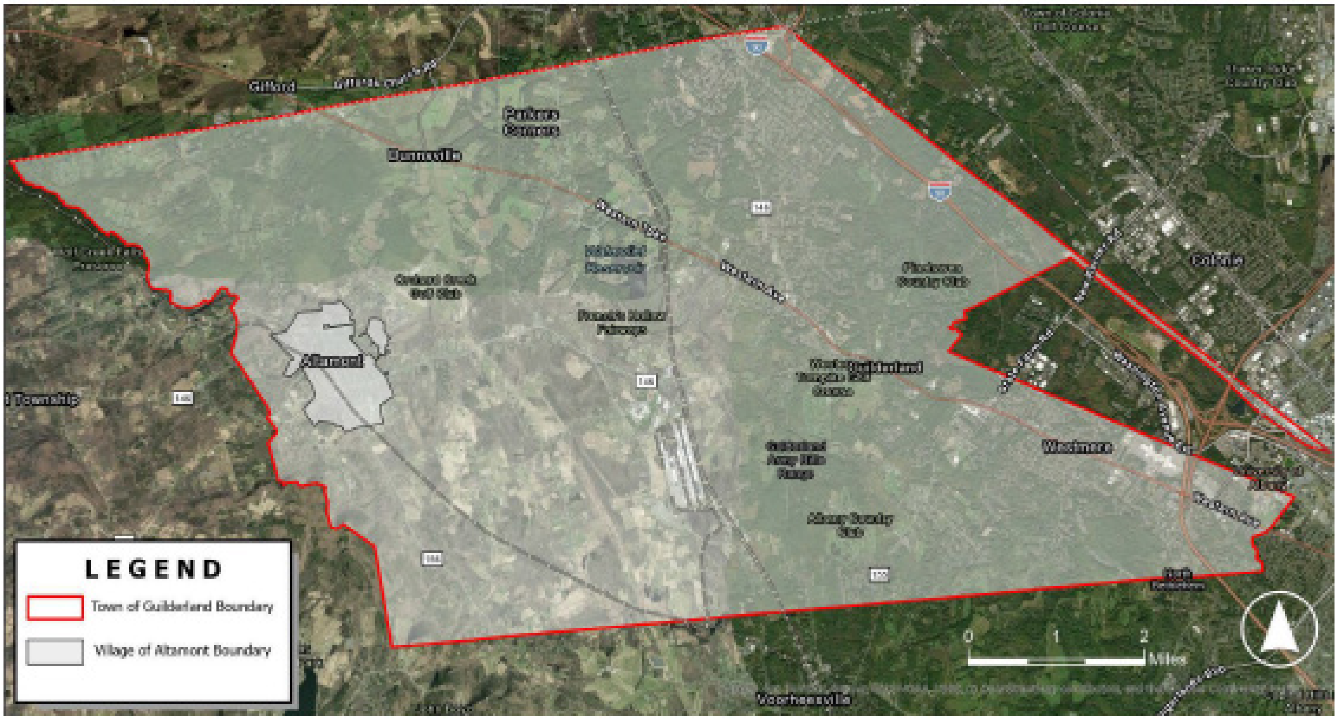
Figure 3: OSC Publications

OSC *Local Government Management Guides* and other informational resources are available on our website to help officials understand and perform their responsibilities.

Information for Town Officials	***Accounting and Reporting Manual***	***Understanding the Budget Process***
		
https://www.osc.ny.gov/files/local-government/publications/2020/pdf/information-for-town-officials.pdf	https://www.osc.ny.gov/files/local-government/publications/pdf/arm.pdf	https://www.osc.ny.gov/files/local-government/publications/pdf/understanding-the-budget-process.pdf

In addition, our website can be used to search for audits, resources, publications and training for officials: https://www.osc.ny.gov/local-government.

Appendix B: Aerial TW and TOV Boundary Map



Appendix C: Response From Town Officials

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PETER G. BARBER
SUPERVISOR

DARCI EFAW
COMPTROLLER

October 30, 2025

Via Email: Muni-GlensFalls@osc.ny.gov

Division of Local Government and School Accountability
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, NY 12081

Re: Sales Tax Revenue Allocation Report of Examination (2025M-62)

Dear Madam or Sir:

We write in response to the Sales Tax Revenue Allocation Report of Examination (2025M-62) ("Report") for the Town of Guilderland ("Town"). Upon behalf of the Town and its staff, we greatly appreciate the professionalism of your office's team during the audit process, and its very helpful recommendations and suggestions to improve the Town's practices. The following includes the Town's Collective Action Plan and Response.

Corrective Action Plan

The Town Board is now aware of the State Comptroller's interpretation of NYS Tax Law § 1262(c), the statute that governs how the Town should allocate its share of sales taxes among its budgetary funds when the Village of Altamont ("Village") also receives its share of sales taxes. The State Comptroller states that the Town must allocate its sales tax by "reducing … **to zero**" property taxes levied in the part-town funds before allocating sales tax to reduce taxes in the all-town fund that includes the Village.

In response, the Town's tentative 2026 budget allocates sales tax only in the part-town funds and does not allocate sales tax to the all-town fund that includes the Village. The Town Board hopes to follow this approach in future budgets, but is mindful of looming future expenses in the all-town fund, like advanced life support services provided by the Town's Emergency Medical Services ("EMS") to all Town residents, including those Town residents who live in the Village.

Town of Guilderland's Response

The Village is part of the Town, and Village residents are residents of the Town. The Town and the Village each receive remittances of collected sales tax from Albany County based on their population's share of the County's total population. For purposes of this audit, the Town's funds are the A Fund (General; all-town, including the Village), B Fund (General; part-town, not including the Village), and DB Fund (Highway; part-town, not including the Village). The Town's departments are placed in a fund either due to a legal provision, like the Police Department in the part-town B Fund, or whether a department provides services to Village residents, like the EMS Department in the general all-town A Fund.

The Town's budgets properly allocated its sales taxes to (1) "reduce to zero" real property taxes levied in the part-town B Fund; (2) "reduce" real property taxes levied in the part-town DB Fund; and (3) applied the balance to fund part-town activities in the B and DB Funds and "reduce" taxes in the general all-Town A Fund. The Report objects to the Town's use of its sales tax for reducing property taxes in the all-town A Fund, without first "reducing … **to zero**" properties taxes levied in the part-town DB Fund.

NYS Tax Law § 1262(c) states:

> If a town and all the villages therein shall have elected to be paid directly as provided in this subdivision, the share of such town shall be applied **to reduce** taxes levied for part-town activities, and **any balance** remaining or portion thereof, **in the discretion of the town board**, may be applied **to reduce general town taxes**, county taxes levied in the area of the town outside of such villages or may be used **for part-town activities, or any combination** thereof.

This statute requires that the Town apply its sales taxes to only **"reduce"** property taxes levied in the part-town B and DB Funds, and does not require the Town to "reduce … **to zero**" these taxes before using sales tax to reduce property taxes in the all-town A Fund. While there are several State Comptroller's opinions that, not surprisingly, support its position, we are not aware of any court decision that interprets this statute.

Unless defined in the statute, a word in a statute is "construed according to its natural and most obvious sense, without resorting to an artificial or forced construction." See NYS Statutes § 94. The Legislature chose the word "reduce" which is defined in *Merriam-Webster Dictionary* as "to diminish in size, amount, extent or number," such as "reduce taxes." The Legislature could have, but did not, use words such as "eliminate," "exhaust," "reduce to the maximum extent possible," "reduce to zero," or other absolute phrases. This definition of "reduce" is consistent with the statute's last phrase which allows the Town, after first reducing part-town taxes, to apply **"any balance,"** in its sole discretion, **"to reduce general town taxes"** (all-town A Fund) and/or fund **"part-town activities"** (part-town B or DB Funds).

See Note 1 Page 11

Consistent with this proper interpretation of this statute, the Town Board applied its allocated share of sales tax **"to reduce** taxes levied for part-town activities" by allocating sales taxes to the part-town B and DB Funds. For the part-town B Fund, the budgets show that the Town Board applied its allocated sales tax (2025 ($12,601,642); 2024 ($11,857,521); 2023 ($11,197,847); 2022 ($10,906,512); 2021 ($9.913,377)) **to reduce to zero** any property tax levied in the B Fund. For the part-town DB Fund, the budgets show that the Town Board applied its allocated sales tax (2025 ($975,500); 2024 ($900,000); 2023 ($513,500); 2022 ($793,488); 2021 ($955,194)) **to reduce** the property taxes levied in the part-town DB Fund. Having used its sales tax **"to reduce taxes levied for part-town activities"** in the part-town B and DB Funds, the Town Board used its statutory **"discretion"** to use the **"balance"** of its sales tax in the adopted budgets to fund part-town activities in the B and DB Funds and **to reduce** general property taxes (2025 ($2,967,858); 2024 ($2,560,479); 2023 ($2,088,653); 2022 ($1,700,000); 2021 ($1,031,429) levied in the all-town A Fund.

The Report states that, over four years of budgets, the Town Board improperly applied $14.8 million of its sales tax to reduce general Town taxes in the all-town A Fund (including the Village) and caused "taxpayer inequities." The Report fails to note that the A Fund's general tax includes the entire Town, and that the Village is only about 3.5% of the Town's total real property tax value. So, when the Town Board applied $14.8 million of its sales tax over the four-year period to reduce general Town taxes in the all-town A Fund, only 3.5% or approximately $518,000 (about $129,500 per year) was applied to Town taxes on properties in the Village. **The overwhelming reduction (approximately 96.5% or $14.3 million) in general Town taxes benefitted property taxpayers outside the Village.**[1] This striking disparity in size between the Town and Village is far different in other municipalities, such as the Village of Voorheesville which is 31.1% of the Town of New Scotland's population.

See Note 2 Page 11

NYS Tax Law § 1262 was enacted in 1965, and for over the next 60 years, there has been no statutory change in how sales tax should be allocated. The State Comptroller's insistence on applying Town sales tax to "reduce to zero" property taxes levied in the DB Fund fails to appreciate dramatic changes in the services provided by the Town and Village over the past 60 years.

In the same year (1965), the Legislature also enacted Town Law § 150(1), which provides that if a village has its own police department with four full-time officers, a town Police Department must be a part-town charge in the B Fund. While that required full-time staffing might have existed in the Village back in 1965, the Village now has five part-time officers. The Town

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[1] The Report includes a boundary map of the Town and the Village. While the map shows the different geographical sizes, a far more relevant comparison would be each municipality's "real property tax value" when, as here, the Report cites "taxpayer inequities" allegedly resulting from the Town's allocation of its sales tax to reduce property taxes.

Police Department, which remains[2] a part-town B Fund charge (not including the Village), now provides substantial police services in the Village. Back in 1965, municipal senior services were largely non-existent; municipal animal control services were performed by a dog warden; and IT services were decades away. While these departments are all in the part-town B Fund (not including the Village), the Town now provides services to all of its residents, including those in the Village.

In 1965, **basic** life support ambulance services were provided by private volunteer companies in the Village and Town. By 2019, these private ambulance services were financially distressed and the Town launched a new Town **advanced** life support ambulance service. By late 2019, both private ambulance services had closed. In 2020, during the COVID-19 pandemic, the Town EMS Department was recognized as the top EMS agency in the State by the NYS Department of Health.

As the Town's population ages, the demands for EMS services are anticipated to increase every year. The EMS Department's appropriations are $4,180,775 in the 2025 budget and about 29% of total appropriations in the A Fund. Town budgets have treated EMS as essential services and, after first reducing the property tax levies in the part-town B and DB Funds, the Town Board exercised its discretion, as provided in NYS Tax Law § 1262, to apply its sales taxes to support this all-town A Fund department in approved budgets. The average yearly budget allocation of about $129,500 in Town sales tax over four budget years to support EMS's advanced life support services to Village residents was a prudent action.

Simply put, the statutory scheme for restricting the Town Board's use of allocated sales taxes is grossly out of date. It fails to recognize how Town and Village services have evolved over the past 60 years to meet the community's needs, and, if rigidly applied, would unnecessarily hamper the Town Board's ability to provide essential services to all Town residents, including those Town residents living in the Village.

Very truly yours,

Peter G. Barber
Town Supervisor

cc: Town Board
Town Comptroller

[2] The Town has been advised that if the Police Department was moved from the part-Town B Fund to the all-Town A Fund, it could not also transfer any of the B Fund's fund balance to the A Fund. The Town's Fund Balance Policy was established, in part, to set aside adequate funds to meet current and long-term needs. Not allowing the relocated Police Department to draw upon its share of accumulated fund balance would upset the purposes underlying the Fund Balance Policy.

Appendix D: OSC Comments on the Town's Response

Note 1

OSC has consistently applied, and shared, our interpretation of Tax Law Section 1262(c) through this audit report, audit reports of other local governments and OSC website publications and written legal opinions. As the Town indicates, the word "reduce" in this statute should be construed according to its natural and most obvious sense. OSC views the use of the word "reduce" in the statute, which mandates ("shall") to be that the Town should use sales tax to reduce taxes levied for part-town activities.

The definition of "reduce" cited by the Town does not contradict the obvious meaning of the statute, which is as long as there are taxes needed to be levied for part-town activities, then sales tax must be applied to offset those taxes to reduce the amount needed to be levied. There is no need to specify any result of this reduction, such as "eliminate" or "reduce to the maximum extent possible," because these results are implicit in the mandate to reduce taxes levied for part-town activities.

Note 2

The County distributes sales tax to the Village which benefits Village taxpayers. When the Town allocates sales tax to the TOV funds first, the property taxpayers outside of the Village receive the benefit.

Appendix E: Audit Methodology and Standards

We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed Town officials and employees to gain an understanding of the Town's financial operations and budgeting process including the allocation of sales tax revenue.
- We interviewed Village and County officials to verify the Village received sales tax distributions directly from the County.
- We reviewed the Town's adopted budgets, the Town's accounting records, the County tax warrants and County sales tax payment documentation for the amounts distributed to the Town to determine whether sales tax revenues were budgeted for and allocated in accordance with Tax Law Section 1262(c) to maintain equity among taxpayers for the period from January 1, 2020 through March 31, 2025. We also determined the effect of any discrepancies.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Contact

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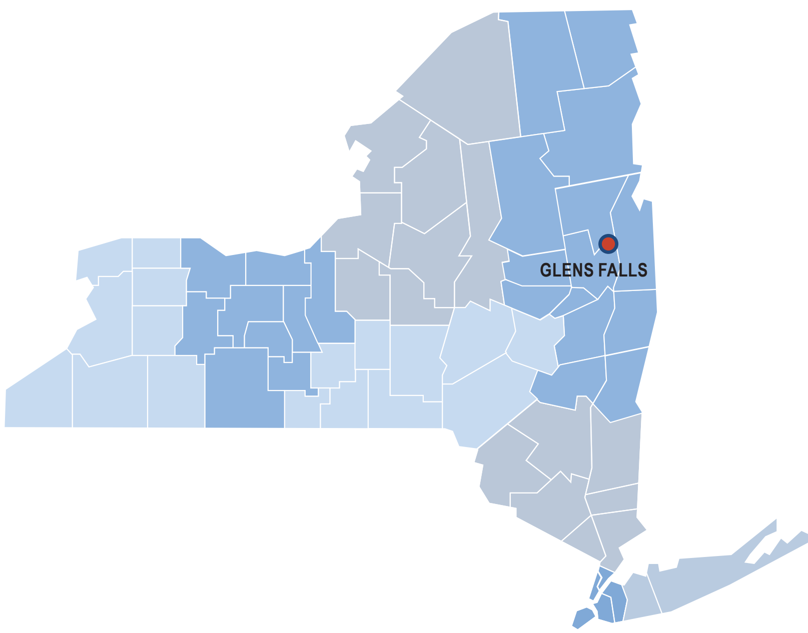

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