



THOMAS P. DINAPOLI
STATE COMPTROLLER

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
110 STATE STREET
ALBANY, NEW YORK 12236

STEVEN HANCOX
DEPUTY COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY
Tel: (518) 474-4037 Fax: (518) 486-6479

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To: Chief Executive Officers and Chief Fiscal Officers

From: Division of Local Government and School Accountability

Subject: Reserve for Excess Tax Levy (Updated)

Please provide copies of this bulletin to others who may need this information.

Chapter 97 of the Laws of 2011 established a property tax levy limit (generally referred to as the tax cap) that restricts the amount of property taxes local governments (including counties, cities, towns, villages, fire districts, and special districts) and school districts can levy. Under this legislation, the property tax levy for affected local governments and school districts cannot increase more than 2 percent, or the rate of inflation, whichever is lower, with some exceptions. Local governments and school districts are permitted to override the levy limit if certain actions are taken.¹ The law is effective for fiscal years that begin in 2012.

Excess Levy

The tax cap legislation states that if the actual tax levy of a local government or a school district exceeds the maximum allowable tax levy limit, the local government or school district must place the excess amount in reserve and use the excess and any interest earned to offset the tax levy for the following fiscal year.

The legislation also stipulates that if the Office of the State Comptroller finds that a local government² levied taxes in excess of the applicable tax levy limit, the local government, as soon as practicable, must place an amount equal to the excess amount of the levy in

¹ For more information on the tax cap legislation and its requirements, including the process to override the levy limit, please go to www.osc.state.ny.us/localgov/realprop/index.htm.

² Chapter 97 of the Laws of 2011 expressly requires a local government to put excess monies into reserve if OSC finds that the local government has levied in excess of the allowable levy limit. Although General Municipal Law §§ 33 and 34 give OSC the authority to audit school districts, including audits related to the new property tax levy cap, the law does not expressly require a school district to place excess funds into a reserve in similar circumstances.

reserve. The placement of the excess in reserve is the responsibility of the local government that has to file the tax levy limit information.³

If the excess determination is made prior to the levy of taxes, the local government should make every effort to reduce the levy to the allowable levy limit. If the levy is not reduced to the allowable levy limit or if the excess determination is made after taxes have been levied and during the tax collection process, property tax dollars collected must be placed in reserve so that the entire amount of the excess is reserved. If tax collections are insufficient to fully fund the reserve or if the excess determination is made after property taxes are collected for that year, available cash and other future revenue sources must be utilized to fully reserve the excess as soon as possible, but in no event later than the end of the fiscal year.

In addition, if it is determined that excess levies have been collected for multiple years, an amount equal to the total of the excess amounts levied in each fiscal year must be placed in reserve. The excess amount is determined for each fiscal year based upon the allowable tax limit for each fiscal year.

Accounting Requirements

When an excess tax levy has been identified, the following series of accounting entries will be required. These entries assume that the local government or school district has already recorded the real property taxes levied for the current fiscal year’s budget. The local government or school district will need to defer the recognition of revenues associated with the excess tax levy until the following fiscal year as required by the tax cap legislation. This deferral of revenue serves as the accounting mechanism for placing excess tax levy in reserve as required by the legislation. The amount of revenue deferred for excess tax levies should be placed in a separate interest-bearing bank account.

1. To reclassify the excess amount of taxes levied from revenues to deferred revenues:

Account	Sub-account	Debit	Credit
980 Revenues		\$1,000	
1001 Real Property Taxes	\$1,000		
695 Deferred Tax Revenue - Reserve for Excess Tax Levy			\$1,000

³ See www.osc.state.ny.us/localgov/realprop/pdf/legislationsummary.pdf for a discussion of local governments required to file the tax levy limit calculation.

2. To reclassify collections already received in payment of real property taxes that represent amounts attributable to excess tax levies.

Account	Sub-account	Debit	Credit
230 Cash, Special Reserves – Excess Tax Levy 200 Cash		\$250	\$250

3. To record ongoing collection of taxes that represent amounts attributable to excess tax levies:

Account	Sub-account	Debit	Credit
230 Cash, Special Reserve – Excess Tax Levy 250 Taxes Receivable, Current		\$750	\$750

4. In the next fiscal year, the entry to record the annual budget in the accounting records would include the amount of deferred revenues that represent amounts attributable to excess tax levies collected in the previous year:

Account	Sub-account	Debit	Credit
510 Estimated Revenues 1001 Real Property Taxes 960 Appropriations	\$1,000	\$1,000	\$1,000

5. At the start of the next fiscal year, to reclassify the deferred revenues as revenues:

Account	Sub-account	Debit	Credit
695 Deferred Tax Revenue - Reserve for Excess Tax Levy 980 Revenue 1001 Real Property Taxes	\$1,000	\$1,000	\$1,000

6. At the start of the next fiscal year, amounts set aside in Cash, Special Reserves would be reclassified to Cash to be used by the local government without restriction:

Account	Sub-account	Debit	Credit
200 Cash 230 Cash, Special Reserve (Excess Tax Levy)		\$1,000	\$1,000

Additional Information

If you have questions pertaining to the accounting requirements for the tax cap reserve described in this bulletin, please contact the State Comptroller's regional office that serves your local government.