

# UNDERSTANDING THE NEW REAL PROPERTY TAX LEVY CAP

(How the Real Property Tax Levy Percentage Cap and the Real Property Tax Rate Differ)



It seems everywhere you turn people are talking about the Tax Cap. However, to refer to the new law as limiting the taxes that New Yorkers will have to pay on their real property is misleading. The new law limits increases of the real property tax **LEVY** and the Levy is very different from the tax rate we are charged each year by our local jurisdiction (counties, cities, towns, villages, fire districts, and various special districts such as those for water, sewer, lighting, libraries, etc.).

To gain an understanding of what this new law set forth is less challenging for individuals that work in the world of real property and government finance; however with the creation of this new law, many New Yorkers may be hearing the word “levy” for the first time in this context.

What follows is a series of questions and answers that we hope will be educational and useful as you discuss this issue with your residents.

## WHERE DOES ALL THIS BEGIN?

The first step to determining levies and tax rates is to assess the real property within a jurisdiction’s geographic boundaries. Jurisdictions (counties, cities, towns, villages, etc.) the value of the properties at their discretion. The State of New York encourages jurisdictions to keep their property assessments current.

## WHAT IS THE REAL PROPERTY TAX?

In New York State, the real property tax is a tax based on the value of real property. Counties, cities, towns, villages, school districts, and special districts each raise money through the real property tax. The money funds schools, pays for police and fire protection, maintains roads, and funds other municipal services enjoyed by residents.

## WHAT IS A REAL PROPERTY TAX LEVY?

A property tax levy is the total amount of money to be raised by property tax to cover the cost of providing public services. This levy, whether higher or lower than the preceding year, is determined by the budget-making authority of the jurisdiction.

**Or put another way...** The real property tax levy (including special assessments <sup>(A)</sup> and ad valorem levies <sup>(B)</sup>) is the amount of taxes on all real property which needs to be collected by a jurisdiction for budget purposes.

## HOW IS THE REAL PROPERTY TAX RATE DIFFERENT FROM THE REAL PROPERTY TAX LEVY?

The real property tax rate is not determined until the amount of the tax levy is set. The tax rate is determined by dividing the real property tax levy by the *total taxable assessed value* of property in the jurisdiction.

### What is a taxing jurisdiction's total taxable assessed value?

The taxable assessed value of a property is the total assessment minus any applicable property tax exemptions. Exemptions are typically either whole or partial (such as exemptions for veterans, senior citizens, volunteer firefighters, and not-for-profits such as churches); that is either an exemption from paying any property tax or an exemption from paying part of a property tax bill. The total taxable assessed value of a taxing jurisdiction is determined by adding the taxable assessed value of all properties in the jurisdiction. Each property assessment is determined by the local assessor.

### What is a property assessment?

A property's assessment is based on its market value. Market value is how much a property would sell for under normal conditions. Assessments are determined by the assessor, an elected or appointed local official who independently estimates the value of real property in an assessing unit (jurisdiction). Assessing units follow municipal boundaries - county, city, town, or village.

The assessor can estimate the market value of property based on the sale prices of similar properties. A property can also be valued based on the depreciated cost of materials and labor required to replace it. Commercial property may be valued on its potential to produce rental income for its owners. In other words, the assessor can use whatever approach provides the best estimate of a property's market value; they must be assessed at their current-use value.

Once the assessor estimates the value of a property, its total assessment is calculated by multiplying the market value by the uniform percentage for the jurisdiction. New York State law provides that all property in a jurisdiction be assessed at the same uniform percentage of value (except in Nassau County and NYC where class assessing is authorized). That percentage can be five percent, ten percent, 50 percent, or any other percentage not exceeding 100 percent. It does not matter what percentage is used. What is important is that every property is assessed at the same uniform percentage within one assessing unit.

After a property's total assessment is determined, its taxable assessed value is computed. Again, the taxable assessed value is the total assessment minus any applicable property tax exemptions. Exemptions are typically either whole or partial, that is either an exemption from paying any property tax or an exemption from paying part of a property tax bill.

## HOW IS THE REAL PROPERTY TAX LEVY DETERMINED?

There are several steps involved in determining the tax levy:

1. The taxing jurisdiction (county, city, town, village, school district, special district, etc.) develops and adopts a budget.
2. Revenue from all sources other than the property tax (state aid, sales tax revenue, mortgage recording tax, user fees, etc.) is determined, or in some cases such as the sales tax, estimated.
3. The revenues determined in Step 2 are subtracted from the original budget with the remainder becoming the real property tax levy. It is the amount of the real property tax levy that is raised through the property tax.

*Put simply, the levy is a local jurisdiction's expenses minus revenues minus any appropriated fund balance (unspent funds from previous years) = tax levy.*

## WHAT DETERMINES THE TAX RATE?

The tax rate is determined by dividing the total amount of the property tax levy by the total taxable assessed value of a jurisdiction.

## WHAT DETERMINES THE AMOUNT OF A PROPERTY TAX BILL?

The tax bill is determined by multiplying the tax rate by each \$1,000 of assessed value of a property.

## WHAT DOES THE NEW REAL PROPERTY TAX LEVY CAP REALLY LIMIT?

The real property tax levy cap limits the growth in the amount of the real property tax levy a jurisdiction can collect from one fiscal year to the next. For example, if a town had a real property tax levy of \$1,000,000 for fiscal year 2011, it could not raise its levy by more than 2% (or less if so determined by the Office of the State Comptroller). That would restrict the increase in the amount of real property tax levy for the town to \$20,000, resulting in a total tax levy of \$1,020,000 for fiscal year 2012.

## IF THE REAL PROPERTY TAX LEVY INCREASE IS LIMITED TO A MAXIMUM OF 2% WOULDN'T THE TAX RATE ALSO BE CAPPED AT 2%?

**NO.** Although the growth in the real property tax levy is now capped at no more than 2% or the rate of inflation (whichever is less) over the prior year's levy, the tax rate could increase more or, in some cases, be less than the percentage increase in the tax levy. If the total taxable assessed value of property in a taxing jurisdiction grows, there is a larger pie by which to divide the levy, resulting in a tax rate change below the percentage increase in the levy. However, if the total taxable assessed value of a taxing jurisdiction declines, there is less assessed value by which to split the levy, which could result in a real property tax rate increase **greater** than the increase in the tax levy.

Also, where you live in the taxing jurisdiction also could cause your taxes to be more than 2% higher. Your total tax bill comprises various functions, not all of which are paid by all residents of the taxing jurisdiction. You may pay for services – fire, trash collection, sanitation, street lighting, drainage, etc. that are specific to your area. These costs could be higher and cause your taxes to be more even though the total tax levy does not increase more than 2%. This tends to happen more frequently in municipalities that have many special districts.

As stated in the beginning of this article, the media has been inconsistent in its description of the real property tax levy cap. Many reports leave out the word "levy" and just call it a 2% property tax cap. *The calculations provided in the new law do not apply to the calculation of the tax rate on real property—they strictly apply to the calculation of the real property tax levy.*

**Below are two scenarios illustrating the relationship between the real property tax levy, taxable assessed value, and the real property tax rate needed to meet the budget for a jurisdiction.**

### Town of Hypothetical 2011 Budget (Current Budget):

Real Property Tax Levy in 2011 was \$2,000,000

Taxable Assessed Value in 2011 was \$40,000,000

Tax Rate = Real Property Tax Levy divided by the Taxable Assessed Value:  
 $\$2,000,000 / \$40,000,000 = .050$  (Tax Rate)

*The Tax Bill:* To calculate the actual dollar amount of the tax bill for residential properties, the

**Tax Rate** is multiplied by each \$1,000 of assessed value:

$.050$  (Tax Rate) x \$1,000 = \$50 per \$1,000 of assessed value.

*Note: Commercial property calculations may be different depending upon the taxing jurisdiction's policies.*

**The scenarios below are for the upcoming budget year (2012) based off of the Town of Hypothetical's 2011 tax levy and assume that the Tax Levy increase is capped at the maximum allowable of 2%:**

### Scenario 1—

#### What happens when there is an increase in Total Taxable Assessed Value?

Allowable Real Property Tax Levy in 2012 = 2% Over the 2011 Levy:

$\$2,000,000$  (the 2011 levy) x 2% (the levy cap) is \$40,000 for a total 2012 tax levy of \$2,040,000

Total Taxable Assessed Value for 2012 is \$43,000,000 (an increase from 2011 of \$3,000,000)

Tax Rate = Real Property Tax Levy divided by the Total Taxable Assessed Value:

$\$2,040,000 / \$43,000,000 = .0474$  (Tax Rate)

*This translates into a Tax Rate decrease of 5.2% from the 2011 Tax Rate.*

*The Tax Bill = \$47.40 per \$1,000 of assessed value (compared to the 2011 amount of \$50 per \$1,000).*

### Scenario 2—

#### What happens when there is a decrease in Total Taxable Assessed Value?

Allowable Real Property Tax Levy in 2012 = 2% Over 2011 Levy:

$\$2,000,000$  (the 2011 levy) x 2% (the levy cap) is \$40,000 for a total 2012 tax levy of \$2,040,000

Total Taxable Assessed Value in 2012 = \$37,000,000 (a decrease from 2011 of \$3,000,000)

Tax Rate = Real Property Tax Levy divided by the Total Taxable Assessed Value:

$\$2,040,000 / \$37,000,000 = .0551$  (Tax Rate)

*This translates into a Tax Rate increase of 10.2% from the 2011 Tax Rate.*

*The Tax Bill = \$55.10 per \$1,000 of assessed value (compared to the 2011 amount of \$50 per \$1,000).*

**These scenarios illustrate that the taxable assessed value is a primary component of the year to year real property tax rate. The increase in taxable assessed value resulted in a 5.2% real property tax rate decrease (even with the increase in the real property tax levy of 2%) while a decrease in the taxable assessed value resulted in a 10.2% increase in the tax rate (even though the real property tax levy was capped at an increase of 2%)**

**(A) Special assessment**

A special assessment is a charge imposed upon benefited real property in proportion to the benefit received by such property to defray the cost, including operation and maintenance, of a special district improvement or service, or of a special improvement or service

**(B) Ad valorem levy**

An ad valorem levy is a charge imposed upon benefited real property in the same manner and at the same time as taxes for municipal purposes to defray the cost, including operation and maintenance, of a special district improvement or service, but not including any charge imposed by or on behalf of a jurisdiction.

*The NYS Office of Real Property Services web site ([www.orps.state.ny.us](http://www.orps.state.ny.us))  
was used as a resource in preparing this document.*

