

2020 Town Budget Process

One of the primary responsibilities of the town board is to adopt a structurally balanced budget that accurately estimates revenues and expenditures of the town for the coming fiscal year. The following outlines the budget adoption process from the initial stages through its final adoption and beyond. Please note that state law requires some steps be done by a certain date – these statutory deadlines are listed in **bold** (the deadlines for towns in Westchester and Monroe counties are different – these dates are indicated in parentheses).

Appointing a Budget Officer: The first step in the budget process is determining who will act as the budget officer. By statute, the town supervisor is the budget officer; however, he or she may appoint any person other than a town board member to serve as the budget officer instead (Town Law §103 [2]).

Receipt of Tax Cap Reporting Information: According to the Office of the State Comptroller (OSC), the town supervisor should receive a user identification and PIN number to access the online tax cap reporting form approximately five months prior to the fiscal year. The online form will be used later in the budget process to report to the OSC the information necessary to calculate the tax levy limit. Separate and apart from this, the Department of Taxation and Finance will make the relevant tax base growth factor used to adjust the town's levy limit available (General Municipal Law §3-c; www.osc.state.ny.us/localgov/realprop/).

Development and Submission of Estimates (Town Law § 104): Department heads must submit estimates of revenues and expenditures for their department for the coming fiscal year to the budget officer no later than **September 20 (October 20)**. If estimates are not submitted by the deadline, the budget officer must prepare them. The

budget officer also determines the form and what information estimates should contain. A best practice is for the budget officer to work with the various department heads to develop reasonable estimates. In order to meet deadlines and give department heads enough time to consider and develop their estimates, this process should be started during the summer.

Calculation of the Tax Levy Limit: Each town is responsible for calculating its own tax levy limit for the coming fiscal year. While there is no specific point this must be completed, it is recommended to do the calculation early in the budget process. This helps the budget officer develop a tentative budget that requires a tax levy within the allowed limit or gives the town board time to consider and adopt a local law overriding the levy limit (General Municipal Law §3-c; for more information visit www.osc.state.ny.us/localgov/realprop/; and www.tax.ny.gov/pdf/publications/orpts/capguidelines.pdf).

Preparation of the Tentative Budget (Town Law §106 [2]): After reviewing estimates submitted by department heads and preparing estimates as necessary, the budget officer develops the tentative budget and files it with the town clerk by **September 30 (October 30)**.

Preparation of the Exemption Impact Report (Real Property Tax Law §495): The budget officer must also prepare an exemption impact report in a form provided by the Department of Taxation and Finance. The exemption impact report is annexed to and filed along with the tentative budget by **September 30 (October 30)**; for more

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information, visit www.tax.ny.gov/research/property/exempt/exemptionreporting.htm.

Presentation of the Tentative Budget (Town Law §106 [3]): The town clerk presents the tentative budget to the town board at a regular or special town board meeting held on or before **October 5 (November 10)**.

Town Board Review of the Tentative Budget (Town Law §106 [3]): The town board reviews the tentative budget and may modify it. Changes should be in writing, approved by a majority vote of the town board by resolution and included in the minutes of a town board meeting (Town Law § 63). During its review, the town board may call on department heads and the budget officer to explain their estimates. The tentative budget review may be adjourned and continued at later meetings, but the town board should be aware of impending deadlines in the budget process and complete its review in a timely manner.

The Preliminary Budget (Town Law §§106 [4]; 107): Once the town board finishes reviewing the tentative budget, it needs to approve it and any modifications made to it. Once approved, the tentative budget becomes the preliminary budget and must be filed with the town clerk. The town clerk must make as many copies available for public distribution as the town board directs. From this point, no changes should be made to the preliminary budget until the town board conducts a public hearing.

Public Hearing on the Preliminary Budget (Town Law §108): The town board must hold a public hearing on the preliminary budget no later than the **Thursday following Election Day – for 2019, this will be November 5 (December 10)**. The hearing may be adjourned, but may not be adjourned beyond **November 15 (December 15)**.

Notice of the Public Hearing on the Preliminary Budget (Town Law §108): Notice must be published in the official newspaper and any other paper that the town board directs. In addition, notice should be posted on the town clerk's bulletin board and on the town's website, if practicable. The notice must state the time, place and purpose of the hearing and that copies of the preliminary budget are available for public inspection for anyone interested. The notice must also state the proposed salary of each member of the town board, the supervisor, the elected town clerk and the elected highway superintendent. At least five days must elapse between the first publication of the notice and the date specified for the hearing.

Modification of the Preliminary Budget (Town Law §109): After the public hearing closes, the town board may make modifications to the preliminary budget that are consistent with law. No additional public hearings are required on the changes made to the preliminary budget after the initial public hearing.

Adoption of the Tax Cap Override (General Municipal Law §3-c): If the real property tax levy required under the preliminary budget exceeds the town's allowable tax levy limit, the town needs to adopt a local law overriding the tax cap **before the final budget is adopted**. The local law must be adopted by a 60 percent majority of the town board. For most towns, this will be a simple majority, but for those with seven-member town boards, five members must approve the override.

Report Tax Levy Limit Information to OSC: Towns must submit tax cap information to OSC using the online form and user ID and

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PIN number that OSC provides to the town supervisor. Note that this form merely reports the necessary data; OSC will not calculate the tax levy limit for the town (General Municipal Law §3-c) (for more information, [contact OSC Help Line at 1-866-321-8503 or \(518\) 408-4934 or by Email at LGSAMonitoring@osc.ny.gov](#)).

Adoption of Final Budget (Town Law §109): After the town board finishes reviewing and modifying the preliminary budget, and adopts the tax cap override (if necessary), the preliminary budget should be adopted as the final budget by resolution. The final budget must be adopted no later than **November 20 (December 20)**, and entered in full in the minutes of the town board. If the town board fails to adopt a final budget, the preliminary budget as last amended by the town board becomes the final budget.

Receipt of Fire District Budgets: Fire districts are responsible for developing their own budgets, and the town board has no authority to alter the fire district's budget. Fire districts must file two certified copies of their budget with the town clerk no later than **November 7** (Town Law §181[3][c])*.

* Town Clerk Duties Regarding Fire District Budgets

Receive and File Fire District Budget Hearing Notice: The fire district must provide a copy of its published notice to the town clerk(s) of the town(s) in which the district is located (Town Law §181[3][a]).

Post-Notice Hearing on Fire District Budget: The town clerk must post the notice of a fire district budget hearing on the town's web site (provided the town has a web site) and on the town clerk's signboard and bulletin board. Notice must be posted for at least 15 days prior to the hearing but cannot be more than 20 days before the hearing (Town Law §175-c [2]).

Public Inspection of the Proposed Fire District Budget: The town clerk must receive and make available a copy of a proposed fire district budget for public inspection (Town Law §181[3][a]).

Delivery of Budget to County: Once the final budget is adopted, the town clerk must prepare two certified copies of the budget and annex a certified copy of the fire district budget to each copy (Town Law §181[3][c]). **Within five days**, the clerk must deliver the copies of the budget to the supervisor, who must then present them to the county legislative body **within 10 days** of receiving them. The county then levies the town taxes and other charges in the town budget (such as fire district taxes) at the same time and in the same manner as the county tax (Town Law §115).

Delivery of Tax Roll/Bill Data

Real Property Tax Law §1590 (3) requires each town to submit the data files used to prepare its tax rolls and tax bills to the commissioner of the Department of Tax and Finance within 10 days of the tax warrant being annexed. If no warrant is annexed, the data files must be submitted within 10 days of the last day the law prescribes for levying taxes. If a different governmental entity prepares a town's tax rolls or tax bills, or both, that entity is jointly responsible for submitting the applicable data files to the commissioner.

Developing Budgets for Improvement Districts

The town board (or commissioners of the district, if any) must develop a separate budget for improvement district financed by a special ad-valorem levy or special assessment.

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Like the town budget, the district budget process begins with an estimate of the anticipated revenues and expenditures for the district. The estimate should be detailed and accurate, and may include up to 10 percent of the total amount necessary to meet the expense of maintaining the district for contingency purposes. Once you have the revenue and the expenditures estimates, subtract the anticipated revenue amount from the anticipated expenditures total, the difference is assessed on property within the district (Town Law §202-a [3]). For districts financed by a special assessment (in proportion to the benefit received), the town board (or commissioners) must prepare a special assessment roll that shows the amount of the benefit received by each parcel and the amount assessed against it. The special assessment roll must be filed with the town clerk between the **first and 15th day of September** (Town Law §202-a [3],[4]).

Once the special assessment roll is filed, the town board must have public hearing on it. Notice of the public hearing must be published in a newspaper at least 10, but not more than 20, days prior to the date of the public hearing; except for towns in Westchester County, the roll be adopted at least 30 days before the annual meeting of the board of supervisors at which taxes are levied (Town Law, §202-a(5); §239).

In addition to the notice by publication, the New York Court of Appeals has held that the town must also provide actual notice to those property owners whose names and addresses are known to the town, unless there is a compelling reason not to do so (*Garden Homes Woodlands Company v. Town of Dover*, 95 N.Y.2d 516 (2000); 11 Op. Counsel SBRPS No. 15).

After the public hearing on the special assessment roll, the town board may adopt the special assessment roll. The board may

also make amendments or changes to the special assessment roll, but cannot adopt the amended special assessment roll until another public hearing has been held on it. In any event, the town board must adopt the special assessment roll at least 30 days prior to the meeting of the county board of supervisors at which taxes are levied (Town Law §202-a [5]).

When the budgets and special assessment rolls are completed, the town supervisor will present them to the county legislative body along with the town's annual budget (Town Law §115). The county then imposes the ad-valorem levies (by computing the tax rate on the basis of assessed valuation) and the special assessments against the parcels within the districts.

Please note that the Department of Taxation and Finance has advised that the levy for special improvement districts governed by the town board are to be included in the town's tax levy for purposes of calculating the town's annual tax levy limit (Dept. Tax and Finance "The Property Tax Cap Guidelines for Implementation–Publication 1000 [10-11]" may be reviewed at its website: <http://www.tax.ny.gov/pdf/publications/orpts/capguidelines.pdf>).

Calculating the Available Carryover

The law allows towns that levied less than their 2019 tax levy limit to carryover a certain amount into the next fiscal year. If the town met or exceeded its levy limit for 2019, there will be no available carryover to apply to 2020. If the town's levy for 2019 was below the allowable levy limit, the town will be able to carryover that amount up to 1.5 percent of the allowable levy limit.

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To determine the amount of the allowable carryover, multiply the prior year's levy limit by .015. This will give you the maximum carryover allowed by law (hereinafter the 'carryover ceiling'). Next, determine the amount by which the actual levy for the prior year was less than the tax levy limit for that year (hereinafter the 'unused levy'). If the unused levy is less than or equal to the carryover ceiling, then you can carry over all of the unused levy. If the unused levy exceeds the carryover ceiling, you can carry over an amount up to the carryover ceiling. This provision is best explained by the accompanying table.

In order to isolate the carryover calculation, we are assuming that there is a 2 percent allowable levy growth factor and that no adjustments due to PILOTs, quantity growth or any other exclusion apply.

Although columns 1 and 2 each allow for carryover that can be added to the levy limit for 2020, they are significantly different. In column 1, the town was only \$50,000 under its tax levy limit, and therefore, can carry over only that amount. In column 2, however, the town was under its levy limit by \$200,000, but could only carry forward \$153,000 (1.5 percent of the tax levy limit). The remaining \$47,000 cannot be carried forward to the next year – it is lost forever.

Finally, remember that even if your town adopted an override of the levy limit last year, you may still have available carryover; some towns may have adopted an override for 2019, but ended up with an actual levy below the tax levy limit. ☐

<i>Calculating Available Carryover</i>			
	(1) Carryover less than 1.5 percent of prior year's levy limit	(2) Carryover greater than 1.5 percent of prior year's levy limit	(3) No available carryover
2019 tax levy limit	\$10,200,000	\$10,200,000	\$10,200,000
2019 town tax levy	\$10,150,000	\$10,000,000	\$10,200,000
Amount below tax levy limit (unused levy)	\$50,000	\$200,000	0
2019 levy limit x .015 (carryover ceiling)	\$153,000	\$153,000	\$153,000
Allowable carryover for 2020 (Lesser of unused levy and carryover ceiling)	\$50,000	\$153,000	0
2020 Levy Limit (2019 town tax levy x 1.02)	\$10,353,000	\$10,200,000	\$10,404,000
2020 allowable levy (2020 levy limit + available carryover)	\$10,403,000	\$10,353,000	\$10,404,000