Budgeting and Levy Limits

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Wisconsin municipalities have now operated under levy limits for a full decade. With its numerous adjustments, the impact of levy limits on individual communities has varied considerably.

Prior to developing budgetary goals and objectives, a municipality must understand what constraints its projected allowable levy poses. The following is an overview of the levy limit law and key adjustments.

Base Increase to Allowable Levy

The first step in determining the allowable increase to the municipal levy for the next year's budget is to calculate the prior year's adjusted actual levy. The adjusted actual levy is the prior year's total levy decreased by any amounts claimed for unreimbursed emergency expenses or payment of obligation debt authorized after July 1, 2005 as shown in Example 1 which replicates the levy limit worksheet format (DOR Form SL-202m):

Example 1

1	2014 payable 2015 actual levy (not including tax increment). Note: Town, village or city taxes do not include county or state special charges for purposes of calculating levy limits.	$ 1,200,000
2	Exclude prior year levy for unreimbursed expenses related to an emergency.	$ 0
3	Exclude 2014 levy for new general obligation debt authorized after July 1, 2005.	$ 200,000
4	2014 payable 2015 adjusted actual levy.	$ 1,000,000

The adjusted actual levy is then increased by a percentage based on net new construction as determined by the Wisconsin Department of Revenue. Net new construction is the amount of new construction that occurred within the municipality in the prior year, including within tax incremental financing districts, less the value of any demolition. This net amount is divided by the prior year's total equalized value to determine the applicable percentage. This percentage, along with any increase that may result from terminating a tax incremental financing district, determines the levy limit before adjustment as shown below.

Example 2

4	2014 payable 2015 adjusted actual levy.	$ 1,000,000
5	0.00% growth plus terminated TID% (0.000) applied to the 2014 adjusted actual levy	$ 1,000,000
6	Net new construction % (1.000) + terminated TID% (0.000) applied to 2014 adjusted actual levy.	$ 1,010,000
7	2015 levy limit before adjustments. *Larger of Line 5 or Line 6.*	$ 1,010,000

In this example, the municipality would be permitted to increase its levy by $10,000 over the prior year before claiming any adjustments. Lines 1-7 on the levy limit worksheet are calculated and pre-filled on the worksheet by the Department of Revenue, but these calculations should be checked for accuracy.

Debt Service Adjustments

The adjustments pertaining to general obligation (G.O.) debt service can offer significant levy limit flexibility depending on a municipality's specific circumstances. The law treats G.O.

debt service differently depending on the date on which the debt was authorized (the date the governing body adopted an initial or authorizing resolution):

- Debt service (principal and interest payments) due on G.O. debt authorized on or after July 1, 2005 is exempt from levy limits. A municipality may claim as an adjustment up to the full amount of the debt service payment, however, whatever amount is claimed is deducted in the following year. As such, it is essential that this adjustment not be overstated: claiming an adjustment but not actually levying the full amount will result in a permanent reduction in levy capacity as further discussed later in this article.

  In some cases a municipality may be paying some or all of its post-July 1, 2005 G.O. debt service from within its unadjusted levy base. In such cases, this affords a measure of flexibility as the claimed adjustment amount could be increased. By moving levy for post-July 1, 2005 G.O. debt outside of the base levy by claiming a larger adjustment, a greater amount of levy capacity becomes available to support other types of expenditures. Caution should be exercised, however, when the additional debt service adjustment claimed is being paid from non-tax levy sources such as utility fees or tax increments. Relying on such an adjustment to support ongoing operating expenses such as staff costs will result in an eventual budget deficit if and when the non-levy paid debt service diminishes or is retired. This exposure does not occur if the entire amount of the debt adjustment claimed is fully levied for, or if the increased capacity is used to fund non-recurring or non-operating expenses such as capital equipment purchases and projects.

- For G.O. debt authorized prior to July 1, 2005, a municipality may increase its levy limit by the amount of any increase in the debt service payment over the prior year. If the debt service levy decreases from the prior year, the amount of that decrease must be taken as a reduction to the levy limit. An exception from the required reduction exists that is related to whether a carryover is claimed as discussed in the next section. An important distinction to note is that positive adjustments are based on comparing the debt service payment amounts whereas negative adjustments are based on the debt service levy amounts. In many cases these amounts may be the same, but if debt service payments are being partially or wholly abated by application of other revenues such as utility fees or tax increments, the levy amount will be less than the payment amount. As these older debt issues mature, it presents an opportunity to permanently capture the amounts previously paid for debt service as levy dollars available for operating or other expenses. Provided that the municipality does not subject itself to the required decrease by claiming a carryover, it can maintain its levy at the prior level required to pay the post-July 1, 2005 debt service and apply those dollars elsewhere without a need to increase the overall levy.

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Carryover

- If the actual amount levied in the prior year was less than the allowable levy as was calculated on Line 9 of the levy limit worksheet, a carryover will be available. This residual unused levy capacity can be claimed and used in the next budget cycle, but is limited to the actual unused amount, or 1.5 percent of the prior year's actual levy, whichever is less. Claiming the carryover requires governing body action. For a carryover of up to 0.5%, approval by a simple majority vote is required. To carry over a greater amount (up to the 1.5% maximum), approval requires three-fourths super majority vote, or a two-thirds super majority if the governing body has fewer than five members. Under current law, any available carryover not claimed is lost. In May the Joint Finance Committee passed an amendment to the proposed State budget that would permit carryover of unused levy capacity on a limited basis. If this provision is signed into law by the Governor, unused levy capacity could be carried over for a period of up to five years. The carryover would be subject to an annual cap of 5% and could only be carried over if the municipality did not increase its total outstanding G.O. debt in that year as compared to the prior year. There are two important features related to carryover to take into consideration:

  - As noted in the Debt Service Adjustments discussion, electing not to claim an available carryover

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exempts a municipality from the requirement to reduce its levy limit by the amount of any decrease in the levy from the prior year for G.O. debt authorized prior to July 1, 2005. If no carryover is available as a result of the prior year's levy being equal to the allowable levy, a municipality is similarly exempted from the reduction.

- If a carryover is available, it is important to ensure that the carryover was not artificially created by claiming in the previous year an unnecessarily large adjustment for G.O. debt authorized on or after July 1, 2005 (Adjustment E on the levy limit worksheet). If a municipality is claiming Adjustment E, it should only claim the exact amount needed to cause its calculated allowable levy to equal what it plans to actually levy. Since the Adjustment E amount claimed is deducted in the following year, taking a larger than required adjustment will result in an unintended permanent reduction in levy limit capacity.

Covered Services Negative Adjustment

The law specifies that a municipality must reduce its levy limit if, on or after July 2, 2013, it puts into place a user fee for garbage collection (does not include recycling), fire protection, snow plowing, street sweeping and stormwater management. It must also be the case that the service for which the user fee is implemented was funded in whole or in part by the tax levy in the 2013 budget year. A negative adjustment also applies when a user fee for any of the listed services is subsequently increased. The amount of the negative adjustment is equal to the projected increase in revenue resulting from the implementation of a user fee, or the increase in the user fee amount. A negative adjustment does not apply if revenues increase as a result of additional service units, but the fee remains the same. Example 3, below, provides additional clarification based on the four possible scenarios.

The effect of this provision is to preclude a municipality from implementing a new user fee for any of the five covered services to free up levy limit capacity to fund other operating purposes.

For Further Information

A number of additional levy limit adjustments are available for circumstances such as annexations, transfer of services and joint fire departments. For a full treatment of all adjustments as well as additional discussion of levy limit strategies please refer to the presentation materials located on Ehlers' website at the following address: http://bit.ly/EhlersLevyLimits.

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Example 3

Date User Fee First Enacted for Covered Service	Were tax levy dollars used to fund this service in part or in whole in 2013?	Negative Adjustment Applicable to Initial User Fee	Negative Adjustment Applicable to Subsequent Fee Increases
Prior to July 2, 2013	No, 100% user fee funded.	No	No
Prior to July 2, 2013	Yes, funded partially with user fees and partially with tax levy	No	Yes
On or After July 2, 2013	Yes, levy funded prior to enactment of user fee	Yes	Yes
On or After July 2, 2013	Service was not provided prior to enactment of user fee, or was funded fully with other non-tax levy sources	No	No