New York Law Journal
SERVING THE BENCH AND BAR SINCE 1888
WWW.NYLJ.COM
An ALM Publication
VOLUME 262—NO. 95
THURSDAY, NOVEMBER 14, 2019

Perspective

Commercial Property Tax Rates To Increase

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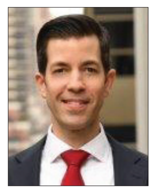

Office buildings, hotels, and retail properties were set to enjoy a 2.2% drop in property tax rates this year. But under a new law, commercial buildings' taxes will instead *increase* slightly so that 1- to 3-family homeowners' taxes won't increase as much.

Commercial buildings really could have used the tax break. Retail has suffered through increased vacancy and lower asking rents. Hotel supply outpaces demand while RevPAR falls.

The city has said that they haven't increased taxes. They really mean that they haven't increased the "overall" tax rate. But no one pays on the "overall" rate, which is just a weighted average of the *real* rates that people pay, which depends on their tax class.

Meanwhile, the other side of the Tax = Rate x Assessment equation is the rise in assessments. If the assessment increases 10% and the tax rate drops 1%, the owner still pays more taxes. This year, citywide total taxable assessed value increased 7.03%. So even with steady or declining tax *rates*, the tax *dollars* will keep increasing. Owners should protest over-assessments during the January 15 to March 1 protest filing period.

The city needs its money, especially the property tax revenue. The IBO expects the property tax to be the city's steadiest and strongest tax source, with growth averaging 5.5 percent annually. The IBO anticipates property tax revenue will increase 7.3% this year, and expects growth to gradually slow averaging 4.6% annually from 2021 through 2023.

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Property Tax Rates for Tax Year 2019/20. On June 19, 2019, the NYC Council passed the tax rates for the 2019/20 tax year. Residential properties were set to increase: homes by 6.3% and apartments by 0.8%. Commercial buildings would have decreased 2.2%. Meanwhile on the same day, the NYS Legislature passed a bill to "provide relief for residential property tax class one without placing a burden onto class two, which is the other residential tax class." Legislators wanted to shift the tax burden from residential to commercial.

On October 25, Governor Cuomo quietly signed the bill into law "to cap the maximum class growth rate at 0%." Now, the City Council must revise its rates, which it's scheduled to do on November 14 at 1:30 p.m. after the City Council Finance Committee meets at 10:30 a.m. *Compared to 2018/19 tax rates, homes will increase less than 6%, apartments will decrease to the lowest in 10 years, and commercial buildings will increase less than 1%.*

The NYC Dept. of Finance already used the old 2018/19 rates for the first half of 2019/20. DOF used the old rates to compute the June 5, 2019, tax bills for payment due July 1, 2019.

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Once the City Council finalizes the new 2019/20 rates, DOF will retroactively incorporate them in the tax bills for the remainder of the tax year, beginning with the November 2019 bills for payment due Jan. 1, 2020.

A 1% mid-year tax rate increase feels like a 2% increase, and is difficult for owners to budget for. For example, if the 2019/20 tax bill was $100,000 using the 2018/19 rates, and the 2019/20 rate ends up being 1% higher, then the revised annual bill is $101,000. For the first half, DOF already billed $50,000. For the second half, DOF must bill $51,000, which is 2% greater than the first half bill.

These mid-year changes are not unusual. The Council, Legislature, and DOF have made similar changes the past several years. We'll advise when the Council finalizes the rates for 2019/20, which should come this week.

June set, November revise—property tax rate cycle may end due to Charter reform? This "June set, November revise" tax rates cycle may end because last week voters approved City Charter amendment Ballot Question #4:

> Require the Mayor to submit a non-property tax revenue estimate to the City Council by April 26 (instead of June 5). The Mayor may submit an updated estimate after that date, but must explain why the updated estimate was fiscally necessary if the update is submitted after May 25.

Historically,

> Before the start of the fiscal year on July 1, the City Council is legally required to make sure the city's budget is balanced, meaning that the city's planned spending will not exceed the funds it expects to take in for the year. Each year, the mayor is required to prepare an estimate of the city's sources of funding other than property taxes, such as income taxes, sales taxes, and state and federal aid, and deliver it to the Council by *June 5*. When the budget is adopted, the Council uses this estimate to set the property tax rate and balance the budget. *In practice, the mayor delivers the estimate much closer to the time the budget is adopted, giving the City Council little time to consider the impact of the city's funding needs on the city's property tax rate.*

But under the new City Charter amendment,

> The mayor will be required to submit the non-property tax revenue estimate to the Council no later than *April 26*, at the same time as the executive budget, so the Council has time to do their work to ensure a balanced budget. The mayor will be allowed to revise the revenue estimate until May 25 (11 days before the deadline for adopting a balanced budget). After May 25, the mayor will only be able to revise the estimate by providing a written explanation showing why it is fiscally necessary to change it.

Perhaps in the future the City Council will adopt final rates in June and won't revise them in November. This change would make it easier for owners to budget for January 1 taxes, but harder to budget for July 1 taxes.

Tax Assessments. Tax rates are just part of the formula for calculating property taxes. Even if rates are flat, taxes will likely increase if assessments increase or exemptions and abatements decrease. And even if market values are flat, assessments may still increase (1) to phase-in the increases from the last five years, called "transitional" assessments, or (2) if the property is in tax class 1 and the assessment is less than 6% of the market value, or (3) if the property is in tax class 2A/2B/2C and the assessment is less than 45% of the market value. Tax classes 1, 2A, 2B, and 2C are known as the "capped" tax classes because assessment increases are limited by law, and these properties have tended to become underassessed when market value growth outpaced the limitations.

The HSTPA that passed in June restricts residential income potential, which has decreased property values. Owners tell me that it would only be fair that their property taxes drop too. How are they expected to survive if their NOIs are falling? I have the unenviable task of counseling them that even if their assessment drops, the city still needs its revenue and will have to raise tax rates to make up the shortfall.

The City Council sets the tax rates and DOF sets the assessments. Owners don't have control over the rates, but they can protest their assessments between January 15 and March 1 every year.