



Levy Limit Basics

I remember sitting down to compile our town's budget my first year as a clerk. Having worked many years in the public sector, I knew that the town was funded by taxes and that it had the power to tax, but what was this "levy" that everyone talked about. And how did this differentiate from an "allowable levy." Furthermore, what in the world was a "mill rate?" Even though I had served as a public servant for many years, I had never been involved on the back end of public financing. Hence, when I became a clerk, I had a lot of learning to do. This article is written for those of you who are working on your upcoming budget and who may just not understand these terms or how all of the pieces fit together.

Definition of Levy

When used as a noun, the word "levy" means "the imposition or collection of an assessment." Merriam Webster's Dictionary 2017. In other words, a levy is simply the tax that will be assessed on both real and personal property located within the town's jurisdiction. Some towns in Wisconsin do not levy. They are able to generate enough revenue from other sources (i.e. general transportation aids, shared revenue, payment in lieu of taxes, building and zoning permits, royalty payments, utility aid, ATC payments) to cover their expenses for the year. Other towns receive a limited amount of revenue from outside sources and rely heavily on their levy to cover expenses incurred in their town. Regardless, all towns are subject to local levy limits, otherwise known as the "allowable levy" under sec. 66.0602(2), Wis. Stats.

Allowable Levy

The allowable levy is the maximum allowable property tax that a town may assess on its properties without being subject to a penalty under sec. 66.0602(6), Wis. Stats. On or around the middle of September each year, the town clerk will receive an electronic notice from the Department of Revenue informing them that their municipal levy worksheet is available. The levy worksheet is used by the town to determine its allowable levy for the next fiscal year. The town is required to file the completed worksheet with the Department of Revenue no later than December 15th of each year even if there is no levy. The levy worksheet includes an "allowable levy" preset by the Department of Revenue based upon the town's prior year's actual levy. For example, if the Town of Happy Valley had a levy of \$150,000.00 for 2016 payable in 2017 and there was no net new construction and no other adjustments for service transfers, etc., the Town of Happy Valley would have a preset allowable levy of \$150,000.00 for 2017 payable in 2018. The Town of Happy Valley would then work through each line of the municipal levy worksheet,

taking into consideration the various adjustments allowed by law under sec. 66.0602(2m) & (3), Wis. Stats, to determine its actual allowable levy for 2017 payable in 2018.

Adjustments to Allowable Levy (Section D of Municipal Levy Worksheet)

Some of the more frequented adjustments to the town's levy allowable levy may include the following:

- 1) If the town charged back refunded or rescinded taxes to a property owner and this amount has been certified by the Department of Revenue, the town may increase its allowable levy by this amount for its share of the taxes charged back. (Line D)
- 2) If the town takes out a loan in 2017 and will be making principal and interest payments on the loan in 2018, the town may increase its allowable levy by the total amount of principal and interest payments being made in 2018. (Line E)
- 3) If an area of land in the town was annexed by a neighboring village or city, the town is required to subtract the amount it receives from the village or city that first year on that annexed area from its allowable levy. (Line L)
The city or village adds this amount. (Line M)
- 4) If the town adopts a new fee or a fee increase for a covered service, which was partly or wholly funded in 2013 by the levy, the town is required to reduce its allowable levy in the current year by the amount of the new fee or fee increase, less any previous reductions. For example, if the town funded emergency address signs before July 2, 2013, via the levy and installs and replaces such signs and then places a special charge on each resident's tax bill for the cost of replacement and installation, the town would be required to reduce its levy in the current year by the amount it expects to collect from the special charge. (Line Q)

Elector Approval and Levy Increase

Pursuant to sec. 60.10(1)(a), Wis. Stats., it is the electors who have the authority to levy taxes in the town. Approval of the levy is considered by the electors at a special town meeting of electors which generally takes place in November of each year. See sec. 60.12, Wis. Stats. Let's say that the Town of Happy Valley received an unexpected notice from their ambulance provider informing them that costs were going to increase by \$35,000 in 2018. During town board budget workshops, the town board concedes they have no other option but to ask the electors to exceed the town's allowable levy to cover these increased costs. If the board wishes to exceed the allowable levy, it is required to comply with the process set forth in sec. 66.0602(4) or (5), Wis. Stats. Towns that have a population under 3,000 may seek elector approval of the increase at the special town meeting of electors in November. See sec. 66.0602(5), Wis. Stats. Towns that have a population over 3,000 are required to seek elector approval of the increase via a referendum vote. See sec. 66.0602(4), Wis. Stats. Regardless of whether requesting approval of the increase via a special town meeting of electors or via a referendum vote, the town board first must adopt a

resolution supporting an increase in the allowable levy and calling for that resolution to be placed either on an agenda of a special town meeting or on the referendum ballot. For more details on this process, please see Attorney Nawrocki's levy limit article and supporting resolutions located on the WTA Samples page as follows: <http://wisctowns.com/legal-info/samples>.

Penalty

If a town exceeds its allowable levy without obtaining prior approval from its electors, either at a town meeting or by referendum vote, the town will be penalized for doing so. See sec. 66.0602(6), Wis. Stats. The penalty is a loss of shared revenue dollar for dollar. There are very narrow and limited exceptions to recovering this amount (i.e. clerk error in preparing tax roll or DOR assessment error). Consequently, if the Town of Happy Valley failed to follow the proper procedures for obtaining elector approval and levied its taxpayers \$35,000 above its allowable levy, the town will be penalized by receiving \$35,000 less in shared revenue in the subsequent year(s). The WTA highly recommends contacting our office or representatives from the State and Local Finance Division of the Department of Revenue with any questions regarding the levy process in order to avoid being penalized.

Mill Rate

Once the levy has been determined, the clerk can determine the mill rate. The mill rate is the amount of levied taxes divided by the total assessed value of the town. For example, if the electors of the Town of Happy Valley approved an increase of \$35,000, the allowable levy would be \$185,000 (\$150,000 plus \$35,000). The town's assessed value is \$150,000,000.00. To determine the mill rate, the clerk will divide the levy of \$185,000 into the total assessed value of \$150,000,000 to obtain a mill rate of .001233333. Multiply this rate by 1,000 (1.23) to determine the rate per \$1,000 of assessed property. If a taxpayer owns property located in the Town of Happy Valley that is assessed at \$250,000.00, the taxpayer will be levied \$307.50 ($\1.23×250) for the town's share. There is a great resource written by the Department of Revenue titled the Assessment Roll and Tax Roll Instructions. This resource discusses the tax roll, the Board of Review, the statement of taxes, mill rate, and many other topics that can be of value to you. Here is a link to that publication: <https://www.revenue.wi.gov/DOR%20Publications/pa502.pdf>.

CORRECTION:

Please note that in my September article, I incorrectly stated that the IRS mileage rate for 2017 is 54.5 cents/mile. The correct IRS mileage rate for 2017 is 53.5 cents/mile. I apologize for that error!

NOTICE: A new I-9 form became effective on September 18th. Employers must now use this revised form which has a revision date of 07/17/2017 in the lower left hand corner.