NYS Association of Counties

2021 Legislative Priorities

POLICY BRIEF

Finance, Budget & Revenue, Ways & Means

December 30, 2020

Policy Snapshot:

- Reverse these fiscally dangerous practices and grant counties the flexibility and choice whether to fund AIM related payments or this distressed hospital fund.
- Temporarily increase the sales tax rate (for a period of three years) by 1 percent in total, split evenly between the state and county to coincide with the COVID-19 pandemic.
- Allow counties to set other home rule revenue tax rates up to the most common rate existing in other counties across the state without state legislative approval.
- Authorize gig economy industries, such as VRBO, AirBnB, and other vacation and home rental agencies, to collect sales tax.
- Grant counties the authority to be included in the State's debt set off program for any outstanding debt totaling $50 or more and expand the setoff to include income from sports betting, on-off track betting, and casinos, including VLT's.
- Increase county retention of revenues derived from county DMV operations.

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Policy Priorities

End Diversion of County Sales Tax

As part of the SFY 20 Enacted Budget, NYS directed a portion of county sales tax revenue to pay for an Aid to Municipalities state program. As a result, approximately $____ million was intercepted from counties, requiring county taxpayers to fund a state-administered program.

The following year, in the SFY 21 State Budget, the state directed an additional portion of county sales tax revenue to fund a new distressed hospital fund. As a result, an additional $250 million was intercepted from counties, taking even more funds from local taxpayers.

Recommendation

Counties are recommending that lawmakers reverse the practice of diverting local sales tax revenues, and grant counties the choice to fund AIM payments or the distressed hospital fund. Without this action, the state is simply forcing property taxpayers to fund their own programs.

Sales Tax Permanency & Parity

Currently counties must request home rule authorization every two years to continue their local sales tax authorization. Many counties share sales tax revenues with other local governments, where on average nearly one out of every four local sales tax dollars is shared with cities, towns and villages to help lower the property taxes levied in these jurisdictions. NYC has permanent sales tax authorization and is not required to ask state lawmakers to renew their sales tax rate.

Recommendation
Counties are asking that the State Legislature make counties' existing sales tax rates permanent, bringing parity for counties with New York City. Making counties' sales tax rates permanent would remove unnecessary expenses and processes, protect localities from getting caught in unrelated political disagreements, and improve operations at the state and local levels.

Restore Safety Net 50/50 State-Local Cost Sharing

Today, counties pay 71 percent and the state pays 29 percent of the nonfederal share of Safety Net. This cost sharing arrangement is unique to New York with most local governments in other states not required to shoulder such an enormous cost of state designed public assistance programs. This contributes directly to higher property taxes in New York when compared to other states. Safety Net program costs continue to grow at a faster rate than federally funded TANF costs and much of this growth is driven by increasing housing costs.

Recommendation
Counties are asking for the restoration of the 50/50 cost sharing model for Safety Net. An important first step would be to increase the cap on reimbursable housing expenses. This is a major cost driver for many counties where affordable housing options are not available. The restoration of the 50/50 cost sharing model would save local taxpayers $300 million annually.

Debt Setoff Program

Counties seek authority to be included in the State's debt set off program for any outstanding debt totaling $50 or more. In addition, counties recommend the state expand the setoff to include income from sports betting, on/off track betting and casinos, including video lottery terminals.

Recommendation
<u>Counties are seeking local government authority to allow</u>

1. All local governments, special taxing districts and other local agencies to participate in the state's debt setoff (DSO) program to intercept personal income tax refunds, lottery winnings, and other state-provided individual payments,
2. Debts to be submitted and collected through the state's DSO program,
3. Participating local government to charge the debtor a collection fee, and
4. Participating local governments to use a debt setoff clearinghouse for DSO activities.

<u>Counties are seeking authority to allow the county association to</u>

1. Function as a debt setoff clearinghouse on behalf of any local government and local agency participating in the state's DSO program,
2. Restricts the type of clearinghouses to encompass the state county association, and
3. Impose a local collection assistance fee on the debtor.

State Agency Authority to

1. Charge the debtor for state collection fees,
2. Share social security numbers and addresses of local debtors with participating local agencies or the clearinghouse acting on their behalf,
3. Sets a dollar amount for state collection fees on each successful intercept,
4. Enable the state's local funds management trust and revenue agency to cooperate with the clearinghouse to transmit, receive and disburse offset funds to participating agencies at the direction of the clearinghouse, and
5. Limit preference that debtor notices and appeals with pending refunds and refunds held by revenue agency for period of 30 days for debtor challenge.

Reforms to The Tax Foreclosure Process

The real property tax foreclosure process is designed to strike a balance that ensures property tax revenues are received to cover the cost of state mandates and local services, while providing property owners opportunities and time to make payments to avoid foreclosure.

A recent state legislative proposal to eliminate certain tax enforcement fees and penalties, allow for varying interest rates in tax delinquencies, and eliminate the current law "reverse chronological order" of satisfying tax liens will allow property owners to potentially abuse the system, remain perpetually in arrears, and significantly damaging tax compliance.

County government is the primary governmental unit charged by the State with ensuring real property tax law compliance and enforcement at the local level. Under this charge, counties are required to fully reimburse all school districts and most towns and villages for uncollected property taxes, often requiring counties to borrow tens of millions of dollars annually while tax recoupment is commenced, all with the primary goal of ensuring fairness for taxpayers and avoiding tax foreclosure.

Real Property Law provides an extensive notification process for property owners that fall into arrears to help them understand what is happening and their options. These laws allow for installment payment plans for up to 36 months for tax delinquency to ease the burden and provide special allowances for farm property and military personnel. Combined, these items can prevent tax foreclosure or extend the timeline for several years.

While many counties use these statutory allowances to ease the tax foreclosure process and burden, they also provide additional help including:

- Allowing partial payments for the initial property taxes due to ease the payment burden;
- Encouraging property owners to seek legal advice so they can retain their property;
- Allowing relatives to receive duplicate copies of property tax bills, delinquency notices and other real property items;
- Guiding property owners to programs that can help them clear up delinquent taxes; and
- Allowing property owners to repurchase their property in cases of tax foreclosure.

Recommendation

NYSAC opposes state legislation that undermines the careful balance that exists in state law related to the tax foreclosure process in New York State.

Additional Policy Recommendations

- Grant permanent sales tax authority for all counties for a local sales tax at their existing rate or up to 4 percent, similar to the authority already granted to NYC.
- Temporarily increase the sales tax rate (for a period of three years) by 1 percent in total, split evenly between the state and county to coincide with the COVID-19 pandemic.
- Allow counties to set other home rule revenue tax rates up to the most common rate existing in other counties across the state without state legislative approval.
- Authorize gig economy industries, such as VRBO, AirBnB, and other vacation and home rental agencies, to collect sales tax.
- End the mandatory diversion of county sales tax for purposes of making AIM-related payments to towns and villages.
- End the diversion of county sales tax to support distressed healthcare facilities as funds have been made available through federal coronavirus assistance.
- Eliminate the use of "dark store theory" as a way to lower property tax assessments and create a task force to identify solutions.
- Grant counties the authority to be included in the State's debt set off program for any outstanding debt totaling $50 or more and expand the setoff to include income from sports betting, on-off track betting, and casinos, including VLT's.
- Increase county retention of revenues derived from county DMV operations.
- Partner with counties to lower local government costs.
- Reform the home rule process to grant permanent sales tax authority to counties at existing rates.
- Enact "No New Unfunded Mandates" legislation.
- Cap current state mandated costs at a rate that does not exceed the state-imposed property tax cap.
- Temporarily grant counties the flexibility to exceed the property tax cap if state aid is reduced by the projected 20% or other county revenues are 95% or less of budgeted estimates.
- Grant NYC and counties with a temporary ability to borrow money to cover operating expenses due to a loss of sales tax revenue as a result from the COVID-19 pandemic.