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Why property tax refunds are delayed in some areas of the state but not in others - by Brad Cronin and Sean Cronin

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Nassau County has delayed issuing property tax refunds for extended periods of time, while Suffolk County consistently issues refunds in a timely manner once a property is found to be overassessed. This is due to the fact that New York State does not have a uniform method of issuing property tax refunds. This results in some municipalities being impacted by the current economics of their local government as well as the politics that control it. The easiest way to understand why these differences exist is to compare the systems and how they function.

In the vast majority of New York State, the town has the primary responsibility of defending tax certiorari cases. If a property owner is successful, then the town, county and school each must issue a refund to the property owner for the amount they were over taxed. Since the school districts typically have significant financial exposure they frequently retain their own counsel to monitor the tax certiorari cases. Each entity initially collected this money, so it is logical that they are the ones responsible to return the money they received when it is found that the assessment was too high.

Under their tax act, Suffolk County modified this system to insulate the school districts, but did so in a manner that created stability. Each individual Suffolk town defends their certiorari cases, but any refund for prior years is issued by Suffolk County. This seems illogical, but it does not end there, this is just the first step dictated by the Suffolk County tax act. Next, rather than Suffolk County being

responsible for repayment of all the refunds, the following year's tax bill includes a line item for refunds in the form of chargebacks. This ensures that the county does not have to absorb the impact of the entire refund and they are reimbursed for the town and school district refund payments. Having the chargeback on the following bill prevents sometimes unpredictable refunds from immediately disrupting operating budgets and provides for stability by spreading the refund amounts equitably among all tax payers in a town.

Nassau County has many characteristics that seem similar to Suffolk, but due to their local laws, the mechanics of their system are very different. Nassau is a county wide assessment unit where the assessments are administered by the county assessor. They also operate as a class system for different property types which makes their problems unique.

In Nassau, since the county assigns the assessments, they must defend the assessment and pay all the refunds as well. This causes them to bear the burden for not only themselves, but also the towns and school districts. If a property owner is successful, Nassau County must pay the corresponding school and town tax refund despite the fact that they never received the school taxes or town taxes since they only receive the payment of county taxes. Nassau County still has to pay back everyone else's share. This obligation, sometimes referred to as the "County Guaranty" has created many budget problems in Nassau.

Property taxes are a popular topic in many of this year's local political campaigns. Due to the "County Guaranty" some political candidates are recommending the assessment system shift from the control of the county to the individual towns. Other politicians have called for the school districts to play a greater role in the process as they receive the majority of the tax bill payments. While both suggestions appear logical, they would be a tremendous departure from the current system and there are significant hurdles that must be overcome to implement such change.

All property tax systems share the obvious quality of generating revenue based on tax rates multiplied a property's assessed value. However, the actions and control of these assessment systems vary greatly between the Nassau and Suffolk Counties, as well as compared to the rest of the state. In both Nassau and Suffolk, any politician hoping to be elected to office knows they must have a firm grasp on their particular property tax systems in order to address the concerns of voters. Similarly, in order to understand the campaign rhetoric, voters must first understand the current systems in place locally. It is important that any proposed change have a defined course of action mapped out in order to make the correct improvements if they are to effectuate positive change.

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