

# ULSTER COUNTY COMPTROLLER'S OFFICE

Elliott Auerbach, Comptroller



April 30, 2014

1st Quarter in Review  
2014

*The mission of the Ulster County Comptroller's Office is to serve as an independent agency of the people and to protect the public interest by monitoring County government and to assess and report on the degree to which its operation is economical, efficient and its financial condition sound.*

There certainly was no more important fiscal issue in the First Quarter of 2014 than the lapse in the Ulster County 1% sales tax. The lapse was occasioned by the failure of the State Legislature to extend the tax by special legislation by the end of November 2013. For that reason, our 1<sup>st</sup> Quarter 2014 Report will focus on the impact of the failure to extend the tax. Although dated for the end of the 1<sup>st</sup> Quarter, the issuance of the Report was delayed by the need to await final computation of the sales tax revenues of the County from the County Finance Department, which in turn, must await state payment and reporting to the County.

### **ULSTER COUNTY SALES TAX REVENUE ANALYSIS**

**Lapse in Ulster County 1% Sales Tax:** The County portion of New York State sales tax is generally 3%. Taxing jurisdictions may collect additional sales tax only upon adoption of special authorizing legislation by the State Legislature (“Legislature”), which must be adopted by November 30. Traditionally, the Legislature has passed such special legislation permitting Ulster County to collect an additional 1% without controversy. The County Executive and County Legislature have therefore relied upon projections based on the increased County tax in presenting and adopting the County Budget. In its regular 2013 legislative session, the Legislature failed to extend Ulster County’s additional 1% sales tax rate, and did not meet in special session to address the issue.

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Thus, a reduced tax rate applied to Ulster County transactions as of December 1, 2013, and left action on the issue to be dealt with in the 2014 regular Legislative

session. As a practical matter, that meant that at least during December 2013 and January 2014, Ulster County transactions would be subject to the lower tax rate and the associated lower return per transaction for the County, the City of Kingston, and Ulster’s towns and villages.

In our 2013 4<sup>th</sup> Quarter Report, our Office committed to reporting on the impact of the sales tax lapse as the data was made available to us by the Department of Finance.

**Budgeting for the Projected Reduction in Sales Tax Revenue:** The loss of the sales tax revenue required Executive action initially by accounting for December 2013’s losses. These were accounted for by making the necessary reductions in the 2013 fund balance.

Prudence required that the 2014 Budget be crafted with the projected losses for January being presumed (since there was no legal mechanism to reinstate the 1% sales tax before the new year), and the projected losses for February 2014 at least being planned

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for (since without action by the State Legislature in January, the February loss would also be unavoidable).

With respect to January, the 2014 Budget accounted for the lost revenue through \$1.9M in budget cuts.

The possibility that the 1% sales tax lapse would linger past February 1, 2014 was accounted for in the 2014 Budget by placing \$1.9M into sequestration in the Budget's contingency line. If the sales tax were not reinstated by February 1, the contingency funds would have been eliminated, and further budget cuts in that amount would have immediately taken effect. Those budget items at risk included certain contract agency services, cost of living increases for management, Sheriff's Office equipment purchases, and a number of other operating expenses.

**Restoration of Ulster County 1% Sales Tax:** The drastic cuts which would have resulted from the loss of the 1% sales tax in February were fortunately avoided. The State Legislature approved the 1% increase for Ulster County and on January 23, 2014, the bill was signed into law by the Governor. This meant that as of February 1, 2014, the additional 1% could be charged to Ulster County transactions.

Sales tax revenues for December 2013 and January 2014 were clearly impacted by the 1% sales tax lapse, and the 2014 Budget was necessarily negatively impacted because it was cut by the projected \$1.9M January loss.

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**Actual Loss in Sales Tax Quarter Revenue:** A New York State sales tax quarter is measured differently than a calendar year quarter. Its first quarter is measured from December to February. The chart below reflects the actual year-over-year diminished revenue during the sales tax quarter, both by month and in the aggregate, according to figures provided by the Department of Finance. The chart reveals that the losses in December and January were so significant (over 28%) that even with a nearly 11% year-over-year increase in February, the loss in the quarter overall was nearly 16%.

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<b>December 2012 vs December 2013</b>		<b>2012</b>	<b>2013</b>	<b>Dollar Reduction</b>	<b>Perc (%) Reduction</b>
Gross Amount Received from NYS		8,274,777.00	5,886,690.00	(2,388,087.00)	
<b><u>Amounts owed to Towns/City:</u></b>					
Amount to Towns (3%)		248,243.00	176,601.00	(71,642.00)	
Amount to City of Kingston (11.5%)		951,599.00	676,969.00	(274,630.00)	
Net Amount kept by Ulster County		7,074,935.00	5,033,120.00	(2,041,815.00)	-28.86%
<b>January 2013 vs January 2014</b>		<b>2013</b>	<b>2014</b>	<b>Dollar Reduction</b>	<b>Perc (%) Reduction</b>
Gross Amount Received from NYS		10,415,266.00	7,445,225.00	(2,970,041.00)	
<b><u>Amounts owed to Towns/City:</u></b>					
Amount to Towns (3%)		312,458.00	223,357.00	(89,101.00)	
Amount to City of Kingston (11.5%)		1,197,756.00	856,201.00	(341,555.00)	
Net Amount kept by Ulster County		8,905,052.00	6,365,667.00	(2,539,385.00)	-28.52%
<b>February 2013 vs February 2014</b>		<b>2013</b>	<b>2014</b>	<b>Dollar Reduction</b>	<b>Perc (%) Increase</b>
Gross Amount Received from NYS		9,163,951.00	10,141,945.00	977,994.00	
<b><u>Amounts owed to Towns/City:</u></b>					
Amount to Towns (3%)		274,919.00	304,258.00	29,339.00	
Amount to City of Kingston (11.5%)		1,053,854.00	1,166,324.00	112,470.00	
Net Amount kept by Ulster County		7,835,178.00	8,671,363.00	836,185.00	10.67%
<b>Dec. 2012 - Feb. 2013 vs Dec. 2013 - Feb. 2014</b>		<b>12/12 - 02/13</b>	<b>12/13 - 02/14</b>	<b>Dollar Reduction</b>	<b>Perc (%) Reduction</b>
Gross Amount Received from NYS		27,853,994.00	23,473,860.00	(4,380,134.00)	
<b><u>Amounts owed to Towns/City:</u></b>					
Amount to Towns (3%)		835,620.00	704,216.00	(131,404.00)	
Amount to City of Kingston (11.5%)		3,203,209.00	2,699,494.00	(503,715.00)	
Net Amount kept by Ulster County		23,815,165.00	20,070,150.00	(3,745,015.00)	-15.73%

**Ancillary Impacts:** As the chart reflects, the actual reduction in revenues was greater than projected in December and January, and while the February 2014 reinstatement avoided additional cuts for 2014, the impact of the lost revenue will likely impact the 2015 budget, as well. In addition, the state legislation placed conditions on the continuation of the 1% increase for 2015 which led the Legislature to amend and shorten their budget review period in order to ensure compliance with existing state law as to the authority to charge the additional tax. This shortened review period surely impacts an already challenging budget process, even if its impact cannot be quantified precisely.

**Factors in the Diminished Revenue:** It is self-evident, of course, that the loss of 1% on every transaction subject to sales tax had an adverse impact on total revenue. However, it

should be noted that many factors may have played a role in the decreased sales tax numbers. It should not be concluded that the relationship between the dollars lost and the sales tax lapse is 1:1. In the first instance, the gap between the two months year-over-year exceeds 1%, so that even if the number and total value of the transactions in question were the same year over year, the additional 1% would not close the gap; for that reason alone it is clear that some other factors in the local economy must have been at work.

Moreover, it is possible that the lower sales tax had a positive impact on the activity of certain consumers who may have been more active in general, or with respect to the purchase of “big-ticket” items, by virtue of being aware of the lower sales tax and seeking to capitalize on it.

Finally, regional and statewide trends must be assumed to account for some of the gap observed in those months. In a February 2014 *Local Government Snapshot* Report, State Comptroller Thomas DiNapoli reports that while annual growth in sales tax collections in downstate counties (excluding New York counties) increased 5.9% from 2012 – 2013, in December 2013 collections outside of NYC declined by 3.2%, and further noted that growth in 4<sup>th</sup> Quarter sales tax collections (which would include December) have decreased year over year every year since at least 2010.

2010	7.7%
2011	6.0%
2012	1.6%
2013	1.4%

Other factors, ranging from the shorter shopping season between Thanksgiving and Christmas in 2013, to the particularly harsh winter, may well have played a part in the aggregate loss in revenue.

Nevertheless, even taking these other factors into account, the negative impact of the loss of 1% on every transaction subject to sales tax in the County cannot be denied.

**Diffusing the Tax Tinderbox:** The sales tax issue became a volatile debate among local political stakeholders at the County and state levels for obvious reasons. However, in our view, the issue highlighted a more fundamental flaw in the sales tax model: the question of where the authority to collect an additional tax at the County level should lie.

Ulster County Comptroller Elliott Auerbach is promoting a revision to NYS Law that would allow county legislatures in New York State to set their sales tax rates without interference from the New York State Legislature. In the view of this Office, it is in the interest of good government that County legislatures should be vested with the sole authority to determine if an additional sales tax is to be levied without interference from the State Legislature.

The Office has commented publicly that this approach is consistent with New York’s well-established deference to the home-rule concept and would avoid the temptation to make

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such important economic issues subject to the political or even administrative pitfalls of coordination with Albany. The proposal is supported by the NYS Association of Counties

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(NYSAC), which has also called for reform of the process. It is the recommendation of this Office that both the Ulster County Legislature and Executive join the NYSAC Home Rule initiative.

Respectfully submitted,

ELLIOTT AUERBACH, COMPTROLLER