

November 27, 2007

Mr. Paul Francis Director
New York State Division of Budget
Albany, New York

Re: New York State 2008/09 State budget submission

Dear Mr. Francis:

Fairness is a concept that is a basic foundation to the American way of life. It is a concept that drives funding decisions at a variety of levels. For example, New York State's commitment to the principle of fairness is seen every year in the millions of dollars of school aid provided to school districts that are considered to have greater fiscal needs than others, or in funding shared with local communities to help them deal with the unfair burdens of growing needs and declining resources.

The City of Sherrill today requests that one of the longest-standing inequities in this state be addressed in Governor's 2008/09 proposed budget, so that an injustice wrongly committed upon the property taxpayer in the City of Sherrill can be remedied.

Here are the facts:

- The State has, for more than a decade, neglected to collect sales tax from Indian owned enterprises. During this period Sherrill has lost over a million dollars in sales tax revenue, revenue that was replaced each year by the property tax payers. To better understand the impact to the City, the estimated annual loss of between \$150,000 and \$200,000 exceeds 20% of the City's 2007 tax levy. This unique and unenviable situation is due to the following:
- There are two Indian owned retail establishments in Sherrill, that predominately sell gasoline and tobacco products. One is the only gas station in Sherrill. The sales tax rate is comprised of portions for the State, County, Town and City. In order for a City to receive its portion of revenue the sale must occur in the City. **However, when a consumer that would have purchased a taxable item in Sherrill chooses to purchase it in a neighboring community, the tax dollars collected flow to the State, County and Town BUT NOT THE CITY.** Therefore, the effect is neutral to everyone except the City. **Sherrill is the ONLY City where this situation occurs!**
- In addition, to the direct lost of sales taxes there have been missed opportunities of other comparable businesses locating in Sherrill. These businesses have not located in Sherrill because of the unfair advantage allowed to continue by the State. The lack of business growth curtailed new construction thereby limiting growth in the assessment roll adding more pressure to the real property tax base. Those who would suggest price parity would counter this affect need to study the history that has occurred in the areas affected by Indian enterprises. An abundantly clear example is the failure of a long established gas

station in Sherrill that was unable to complete. This gas station remains closed and unsold within a hundred yards of an Indian owned enterprise. This is not isolated to the area, there now exists a gap of nearly fourteen miles between privately held gas stations along a busy New York State Route 5. However, in that same area and all within three miles there are three Indian owned gas stations that straddle both sides of the highway.

This is wrong. This is unfair. The people of Sherrill deserve fairness. Sherrill cannot be responsible for the fiscal implications of continued inaction by the State to collect sales taxes in accordance to the law. The State has both the legal and moral responsibility.

Although the City lacks the legal standing to compel state collection of sales taxes, we do have the responsibility to stand up for the people of our community who are unnecessarily paying higher taxes because they are being denied the revenue they should justly be receiving.

Thus, on behalf of the people of Sherrill who are being unfairly burdened, the City of Sherrill wishes to go on record to request that:

1. The governor's budget includes revenues from Indian operated enterprises, revenues that will be collected, as the law requires.
2. The City of Sherrill receives in the budget additional State aid to offset the annual funds this collection would represent until such taxes are provided to the City. This is consistent with aid provided to Oneida and Madison Counties.
3. The Governor's budget includes a one-time payment to the City representing the loss of sales taxes over the past years. These funds will be used to establish a property tax stabilization fund, to be returned to the property taxpayers.

This position is reiterated in the attached resolution adopted by the City Commission on November 26, 2007. We implore the State to honor these requests and return monies our taxpayers should not have paid. This help is needed now; the City taxpayers can no longer bear this unfair shifting of responsibility. As we look into our fiscal future our alternative is either substantially raise taxes or eliminate services this community desires and deserves. Thank you for placing this statement and resolution on record.

Very truly yours,

Robert A. Comis
City Manager City of Sherrill

PC City Commission

WHEREAS, the Sherrill City Commission and the municipal staff strive to ensure that the individual and corporate citizens across our community are provided a reasonable level of public services and support of quality life organizations and that they are provided a reasonable and equitable level of taxation; and

WHEREAS, toward those ends, the Commission shall review and determine that the expected revenues are properly projected, relatively accurate and properly balanced from the community, to determine whether a proper balance exists between the cost to meet these needs and the need to be fiscally responsible and fair to all of our community's property taxpayers ; and

WHEREAS, as the fiscal stewards of our community's finances and their associated tax implications, it is the City Commission and municipal staffs' charge, more particularly, to review and evaluate whether the transfer of a tax burden which has resulted from the inaction of the State to promulgate rules and provide the needed means to collect and remit sales taxes from Indian operated enterprises which results in a unique effect on the property taxpayers of Sherrill; and

WHEREAS, the Commission recognizes the complicated nature and the multitude of related issues and has provide leadership towards and supported a comprehensive settlement; and

WHEREAS, New York State has budgeted 260 million dollars in anticipation of the action and Sherrill has properly budgeted based upon the State's budget, to which the State had never indicated to the contrary; and

WHEREAS, now this lack of action has resulted in an inequitable shift of the community's tax burden onto existing taxpayers annually in the amount of \$150,000 – \$200,000 at a time when many of our homeowners and businesses are burdened by the strain of existing property taxes and that the community has already paid over 1 million dollars unnecessarily in the form of additional property taxes; and

WHEREAS, although the Commission appreciates the extensive work done by the current State Administration the Commission believes the time is now to rectify the unique unfair and burdensome act to the citizens of Sherrill;

BASED ON THE FOREGOING, IT IS HEREBY:

RESOLVED that the Commission respectfully requests that the State provide a response in consideration of the following: Will the Governor's 2008/09 State budget include revenue representing the collection of sales taxes from Indian operated enterprises? Will the Governor's 2008/09 State budget provide additional financial aid to the City of Sherrill representing the annual funds this collection would represent, until such taxes are collected? Will the Governor further consider providing the City with funds representing the lost amounts over the past years for which the City will establish a tax stabilization reserve to return these monies to the property tax payers from which they were received? And it is hereby further;

RESOLVED, that the Commission remains willing to work with all parties to provide its input and experience towards a comprehensive settlement for the betterment of Sherrill, our area and our State.

Adopted unanimously by the Commission November 26, 2007