

Revenue Actions and Tax Reform

Overview

There are no new or increased taxes or fees. The Executive Budget proposes tax enforcement and loophole closing actions to ensure that all individuals pay their fair share of tax liabilities.

On December 14, Governor Cuomo signed into law a comprehensive economic plan that included the first major reform of our tax system in decades. The new structure, which implemented a new tax bracket for higher income earners, will increase fairness of the tax system, create the lowest tax rate for the middle class in 58 years, provide substantial economic stimulus, and generate \$1.5 billion in net revenues in 2012-13 needed to help close the State's budget gap.

Tax Reform

The tax reform measures enacted in 2011 will provide \$900 million in savings for middle class New Yorkers and small businesses. Measures included:

- Personal income tax cuts for middle class New Yorkers, reducing middle class tax rates to the lowest level since 1953. These actions will return \$690 million to middle class taxpayers.
- Helping small businesses by eliminating the MTA payroll tax for over 700,000 taxpayers, those earning less than \$50,000 a year in self-employed income, and other entities. This is saving New Yorkers an additional \$250 million a year. In addition, public elementary and secondary schools are now exempt from the tax, whereas they were previously reimbursed for their liability. The Executive Budget includes an appropriation to compensate the MTA for the lost revenue.

Combined, these tax cuts mean \$900 million in savings for middle class New Yorkers and small businesses, and restored fairness to the tax system.

Through executive order, the Governor is establishing a commission to examine and address long term changes to the tax system and create economic growth. The commission will conduct a comprehensive, fair and objective review of the State's taxation policy, including corporate, sales and personal income taxation, and make revenue-neutral policy recommendations to improve the current tax system. In its review, the commission will consider ways to eliminate tax loopholes, promote administrative efficiency and enhance tax collection and enforcement.

These reforms complement the landmark local property tax cap enacted in 2011. New York State's property taxes have long been among the highest in the nation — burdening families, killing jobs, and making the State less economically competitive. The cap now limits tax levy increases to two percent or the rate of inflation, whichever is lower. Equally important, the tax cap gives localities the power to control their own destinies by providing a mechanism for communities to override the cap should they determine that an increase is in the best interest of the community. Currently, approximately four out of five local governments are constraining taxes to within the cap, and citizen input and budget scrutiny has increased throughout the State.

I. Tax and Assessment Actions

The Executive Budget proposes no new or increased taxes or fees.

II. Loophole Closing Actions

The Executive Budget proposes two loophole closing actions related to tobacco products. These actions are expected to produce \$18 million on an All Funds basis in Fiscal Year 2012-13.

- **Cigar Tax.** Because the cigar tax is imposed on the wholesale rather than retail price, the current cigar tax has a potentially inequitable impact on wholesalers depending on whether or not they are also retailers. This proposal would replace the current cigar tax (75 percent of the wholesale price) with a new two tier tax that includes a lower wholesale tax of 20 cents per piece while imposing in tandem with a new 50 percent tax at the retail level. The retailer would receive a credit for the wholesale tax. This is not anticipated to have an impact on the retail price of cigars.
- **Loose Tobacco.** Loose tobacco is currently taxed at a different rate than tobacco in cigarettes. This inconsistent treatment of tobacco taxation has allowed certain retailers to obtain an unfair advantage of lower costs by providing loose tobacco, paper, and machines so customers can roll their own cigarettes at a much lower cost than manufactured cigarettes. The proposal would change the tax rate on loose tobacco from 75 percent of the wholesale price to \$4.53 per ounce — the same as the per ounce rate on cigarettes.

III. Tax Enforcement Actions

The Executive Budget proposes three actions that would improve tax audit and compliance activities. These actions are expected to produce \$6 million in additional tax revenue on an All Funds basis in 2012-13.

- **Prohibit Bank Fees From Reducing Tax Levies.** Banks typically charge a fee for processing levies, which reduces the amount of past due taxes paid to the State. This proposal would require banks to remit the full amount of the levy, consistent with Federal practice.

- **Eliminate STAR Benefit for delinquent taxpayers.** This proposal would eliminate the STAR benefit for taxpayers who have outstanding State tax liabilities.
- **Require Clearance Prior to Registering as Vendor.** A potential sales tax vendor could not register until all prior tax liability that is due from the vendor or anyone working on the vendor's behalf has been paid in full.

IV. Other Revenue Actions

- **Collect Unused Horse Racing Vouchers.** Cash pari-mutuel vouchers not presented for payment before April 1st of the year following the year of their purchase will be paid to the racing regulation account.
- **Make Tax Modernization Provisions Permanent.** This proposal would make permanent tax modernization provisions enacted last year. These provisions would otherwise expire at the outset of the tax year 2012 filing season on December 31, 2012. Expansion of mandatory e-filing and e-payment for preparers and taxpayers, sales tax payment requirements, and segregated accounts for non-complying vendors would be made permanent.

V. Expanded Tax Credits and Exemptions

The Executive Budget proposes three expanded tax credits or exemptions that would provide \$2 million in All Funds benefits to taxpayers in 2012-13.

- **Implement the NY-SUN Solar Program.** As part of Governor Cuomo's NY-SUN Solar Program, there will be two tax credits:
 - **Expand Sales Tax Exemption For Solar Equipment Purchases.** Solar energy equipment purchased by commercial customers (e.g. retailers, hotels) would be exempt from the State sales tax. Local governments would be provided the option to offer the same exemption from their local sales tax. Currently, purchases by residential and industrial customers are exempt.
 - **Expand Residential Solar Equipment Credit To Leases.** Lessees of residential solar equipment would be eligible for a personal income tax credit equal to 12.5 percent of annual leasing costs. Currently, purchasers of such equipment are eligible for a 25 percent credit.
- **Expand the Low Income Housing Tax Credit Program.** The Commissioner of the Division of Housing and Community Renewal would be authorized to allocate an additional \$8 million annually in each of the next five years in aggregate credit awards to taxpayers who develop qualifying housing projects for low-income New Yorkers. Credits are given in equal installments for a ten-year period. The total amount of credits that would be awarded from this new authorization would be \$400 million over a multi-year period. This will increase low income housing opportunity by 600 units annually.

VI. Tax Cut Extenders

- **Extend the Commercial Production Tax Credit For Five Years.** This tax credit targets the television commercial production industry. It is generally for 20 percent of qualified commercial production costs in New York State that exceed the average of the three prior years' costs, plus five percent of costs above \$500,000 in the Metropolitan Commuter Transportation District (MCTD), and above \$200,000 outside the MCTD.
- **Extend the Bio-Fuel Production Credit for Seven Years.** This credit applies to producers of bio-fuels and is for 15 cents per gallon (after the first 40,000 gallons) of bio-fuel produced in New York. It is capped at \$2.5 million per taxpayer per year for up to four consecutive years.
- **Extend the Alternative Fuels Tax Exemption For Five Years.** This proposal would extend from September 1, 2012 to September 1, 2017 the sales, petroleum business tax, and motor fuel tax exemptions on e85, CNG, or hydrogen when purchased for use in a motor vehicle engine. The twenty percent exemption on purchases of B20 would also be extended. If these provisions are not extended, consumers who use these "green" alternative fuels will pay taxes on them, making them less competitive.
- **Make Non-Custodial Parent Earned Income Tax Credit (EITC) Permanent.** The credit complements the regular EITC by allowing a lower credit for parents who pay child support for a qualifying child with whom they do not reside.
- **Extend the Pari-Mutuel Tax.** Lower pari-mutuel tax rates would be extended for one year. This proposal would also extend by one year the rules governing the simulcasting of out-of-state races and the authorization for account wagering.

VII. Technical Corrections

- **Fuel Definitions Technical Corrections.** These provisions would correct unintended tax inequities for crude oil and bio-diesel created by last year's fuel definitions reform.

VIII. Lengthening Licensing Terms

The Executive Budget proposes licensing terms be lengthened for two professions, lessening the inconvenience for licensees and accelerating collection of fees.

- **Extend Security Guard License Terms.** This proposal would lengthen the license term for security guards and change the fee by a commensurate amount. The new license term would be lengthened from two years to four and the license fee would increase from \$36 to \$72.
- **Extend Real Estate Broker and Salesperson License Terms.** This proposal would lengthen the license term for real estate brokers and salespeople from two years to four. Accordingly, fees are increased from \$150 to \$300 for real estate salespersons and from \$50 to \$100 for real estate brokers.

Revenue Actions

(\$ in 000's, All Funds)

	All Funds		General Fund	
	2012-13	2013-14	2012-13	2013-14
I. Tax and Assessment Actions				
Total Tax and Assessment Actions	-	-	-	-
II. Loophole Closing Actions				
Tobacco Tax Reform	18,000	24,000	18,000	24,000
Total Loophole Closing Actions	18,000	24,000	18,000	24,000
Subtotal	18,000	24,000	18,000	24,000
III. Tax Enforcement Actions				
Prohibit Bank Fees From Reducing Tax Levies	5,000	7,000	5,000	7,000
STAR Benefit Offset	-	1,000	-	1,000
Sales Tax Registration Clearance	1,000	1,000	1,000	1,000
Total Tax Enforcement Actions	6,000	9,000	6,000	9,000
IV. Other Revenue Actions				
Collect Unused Horse Racing Vouchers	200	200	-	-
Make Tax Modernization Provisions Permanent	5,000	20,000	5,000	19,000
Total Other Revenue Actions	5,200	20,200	5,000	19,000
V. Expanded Tax Credits and Exemptions				
Expand Sales Tax Exemption For Solar Equipment Purchases	(2,000)	(3,000)	(2,000)	(3,000)
Expand Residential Solar Equipment Tax Credit To Leases	-	(2,000)	-	(2,000)
Expand the Low Income Housing Tax Credit Program	-	(8,000)	-	(8,000)
Total Expanded Tax Credits and Exemptions	(2,000)	(13,000)	(2,000)	(13,000)

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	All Funds		General Fund	
	2012-13	2013-14	2012-13	2013-14
VI. Tax Cut Extenders				
Extend the Commercial Production Credit for Five Years	-	(7,000)	-	(7,000)
Extend the Bio-Fuel Production Credit for Seven Years	-	-	-	-
Extend the Alternative Fuels Tax Exemption for Five Years	(1,600)	(3,200)	(400)	(800)
Make Non-Custodial Parent EITC Permanent	-	-	-	-
Pari-Mutuel Extender	-	-	-	-
Total Tax Cut Extenders	(1,600)	(10,200)	(400)	(7,800)
VII. Technical Corrections				
Fuel Definitions Technical Corrections	-	-	-	-
Total Technical Corrections	-	-	-	-
VIII. Lengthening Licensing Terms				
Accelerate Security Guard Fees and Extend License Terms	1,800	1,800	-	-
Accelerate Real Estate Broker and Salesperson Fees and Extend License Terms	0	5,000	-	-
Total Lengthening Licensing Terms	1,800	6,800	-	-
Subtotal	9,400	12,800	8,600	7,200
TOTAL REVENUE ACTIONS	27,400	36,800	26,600	31,200