TAX FOUNDATION
Fiscal Fact
November 18, 2013
No. 403

New York Governor's Tax Commission Releases Reform Recommendations

By
Elizabeth Malm

Introduction

In December of 2012, New York Governor Andrew Cuomo created the New York State Tax Reform and Fairness Commission.[1] The Commission, according to the governor's announcement, was "charged with addressing long term changes to the state tax system and helping create economic growth."[2] A second tax commission was announced by the governor in October of this year and would be charged with cutting business and property taxes.[3] The second commission is expected to announce its findings and recommendations in early December 2013.[4]

The first commission's final report was released in early November of 2013, outlining tax reform options that are revenue neutral and would provide "options to modernize the current tax system with the goals of increasing its simplicity, fairness, economic competitiveness, and affordability."[5] The Commission's report recognizes structural flaws in the state's tax system and reviews recommendations for addressing them.

Commission Findings

The Commission found that in addition to New York being a particularly high tax state,[6] there are various inefficiencies for specific tax types within the state. It found that, in general, administration of New York's state tax structure is complex and results in high compliance costs.[7] In terms of individual tax types, the

---

[1] Office of Governor Andrew M. Cuomo, *Governor Cuomo Announces Tax Commission Members*, Dec. 11, 2012, http://www.governor.ny.gov/press/12112012taxcommissionmembers.
[2] *Id.*
[3] Office of Governor Andrew M. Cuomo, *Governor Cuomo Launches Tax Relief Commission to Identify Ways to Reduce Tax Burdens on New York Families and Businesses*, Oct. 2, 2013, http://www.governor.ny.gov/press/10022013-tax-relief-commission.
[4] *Id.*
[5] New York State Tax Reform and Fairness Commission, *Final Report*, Nov. 2013, at 3, http://www.governor.ny.gov/assets/documents/greenislandandreportandappendicies.pdf [hereinafter *Commission Final Report*].
[6] *Commission Final Report* at 5, *supra* note 5.
[7] *Id.*

Commission argued:

- The sales tax is complex and has a narrow base as a result of past attempts to reduce regressivity and changes to consumer spending patterns over time.[8] Services are not subject to the sales tax, nor are many digital goods.[9] Over 150 sales tax exemptions currently exist.[10] Some of these exemptions exist in an attempt to reduce the regressivity of the sales tax (such as the grocery exemption and an exemption for clothing and footwear under $110), though these may be ineffective at achieving their stated goal.[11]
- The corporate income tax structure is non-neutral and encourages avoidance behavior, in addition to generating volatile revenue and being riddled with numerous inefficient and poorly monitored business incentive programs. The tax structure also "creates disincentives to increasing corporation's activities in New York."[12]
- The state estate tax has an exemption level that is lower than the federal exemption ($1 million rather than $5.75 million), which likely causes middle-class households to be subject to estate taxation.[13] This structure may also encourage migration to states without an estate tax.[14]
- The individual income tax is highly progressive, includes a large standard deduction, and limits certain deductions and credits as income increases.[15]
- Property taxation is haphazard and lacks uniformity across local jurisdictions, which makes the system unfair, opaque, and difficult to comply with.[16] Approximately 1,000 assessing units exist within the state, all with their own standards, rules, and timelines for assessment. This often results in differing, duplicative, or severely outdated assessed values.[17]
- Telecommunications and utility taxes should be studied further in the future.[18]

Commission Recommendations

Five revenue-neutral, "self-contained" tax reform options were offered by the Commission. Each option's stated goal (as described by the Commission itself), a brief description of components, and revenue estimates are included in Tables 1 through 5 below.[19]

---

[8] *Id.*
[9] *Commission Final Report* at 13, *supra* note 5.
[10] *Id.*
[11] According to the report, "only an estimated 28 percent of the benefit from sales tax exemptions for household necessities…goes to families with annual incomes below $50,000, while a third of the benefit accrues to households with annual incomes above $100,000." *See Commission Final Report* at 13-14, *supra* note 5.
[12] *Commission Final Report*, *supra* note 5, at 6 and 23.
[13] *Commission Final Report, supra* note 5, at 19.
[14] *Commission Final Report*, *supra* note 5, at 6 and 19.
[15] *Commission Final Report*, *supra* note 5, at 6-7.
[16] *Commission Final Report*, *supra* note 5, at 7.
[17] *Commission Final Report, supra* note 5, at 29.
[18] *Commission Final Report, supra* note 5, at 39.
[19] All revenue estimations are outlined on pages 10 and 11 of *Commission Final Report*, *supra* note 5, at 13.

Table 1: Commission Recommendations, Option 1

Option 1 Objective: "Modernize the sales tax while funding low- and middle-income tax relief and overall real property tax relief."[20] (Note that this option has four self-contained subcomponents.)

Item	Revenue Impact
Option 1a	
Repeal clothing and footwear sales tax exemption[21]	$800 million
Low- and middle-income tax relief (by expanding the Household Credit or Earned Income Tax Credit programs, or implementing a credit to offset increased sales tax costs for lower-income households)[22]	-$400 million
Real property tax relief (implemented via an income tax credit)[23]	-$400 million
Option 1b	
Include digital products in sales tax base (iTunes transactions and other music streaming, eBooks, video-on-demand)[24]	$35 million
Eliminate sales tax preferences for certain industries (energy service companies, self-storage facilities, and coin-operated vending machines and car washes)[25]	$110 million
Option 1c	
Expand sales tax base to include personal services, dry cleaning, laundry, nonprescription drugs, Broadway and other arts admissions, "participatory sport admissions," movie admissions, mandatory gratuities, fraternal society dues, amusement ride admissions, luggage carts, and certain permanent hotel residency[26]	$446 million
Eliminate $2 per gallon cap on gasoline taxes[27]	$371 million
Option 1d	
Establish a "Tax Reduction Reserve Fund" for purposes of future tax relief using revenue generated from Option 1b or 1c[28]	-$145 million and -$962 million,[29] respectively

[20] *Commission Final Report*, *supra* note 5, at 9.
[21] *Commission Final Report*, *supra* note 5, at 13-14.
[22] *Commission Final Report*, *supra* note 5, at 14-15.
[23] *Commission Final Report*, *supra* note 5, at 15.
[24] *Id.*
[25] *Commission Final Report*, *supra* note 5, at 15-16.
[26] *Commission Final Report, supra* note 5, at 17.
[27] *Id.*
[28] *Id.*
[29] Revenue generated from Option 1c ($871 million) is less than the money that would be included in the Tax Reduction Reserve Fund associated with Option 1c ($962 million). The reason why is unclear.

Table 2: Commission Recommendations, Option 2

Option 2 Objective: "Modify the estate and other wealth-related taxes to relieve the burden on middle class families and address concerns regarding the impact of the estate tax on the migration of wealthy New Yorkers to other states."[30]

Item	Revenue Impact
Increase exemption level to $3 million[31]	-$300 million
Eliminate Generation-Skipping Tax[32]	$0
Create Gift Tax[33]	$150 million
Close "Resident Trust Loophole"[34]	$150 million

[30] *Commission Final Report*, *supra* note 5, at 9.
[31] *Commission Final Report*, *supra* note 5, at 20.
[32] The Generation-Skipping Tax (GST) is meant to act "as a deterrent for taxpayers seeking to avoid the estate tax by transferring property to grandchildren prior to death." The Commission points out that since a federal GST exists, a state-level tax of the same type is unnecessary. *See Commission Final Report*, *supra* note 5, at 20.
[33] New York's Gift Tax was eliminated in 2000. The Commission argues that the lack of state gift tax leads to lower estate tax revenues as New York taxpayers have the ability to avoid estate taxation by granting gifts. *See Commission Final Report*, *supra* note 5, at 20.
[34] Certain trusts are not required to pay income tax. Certain reforms would remove this loophole and generate more state income tax. *See Commission Final Report*, *supra* note 5, at 21 for more information.

Table 3: Commission Recommendations, Option 3

Option 3 Objective: "Reform the State's corporate and bank franchise taxes to better reflect how businesses operate in a 21st century economy and improve business tax incentives so they achieve their economic and social goals at an appropriate cost to the State."[35]

Item	Revenue Impact[36]
Eliminate different tax treatment of banking and financial services corporations[37]	-$130 million
Reform Investment Tax Credit[38]	$65 million
Eliminate Financial Services Investment Tax Credit[39]	$30 million
Reform Brownfield Tax Credit program[40]	$35 million
Scale back Empire State Film Production Tax Credit program[41]	$50 million
Evaluate business tax incentive programs as a whole[42]	Not specified
Simplify corporate auditing process[43]	$150 million
Accelerate planned phase-out of additional 2 percent assessment on steam, water, gas, and electric utilities (called the "18-A Surcharge")[44]	-$200 million
Restructure certain aspects of the corporate franchise tax[45]	Not specified
Conform New York City tax rules to any reforms made to New York state tax system[46]	Not specified

---

[35] *Commission Final Report*, *supra* note 5, at 9.

[36] The report notes that reform Option 3 is "approximately revenue neutral." Further, revenue estimates in this section do not account for increased business activity as a result of the tax reforms (that is, they are static and not dynamic estimates). *See Commission Final Report*, *supra* note 5, at 24.

[37] Within New York state, banks and financial service corporations face a different tax structure than other corporations (they pay the "Bank Tax" under Article 32, while other corporations pay the "Corporate Franchise Tax" under Article 9-A). *See Commission Final Report*, *supra* note 5, at 23-24 for more information.

[38] *Commission Final Report*, *supra* note 5, at 25.

[39] *Commission Final Report*, *supra* note 5, at 25.

[40] For more information on Brownfield tax credits, *see* New York State Department of Taxation and Finance, *New York State Tax Credits Available for Remediated Brownfields*, Publication 300, http://www.tax.ny.gov/pdf/publications/multi/pub300.pdf. For specific reforms suggested to this program, *see Commission Final Report*, *supra* note 5, at 25.

[41] *Commission Final Report*, *supra* note 5, at 26.

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *See Commission Final Report*, *supra* note 5 at 24-25 for specific restructuring measures.

[46] *Commission Final Report*, *supra* note 5, at 27.

Table 4: Commission Recommendations, Option 4

Option 4 Objective: "Update the State's outdated system of local real property tax administration."[47]

Item	Revenue Impact
Establish statutory assessment standards[48]	Not specified
Mandate regular periodic assessment updates[49]	Not specified
Grant state aid to local jurisdictions to increase efficiency of assessment procedures[50]	Not specified
Require state to assess "complex properties," rather than local jurisdictions[51]	Not specified

Table 5: Commission Recommendations, Option 5

Option 5 Objective: "Simplify the administration of taxes to ease compliance for businesses and individuals in New York."[52]

Item	Revenue Impact
Repeal "nuisance taxes" ("Add On" Minimum Tax, Stock Transfer Tax, Agricultural Cooperatives Tax, Organization Tax on in-state corporations, License Fee on out-of-state corporations, and Boxing and Wrestling Tax)[53]	Not specified explicitly[54]
Simplify tax filing process for individual income tax, sales tax, and other business taxes[55]	
Increase tax administration coordination between New York City and State of New York[56]	
Reform local telecommunications and utility taxes[57] and motor fuel taxes[58]	

[47] *Commission Final Report*, *supra* note 5, at 9.
[48] *Commission Final Report*, *supra* note 5, at 29.
[49] *Id.*
[50] *Id.*
[51] *Commission Final Report*, *supra* note 5, at 30.
[52] *Commission Final Report*, *supra* note 5, at 9.
[53] *Commission Final Report*, *supra* note 5, at 31-32.
[54] Only certain portions of these reforms have a reported revenue estimates, rather than estimates for each individual component or Option 5 as a whole. *Commission Final Report*, *supra* note 5, at 11.
[55] *Commission Final Report supra* note 5, at 33-35.
[56] *Commission Final Report supra* note 5, at 35-36.
[57] *Commission Final Report supra* note 5, at 36.
[58] *Commission Final Report supra* note 5, at 37.

National Press Building
529 14th Street, N.W., Suite 420
Washington, DC 20045

202.464.6200
www.TaxFoundation.org

About the Tax Foundation
Since 1937, the Tax Foundation has advocated for smarter tax policy. For decades, we have led the debate on sound tax policy through education, expert analysis, and engagement with citizens, policymakers, and journalists.