

Fiscal Fact

New York Governor Cuomo's Second Tax Commission Publishes Recommendations

By

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Introduction

In mid-December 2013, the second tax commission convened by New York Governor Andrew Cuomo released its recommendations for reforming the New York tax system with the goal of reducing property and business taxes substantially in the coming years.¹ According to the New York State Tax Relief Commission's final report,

The Governor charged this Commission with devising a series of targeted tax relief proposals—valued at \$2 billion within three years—that would be focused on alleviating the crushing burdens on individuals, families, and businesses of New York's most onerous taxes with an emphasis on local and school property taxes.²

These recommendations follow those made by the New York State Tax Reform and Fairness Commission, which released recommendations in November of 2013.³

Commission Findings

The Commission finds:

- In light of New York's comparatively high property taxes, more direct property tax relief is needed for homeowners and business taxpayers in addition to the 2 percent real property tax cap enacted in 2011.

¹ New York State Tax Relief Commission, *Final Report* (Dec. 2013), http://www.governor.ny.gov/assets/documents/commission_report.pdf [hereinafter *Commission Final Report*].

² *Id.* at 3.

³ See New York State Tax Reform and Fairness Commission, *Final Report* (Nov. 2013), <http://www.governor.ny.gov/assets/documents/greenislandandreportandappendicies.pdf>.

- In order to address the driver of increasing property tax burdens, local governments should consolidate and share services to “streamline operations” and increase efficiency, thus reducing local spending.
- New York’s corporate franchise tax is unnecessarily complex. It has multiple bases, requires additional taxes to be paid on subsidiary capital within New York, includes a surcharge for businesses located in the Metro Transit Authority district, and taxes banks and financial institutions under a separate tax system. These components create negative incentive effects and simplification measures are warranted.
- Further business tax relief is needed for the state’s manufacturing sector (in particular, upstate manufacturers).
- Many of the recommendations made by Governor Cuomo’s first tax commission would increase the competitiveness of New York’s business tax system and should be implemented.

Commission Recommendations

The Commission made recommendations for the state individual income tax, property taxes, various business taxes, and the state estate tax. These recommendations are summarized in Tables 1 through 4 below, in addition to any revenue impact estimates provided by the Commission for the 2016-2017 fiscal year.⁴

⁴ For the Commission’s revenue impact estimates, see *Commission Final Report*, *supra* note 1, at 6 (unless otherwise noted).

Table 1: Individual Income Tax Recommendations

Item	Revenue Impact, FY 2016-17
Allow top rate to fall to 6.85 percent in 2018 as scheduled. ⁵	None
Repeal Minimum Tax under Individual Income Tax code. ⁶	Not specified

Table 2: Property Tax Recommendations

Item	Revenue Impact, FY 2016-17
Implement real property tax relief for homeowners based on ability to pay (benefit increases as income decreases). ⁷	-\$1 billion ⁸
Freeze local property tax levels for two years in localities that abide by the 2 percent real property tax cap enacted in 2011 by reimbursing residential homeowners for the difference between the 2014 property tax liability and the increase in 2015 and 2016 liability. All abiding localities would be eligible for reimbursement in 2015, but in 2016, only taxpayers in jurisdictions that make efforts to consolidate services and increase efficiency would be eligible for the reimbursement. ⁹	

⁵ The report also notes that, “Some Commission members favor setting aside any future surplus to help ensure the 6.85 rate is restored in 2018.” See *Commission Final Report*, *supra* note 1, at 3.

⁶ *Commission Final Report*, *supra* note 1, at 13.

⁷ *Commission Final Report*, *supra* note 1, at 3. These types of programs are typically referred to as circuit breaker programs and are often structured as a rebate or credit paid if property taxes exceed a certain predetermined proportion of income.

⁸ The tax credit program would cost an approximate \$976 million. See *Commission Final Report*, *supra* note 1, at 8. The remainder of the \$1 billion in property tax relief would fund the two-year property tax freeze (approximately \$24 million).

⁹ *Commission Final Report*, *supra* note 1, at 3 & 7-8. These benefits would only be available to homeowners outside of New York City since the city is not subject to the property tax cap. The program would benefit approximately 2.8 million homeowners by \$354 each, on average.

Table 3: Business Tax Recommendations

Item	Revenue Impact, FY 2016-17
Create manufacturing business tax credit (implemented under corporate franchise and income taxes) equal to 20 percent of real property taxes paid. ¹⁰	-\$136 million
Lower corporate franchise tax rate from current level of 7.1 percent to 6.5 percent. ¹¹	-\$346 million
Merge Bank Tax with Corporate Franchise Tax	
Further lower to 2.5 percent the corporate franchise tax rate for manufacturers located in upstate New York. ¹²	-\$24 million
Immediately eliminate 18-A Utility Surcharge. ¹³	-\$200 million
Eliminate “nuisance taxes.” ¹⁴	Not specified

Table 4: Estate Tax Recommendations

Item	Revenue Impact
Increase exemption from current level of \$1 million to match federal level of \$5 million. ¹⁵	-\$381 million ¹⁶
Index exemption amounts for inflation. ¹⁷	
Lower maximum rate from 16 percent to 10 percent. ¹⁸	

¹⁰ *Commission Final Report, supra* note 1, at 4. For more information on property tax paid by businesses and recommended credit, see *Commission Final Report, supra* note 1, at 10-11. The Commission also recommends increasing the percentage for manufacturers located in upstate New York.

¹¹ *Commission Final Report, supra* note 1, at 4.

¹² *Commission Final Report, supra* note 1, at 5. For more information on recommended lower rate for manufacturers, see *Commission Final Report, supra* note 1, at 11-12.

¹³ *Commission Final Report, supra* note 1, at 5. For more information on the 18A Utility Surcharge, see *Commission Final Report, supra* note 1, at 10.

¹⁴ *Commission Final Report, supra* note 1, at 5 & 13. Nuisance taxes, as specified by the New York State Tax Reform and Fairness Commission, are the “Add On” Minimum Tax, Stock Transfer Tax, the Agricultural Cooperatives Tax, the Organization Tax on in-state corporations, the License Fee on out-of-state corporations, and the Boxing and Wrestling Tax. See New York State Tax Reform and Fairness Commission, *Final Report* (Nov. 2013), at 31-32, <http://www.governor.ny.gov/assets/documents/greenislandandreportandappendicies.pdf>.

¹⁵ *Commission Final Report, supra* note 1, at 5.

¹⁶ Estimated revenue impact for FY 2017-2018 is \$627 million. Estimated revenue impact for FY 2018-2019 is \$772 million.

¹⁷ This would make the current year’s exemption fall at \$5.25 million. See *Commission Final Report, supra* note 1, at 12.

¹⁸ *Commission Final Report, supra* note 1, at 5.

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