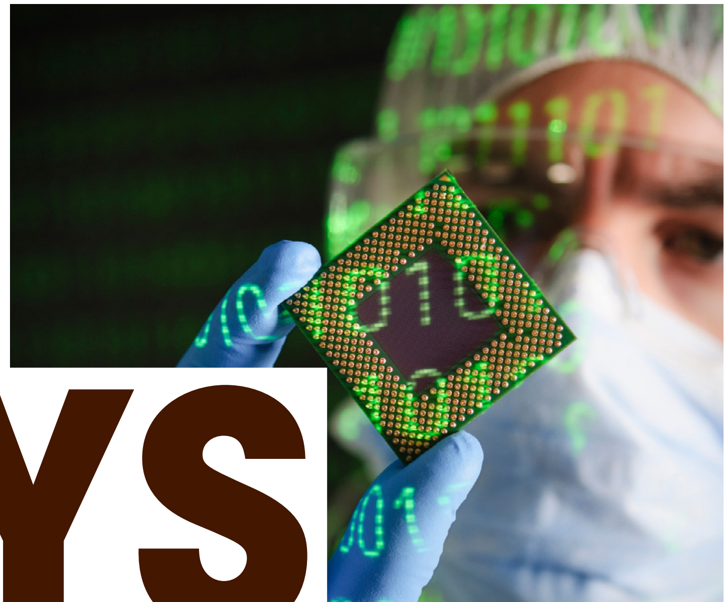

NYS SENATE

REPUBLICAN CONFERENCE

Tax Policy Review & Reform Initiative

PRELIMINARY REPORT

Senate Standing Committee on Finance
SENATOR JOHN A. DEFRANCISCO, Chairman

Senate Standing Committee on Investigations and Government Operations SENATOR CARL L. MARCELLINO, Chairman

New York State Senate Tax Policy Review & Reform Initiative
Republican Conference

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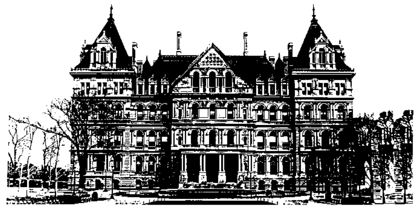

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EXECUTIVE SUMMARY

Introduction:

State Senator John A. DeFrancisco, Chairman of the Senate Finance Committee, and Senator Carl L. Marcellino, Chairman of the Committee on Investigations and Government Operations, hosted five statewide public hearings on reforming New York's tax policies to help reduce the burden on taxpayers and spur job growth. The hearings were held across the State: Albany, September 4, 2013; Syracuse, September 5, 2013; Buffalo, September 12, 2013; Mineola, October 3, 2013; and Manhattan, October 4, 2013.

Over the past two months of public hearings, the Joint Committee heard testimony, received written communications and met with New York's business leaders and stakeholders across the State.

The hearings provided an opportunity for private sector leaders and concerned New Yorkers to express their views and share their ideas on ways to provide relief to overburdened taxpayers, while also improving the State's overall climate for economic growth and new job creation.

There were consistent themes that emerged from job creators:

- Broad-based tax reductions in both corporate taxes as well as personal income taxes, with the inclusion of some of the more effective tax credits and preferences;
- Simplicity in the tax code;
- Lowering the cost of complying with the tax laws; and
- Certainty and transparency in the administration of such laws.

These recurring themes illustrate the core impediments to our State's success:

- The cost of doing business or retiring in New York is too high;
- The tax code is too cumbersome;
- Basic compliance and filings are too costly and redundant; and
- The tax code has become an obstacle to growth.

This preliminary report reflects the Joint Committee's findings, and outlines a plan that will make it easier for businesses, residents and retirees to stay and thrive in this State. The report will be used to help guide the Senate Republican Conference's efforts as the 2014 Legislative Session and the 2014-15 State Budget process gets underway.

We look forward to working with the Executive and the Assembly to achieve these reforms in the upcoming Legislative Session. Our Conference will continue to pursue tax relief until New York's tax system will allow our businesses to compete with the rest of the nation, grow jobs in the process and once again make New York a national model for job growth.

Background:

New York State has an economy that is larger than most of the countries in the world and is a world leader in finance, banking and communications, and agricultural production. New York is also becoming a world-class center for technology and high-tech manufacturing. New York has an abundance of both geographic and economic diversity.

Individual Income Tax Rates	
Taxable Income	**Tax Rate**
> $0	4.00%
> $8,000	4.50%
> $11,000	5.25%
> $13,000	5.90%
> $20,000	6.45%
> $75,000	6.65%
> $200,000	6.85%
> $1,000,000	8.82%

Source: New York State Department of Taxation and Finance
Income brackets for married couples are twice the number shown, except for the $200,000 bracket, which starts at $300,000

This diversity has helped the State weather this last recession and perform favorably when compared to the rest of the nation. New York's employment declined (in 2009 and 2010) less than the national average and we recovered with stronger employment growth in 2011. However, the impact of the large tax and fee increases in 2009 and 2010 increasingly became a drag on the economy, and since 2011, the State's employment has lagged behind the nation. Even though some positive strides in reducing taxes have been enacted in the last three years, it is increasingly apparent that our current tax structure has become a barrier to growth.

Over the past several years, New York State's economy weathered major challenges – including a severe national economic downturn, the collapse of the housing market, and a series of crises in the investment banking and financial services sectors. The multi-billion dollar impacts of Hurricane Irene, Tropical Storm Lee and Superstorm Sandy have also presented major fiscal and economic challenges.

Working Together for a Better New York:

By working together, the Senate, the Assembly and the Governor have taken a number of positive steps to overcome these challenges. We've approved an historic cap on property taxes, which is widely regarded as the most effective method of attaining property tax relief.[1] In the first two years of the cap, it is estimated that property taxpayers saved nearly $1.2 billion[i]. We've also kept overall State spending growth to below two percent. In addition, we enacted the lowest middle class tax rates in 60 years, and approved 30 different tax cuts that will save New Yorkers more than $3.3 billion.

These sound fiscal and economic policies have helped New York regain a strong financial footing during uncertain and challenging times. But while New York's finances have been

[i] Estimate based on a 10-year average levy increase Statewide (4.59 percent). Increase compared to actual school district increases from the NYS Property Tax Report Card (State Education Department).

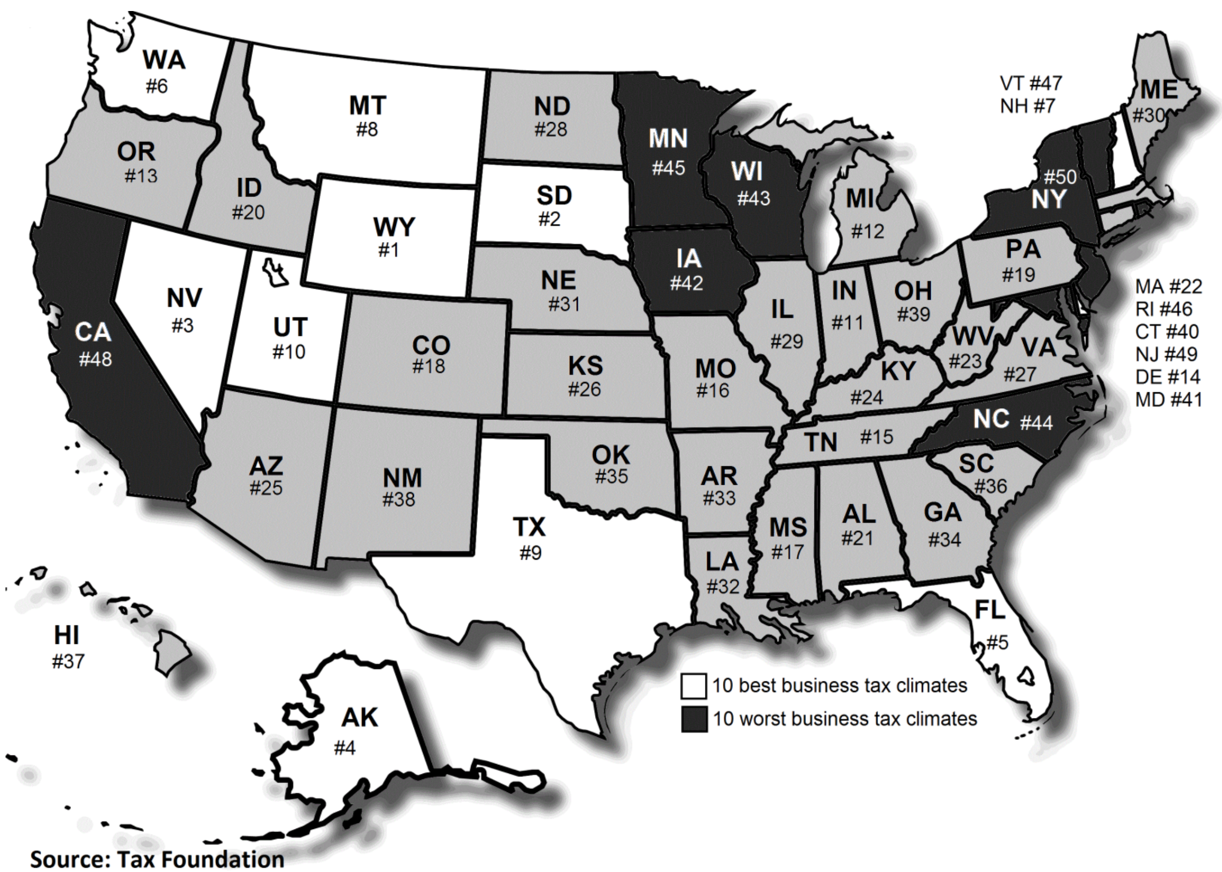
stabilized, we clearly have a long way to go in order to achieve our common goal of a thriving, vibrant and growing economy across the entire State.

The Scope of the Problem:

The testimony delivered at our public hearings, as well as any objective review of state and national economic and demographic data, make a clear and compelling case that New York's burdensome and overly complex tax policies continue to present a major obstacle to our State's sustained growth and future prosperity. In short, high taxes continue to impose a severe burden on far too many hardworking New Yorkers. In particular, we've identified several key problems that must be addressed:

- The State's onerous tax policies have made New York less competitive with other states, hindering job creation and making it far more difficult for small businesses, manufacturers and other employers to succeed, grow and expand;

State Business Tax Climate Index, FY 2013



- The *combined* impact of State and local taxes in New York have given the Empire State one of the worst reputations in the nation regarding overall tax climate[2]; and

- The State's tax policies have led to an exodus of: young New Yorkers seeking job opportunities in other states; middle class families who find the combined tax burden too onerous; and seniors who depart for more tax-friendly locations across the nation. This has led to a loss of nearly 1.3 million people and over $45 billion in gross income between 2000 and 2010.[3]

The Senate Republican Conference is committed to addressing these problems throughout the course of the 2014 Legislative Session.

Tax Reform Action Plan

As previously stated, this preliminary report outlines some of the Joint Committee's initial findings, and will be used to help guide the Senate Republican Conference's efforts as the 2014 Legislative Session and the 2014-15 State Budget process gets underway. The key initial recommendations and goals addressed in the preliminary report are the following: Personal Income Taxes, Business Taxes, Estate Taxes and Local Property Taxes should all be reformed, simplified and reduced.

Cap State Spending – Limit Tax Increases

- Formalize and make permanent a two percent cap on State spending growth. Over the past two years, the State has saved $17 billion by adhering to a self-imposed two percent cap. By making a cap permanent going forward, New York will save an additional $11 billion over the next four years – providing ample room and flexibility for tax cuts and pro-growth tax reforms to be implemented;
- Reduce tax rates by establishing a new dedicated Tax Freedom Fund (TFF). The TFF would be tied to the two percent State spending cap, and every dollar of surplus savings at the end of the fiscal year would be targeted directly toward the reduction of taxes; and
- Enact a two-thirds majority vote requirement for tax increases.

Personal Income Tax

- Create an optional Simple Income Tax Calculation. Dramatically simplify the tax code by basing income calculations on the Federal Adjusted Gross Income (F-AGI) with only one single adjustment;
- Make permanent inflation adjustments enacted in 2013 for income tax brackets, the standard deduction, and child credits to help ensure that taxpayers don't see tax increases simply because of inflation and wage growth;
- Eliminate unfair tax treatment by making all retirement income tax-free, thus encouraging seniors to remain in New York. Currently only Federal, state, and local pension income is completely tax-free; and
- Take specific steps to reform and simplify New York's tax code, including the elimination of the Personal Income Tax (PIT) Minimum Tax.

Estate Tax

- Amend New York's onerous Estate Tax by conforming it with the Federal Job Creation Act and the American Taxpayer Relief Act to protect family farms and small businesses and eliminate the incentive to transfer wealth from New York to other states.

Corporate Income Tax

- Review New York's current, piecemeal-style approach to tax relief – which involves providing tax credits to specific industries – in favor of a simplified system that produces a lower tax structure for all businesses;
- Reduce Corporate Tax Rates with the goal of elimination by adopting a trigger to reduce corporate tax rates 15 percent across-the-board if new State revenues exceed $500 million;
- Combine the Bank Tax and Corporate Franchise Tax;
- Reduce Corporate Franchise Tax rates with a commensurate reduction in the value of all business credits and tax preferences;
- Eliminate the Corporate Alternative Minimum Tax (AMT);
- Reduce taxes that hurt job creation and hinder the competitiveness of small businesses and manufacturers, including the complete elimination of the Corporate Tax on manufacturers;
- Align with Federal tax preferences and definitions to further simplify the tax code;
- Make the Brownfield Tax Credit permanent in order to encourage new projects and investment in key areas that are badly in need of economic activity; and
- Create an Angel Tax Credit and make the Film Tax Credit more directly accessible to New York studios.

Sales Tax

- Review the not-for-profit exemption to ensure accountability and proper use of the exemption.

Property Tax

- Make the property tax cap permanent; and
- Provide temporary property tax relief to millions of hardworking families across the State until the full impact of the tax cap is realized.

Miscellaneous Taxes

- Accelerate the reductions in the 18-A Utility Tax Surcharge so that it is phased-out in two years instead of four and is eliminated in SFY 2016-17;
- Eliminate the MTA Payroll Mobility Tax on government entities to prevent double taxation;
- Eliminate the MTA-region car registration and drivers license fee increases that were imposed in 2009;
- Remove the obsolete Stock Transfer Tax language from the Tax Law; and

Streamlining Tax Filings

- Review the Administrative Cost of Taxation and tax filings.

Over the last few years, the Senate, working with the Governor, has taken steps to improve the fiscal health of our State, reduce the tax burden and eliminate obstacles that prevent businesses, both new and established, from thriving. However, much more needs to be done to find new ways to reform and improve our tax policies, cut our taxes and encourage economic growth.
The series of Senate public hearings we conducted, and the initial recommendations made in this preliminary report, will help us shape a new tax reform agenda that fits the demands and realities of a 21st century economy.

Taken together, these recommendations would help to ensure a brighter, stronger and more prosperous future for the Empire State. These proposals would also make staying in New York not only more attractive – but the *preferred* option – for young New Yorkers, for middle class families, for senior citizens, and for private sector businesses.

New York's Existing State Tax System

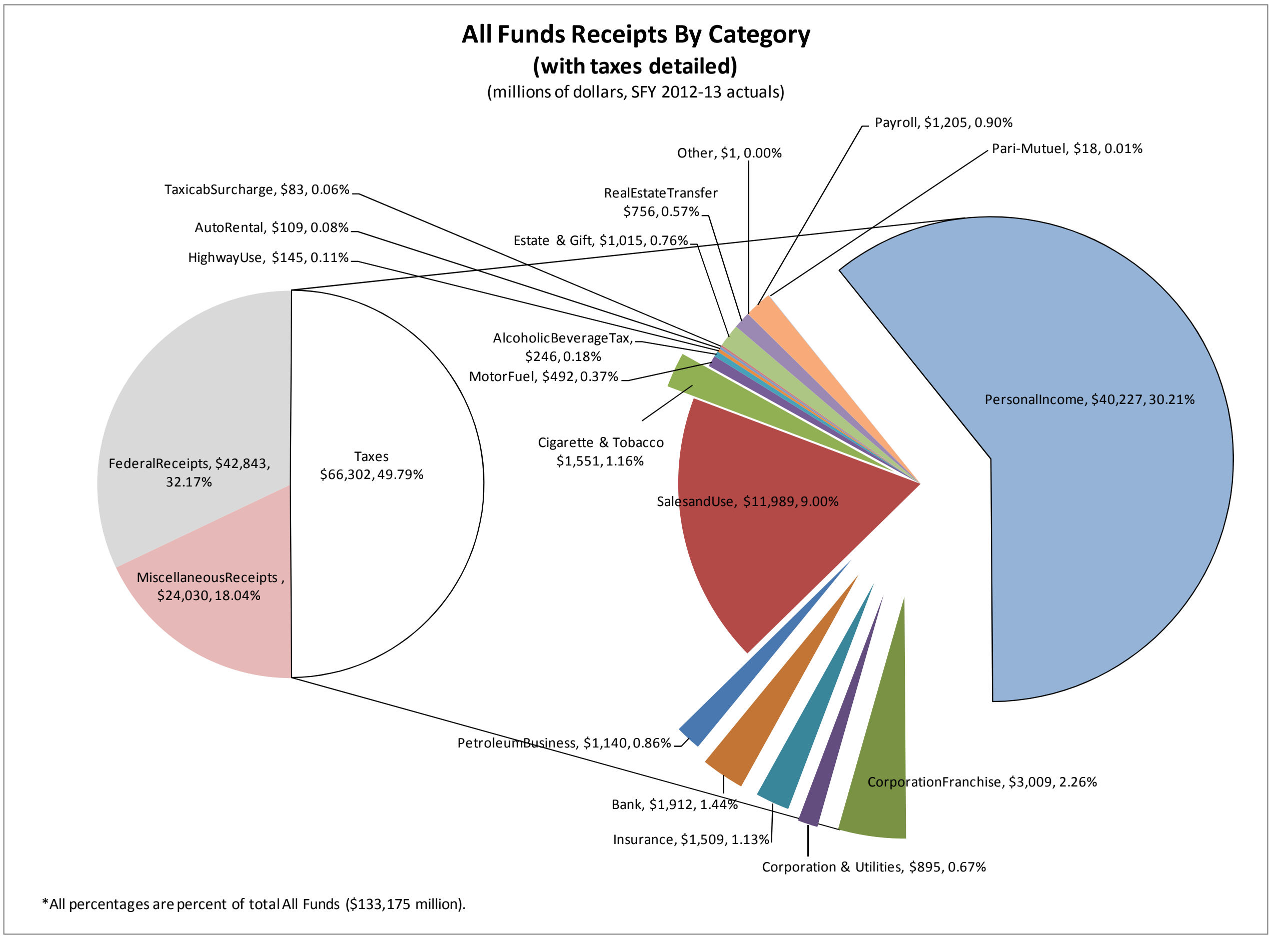
The reasons for tax reform and reductions are readily apparent: New York State's tax code has become far too complex; New York State has a taxing and regulatory system that creates a business climate that is ranked as the worst in the nation; and as a result, is seeing an out-migration of residents and their incomes. The Tax Foundation estimates that between 2000 and 2010, New York has lost nearly 1.3 million residents and over $45 billion in gross income.[3] Since the 1970 census, New York has lost 14 congressional seats. That is the lowest number of seats (27) New York has had since the early 1820s[4] and results in a major reduction of New York's ability to impact policy in Washington.

A look at our tax code reveals a complexity that is the result of years of additions and changes with no overall reassessment of how all those changes interact with the calculation of tax liability: the Personal Income Tax has 15 different modifications to F-AGI and 45 different credits; the Corporate Franchise Tax has five modifications to F-AGI and 35 different credits. Most of these credits and modifications are designed to benefit a limited number of taxpayers. The tax code has become so mired with credits and extra and sometimes complex calculations (such as tax benefit recaptures) that the average taxpayer cannot fill out his / her own taxes without the assistance of a tax professional or tax software. Some corporate franchise tax filings are sent to the tax department in boxes not envelopes.

A tax code that is simpler to understand, administer and audit will benefit everyone. We must transform our tax code so that it encourages economic development and business expansions, or at the very least, does not discourage it. The tax code must be less ambiguous and more straightforward so that when our businesses are planning for future growth, they will know with certainty the deductions and credits to which they are entitled and ultimately what their New York State tax liability will be.

The Tax Foundation ranked New York 50th in business climate.[2] One of the factors that went into that ranking was the fact that New York has the highest state and local tax burden in the nation (12.8 percent of personal income).[5]

The following table shows All Funds State Receipts with $66.3 billion in State Taxes identified as a proportion of the $133.2 billion receipts total.



Job Growth in New York

According to the review by Challenger, Gray & Christmas, Inc., New York led the nation in job reductions this year with about 70,482 layoffs between January and October. This is a 65 percent increase from the same period last year, far outpacing other large states.[6]

Over the past year, New York was 28th in the nation in private sector job growth. New York has gained 120,400 private sector jobs in the last year (August 2012 to August 2013); however, that equals a rate of growth of just 1.37 percent, which is 17 percent below the national average of 1.65 percent.[7]

New York is Losing People and Income

The rate of taxation as compared to other states does not come without a price in terms of the economy. The Tax Foundation recently published a study that followed the migration of personal income amongst the states. In the ten year period from 2000 to 2010, New York lost an estimated $45.6 billion in personal income, the worst migration rate in the nation.[3] Other high tax burden states like New Jersey, Connecticut and California also topped the list with the largest outflows of personal income, while low tax states like Texas, Arizona, Nevada and South Carolina realized the largest inflows of personal income.

According to Forbes magazine, in 2012 New York was ranked as having the fourth worst ratio of people moving out of the state vs. people moving into the state. Of all the moves in New York in 2012, 58 percent were outbound. Low tax states like South Carolina and Arizona had some of the best, most inbound move ratios.[8] Negative migration growth of this magnitude is unsustainable in the long-term. New York has already lost 14 congressional seats since the 1970 census, its lowest number of seats (27) since the early 1820s[4] Unless we address the factors that make New York a high cost state, we can expect the out-migration that is splitting up families and chasing some of the most talented residents to competitor states to continue.

MIGRATION OF INCOME AND TAXPAYERS BETWEEN NEW YORK AND ALL OTHER STATES
(Dollar Amounts in Thousands)

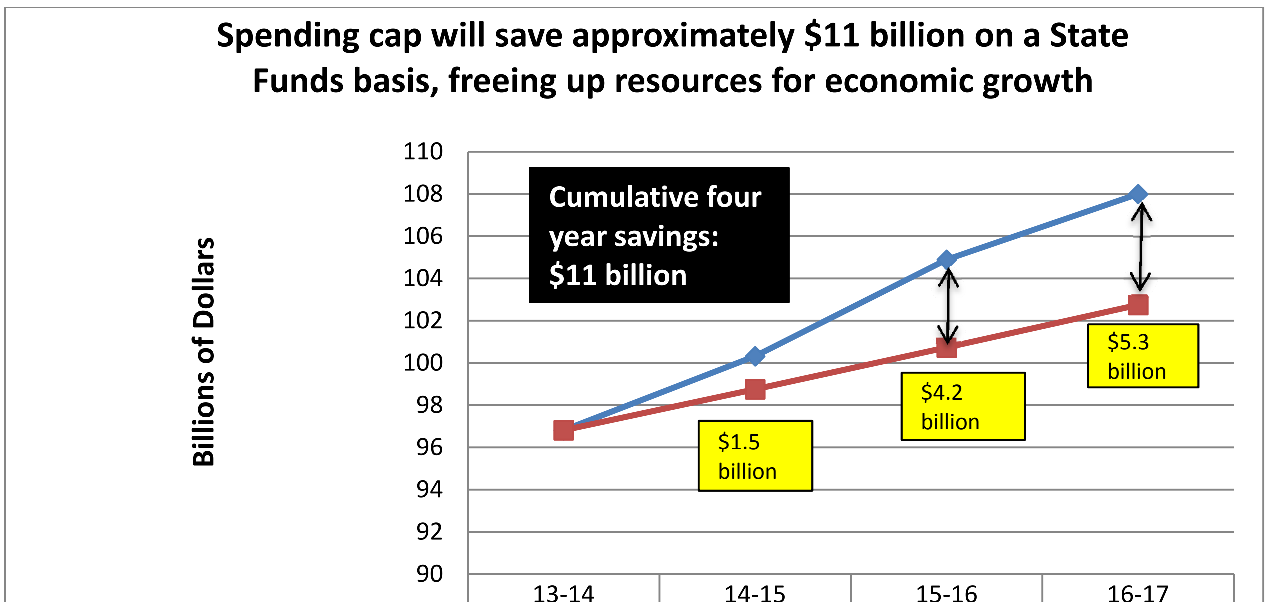
	In-Migration		Out-Migration		Net Migration	
	Gross Income	Persons	Gross Income	Persons	Gross Income	Persons
2000-01	$8,677,773	204,325	$13,149,273	327,754	($4,471,500)	(123,429)
2001-02	$7,595,509	205,643	$12,285,248	335,071	($4,689,739)	(129,428)
2002-03	$6,971,652	204,353	$11,188,024	331,213	($4,216,372)	(126,860)
2003-04	$6,550,123	196,177	$11,663,943	356,045	($5,113,820)	(159,868)
2004-05	$6,975,176	205,459	$13,055,105	385,375	($6,079,929)	(179,916)
2005-06	$7,263,794	213,603	$12,976,481	383,235	($5,712,687)	(169,632)
2006-07	$7,529,772	217,874	$12,148,024	355,923	($4,618,252)	(138,049)
2007-08	$8,116,477	240,394	$12,244,536	339,191	($4,128,059)	(98,797)
2008-09	$7,294,682	236,645	$10,587,243	307,214	($3,292,561)	(70,569)
2009-10	$6,303,218	219,994	$9,578,328	287,828	($3,275,110)	(67,834)
Total: 2000 - 2010	$73,278,176	2,144,467	$118,876,205	3,408,849	($45,598,029)	(1,264,382)

Source: Internal Revenue Service; Tax Foundation

State Spending

The underlying problem with our tax burden, and subsequently the solution as well, is State spending. In prior years, New York's higher revenues were used to feed an ever increasing amount of spending. During the two years of 2009 and 2010 alone, the New York State Budget saw State spending increase by $7 billion, which is $6 billion more than if spending only increased by the inflation rate. That is an increase in State spending of 3.49 percent in SFY 2009-10 and 4.74 percent in SFY 2010-11 at a time when State revenue was declining because of the national recession. Nearly $14 billion in new or increased taxes and fees were enacted to pay for increased spending in a time of falling revenues.

However, over the past two years, the State has saved $17 billion by adhering to a self-imposed two percent cap. As the following chart shows, if the State adheres to a two percent spending cap, then we will spend a cumulative $11 billion less over the next four State fiscal years.



	13-14	14-15	15-16	16-17
projected spending without cap	96.815	100.317	104.886	107.993
projected spending with 2% cap	96.815	98.751	100.727	102.741

Recent Tax Reforms and Successes

Many states are cutting taxes. North Carolina just enacted a major restructuring of personal income taxes, corporate taxes and sales taxes; Indiana cut personal income taxes, business taxes and repealed the inheritance tax; Oklahoma cut personal income taxes; Virginia cut fuel taxes and Idaho cut business and personal property taxes; North Dakota cut personal income taxes by 20 percent, fueled by an oil boom in that state; Kansas cut personal income taxes by up to 24 percent and eliminated taxes on small businesses paying under the personal income tax.

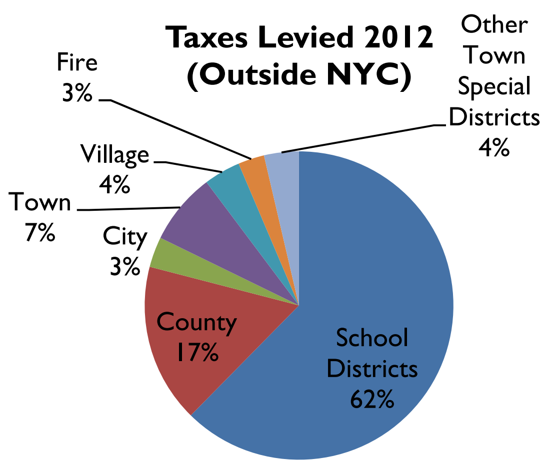
We have made great strides in improving the tax climate in New York since 2011, with tax reductions for manufacturers, small businesses paying under the personal income tax and middle class taxpayers category, as well as a property tax cap for the State's property taxpayers. The property tax cap has saved an estimated $1.26 billion in school taxes alone in just the first two years. New York's type of property tax cap, a tax levy cap, has proven in other states to be the most effective form of cap at restraining excessive tax growth, while permitting voter overrides when desired.[1] As the cap continues in future years the savings will grow exponentially. Another success was the partial repeal of the Payroll Mobility Tax which eliminated this job killing tax for 80 percent of the affected taxpayers. However, we still have work to do to make our tax system competitive with other states.

New York State Property Tax

New York State residents pay more in property taxes than they do in personal income taxes. Property tax in New York State consists of the following local government categories: School District, County, City, Town, Village, Fire, and Other Town Special Districts. When the various property taxes are combined, homeowners in New York pay among the highest property taxes in the nation. Total State property taxes were roughly $52 billion in 2012, while New Yorkers paid approximately $49 billion in State and Local Personal Income Taxes.[9] School taxes alone make up 62 percent of the total property taxes levied in the State (outside of New York City).

NY State Property Tax 2012 (Millions of Dollars)	
School Districts	20,203
County	5,400
City	1,035
Town	2,437
Village	1,243
Fire	890
Other Town Special Districts	1,185
Total (Outside NYC)	**32,384**
NYC School	13,833
NYC (City Tax)	5,452
Total	**51,668**

Source: NYS Comptroller[10]



New York Property Taxes Compared to the United States

Recent data illustrates New York's two percent Property Tax Cap which took effect in 2012 is working. Comparing the most recent change in the property tax levy in New York State to the rest of the country shows that New York State's levy growth[11] (2.16 percent) has declined and is currently below the most recent national rate of property tax growth in the United States (2.64 percent), a difference of over 18 percent.

PROPERTY TAX		
NY: Fiscal Year Ending In / US: Sum of 4 Quarters Ending in Second Quarter	**% Change National [12]**	**% Change NY [13]**
2004-2005	7.98%	7.97%
2005-2006	7.65%	6.34%
2006-2007	6.88%	5.32%
2007-2008	3.89%	3.79%
2008-2009	12.88%	3.61%
2009-2010	3.78%	2.24%
2010-2011	-0.67%	2.78%
2011-2012	-0.69%	3.06%
2012-2013 – Tax Cap – Year 1	2.64%	2.16%
Avg Annual Increase	5.33%	4.14%

Growth in School Taxes Declines

New York (Outside NYC) had an average increase of 4.9 percent per annum in School Property Tax levied from 2003-2012. Note that the annual increase in School Property Tax from School Fiscal Year 2011-2012 was 3.42 percent and the annual increase in School Property Tax from School Fiscal Year 2012-2013 was 2.11 percent. The two percent tax cap was implemented in 2012.

Annual Change[14] in School Tax (Outside NYC)

2003-2004	7.81%
2004-2005	8.01%
2005-2006	6.83%
2006-2007	5.90%
2007-2008	3.84%
2008-2009	3.58%
2009-2010	1.98%
2010-2011	2.80%
2011-2012	3.42%
2012-2013 – Tax Cap Year 1 -	2.11%

Property Tax Relief – State by State

Criticism of property tax systems nationwide that led to property tax reform action generally falls into categories related to: the assessment process; revenue and rate determination; distribution of tax burden; incentive or preferential treatment effects; financial planning aspects related to changing property values; and the payment process requiring large payments (usually twice a year).

All states have tax provisions to encourage particular land uses and to provide property tax relief to selected classes of owners based on age, disability, veteran status and other criteria. Property tax relief and incentive programs provide tax relief to residential property owners, encourage economic development, reduce taxes on certain types of property (e.g., agricultural or open space), and encourage specific types of property improvement. They may offer relief by applying a different value standard or through exemptions, credits, or deferral of payments.

According to the latest data (2011) available from the Lincoln Land Institute, there are 153 preferential exemption programs operating across all states in the nation. There are also 12 programs to freeze assessments that are operating in 11 states. Added to these programs is the outright tax exemption of property owned by governmental and non-profit agencies.

Property Tax Relief Can Be a "Zero-Sum" Game

As the levying of property taxes is a "zero-sum" game, removal of equalized assessed value from one group of taxable property means that another group of taxable property without exemptions, or with fewer exemptions, has to pay a greater share of the tax burden in that particular taxing jurisdiction. To combat this shift, states have enacted various types of tax credit programs, but these types of programs also shift the property tax burden from one group of taxpayers to another group of taxpayers.

States' actions currently being considered to reform property taxes center on rebalancing revenue sources and consolidating local government services. In states looking at rebalancing revenue sources, the income tax and sales tax burden has been comparatively low while the property tax burden has been high. However, this is not the case in New York, where sales taxes and income taxes are also above national averages.

Within some state proposals is the repealing of all current property tax preferential treatment programs and the reinvestment of the state revenue currently dedicated to this relief into a new direct property tax cut program. Similarly, New York has the STAR program which presently discounts residential property taxes by approximately 10 percent. While not as broad based, other state reform proposals include allowing up to four payments on property tax bills, assessing utility property, strengthening assessor credentialing, and a senior citizen deferral program allowing qualified seniors to postpone all or a portion of their real estate taxes on their principal residences until the property is sold or the homeowner dies.

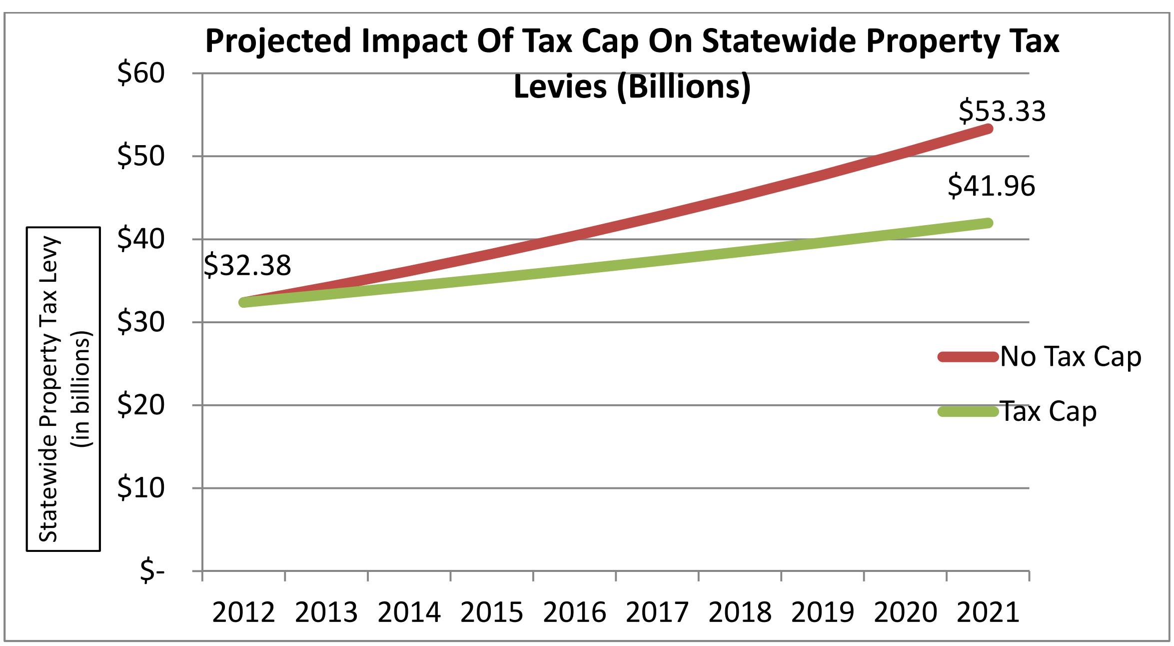
New York State Property Tax Relief– STAR / Property Tax Cap

The State of New York has embraced a multifaceted approach to providing property tax relief to the homeowners of the State. The State provides direct relief in the form of the School Tax Relief program (STAR), mandate relief, and the Property Tax Cap enacted in 2011. In 2013 alone the State provided $3.4 billion in STAR property tax relief directly to school districts which is the equivalent of a 10 percent reduction in homeowners' tax burden.

PROPERTY TAX CAP: New York's Property Tax Cap limits growth on the actual property taxes levied to support school district and local government expenses. The law became effective in local fiscal years starting on or after January 1, 2012. The law limits the annual growth of property taxes levied by local governments and school districts to two percent or the rate of inflation, whichever is less. **In the first year of the cap, it is estimated that school property tax payers saved approximately $472.3 million[15]. In year two, the savings increased to $792.4 million.** The following chart provides the total school property tax relief to homeowners in the first two years of the historic Property Tax Cap Law which is the strongest in the nation:

	2012-13	2013-14	Total
Actual Statewide	$19,672,881,760	$20,277,351,143	$39,950,232,903
No Tax Cap	$20,145,204,486	$21,069,869,371	$41,215,073,857
Difference/Savings	**$472,322,726**	**$792,518,228**	$1,264,840,954

There is a need for immediate relief while the tax cap takes time to slow down the rate of property tax increases. While the previous chart shows significant results in terms of slowing the rate of increase, the projected relief provided to homeowners is depicted in the following graphic that provides for what the average growth in property tax levies will be with the property tax cap in place and without. Based on current projections, the growth in property taxes over the next ten years without a cap in place would climb to $53.33 billion which amounts to a 64.9 percent increase in property taxes statewide[16] over the 10 year period. With the property tax cap in place the growth is limited to a 29.6 percent increase over that same time period. Cumulatively, the property tax cap is projected to save homeowners $11.37 billion over the next 10 years (see chart above). This State action, along with growth in STAR, provide significant relief to property owners that, combined with significant mandate relief, are expected to move New York from one of the highest property taxed states to a more appealing position tax wise, similar to the experience in Massachusetts.



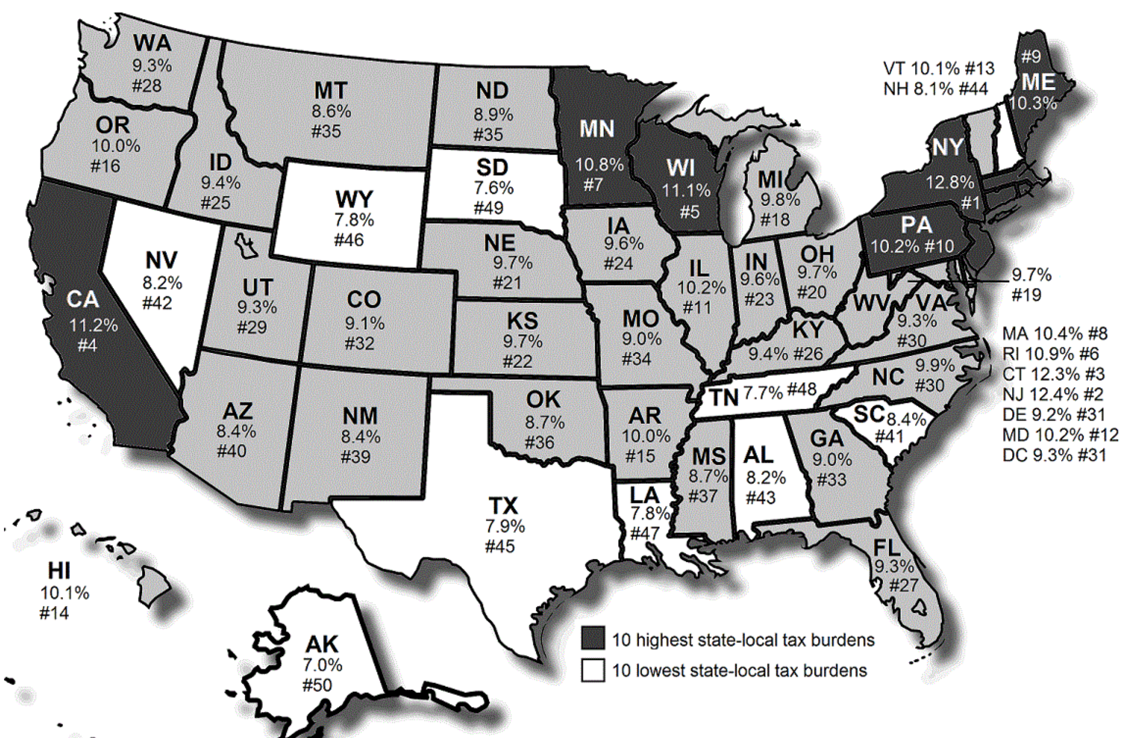
The Full Impact of the Property Tax Cap Takes Time to be Realized

Massachusetts has the longest history with an enacted property tax cap. "Proposition 2½" is both a levy cap and a rate cap, and was a reaction to the fact the State was among the highest taxed in the nation. The Massachusetts cap has been successful in lowering the property tax burden in Massachusetts. In the first 20 years following the passage of "Proposition 2½", the per capita residential property tax levy dropped 1.6 percent, after adjusting for inflation.[17]

According to the Tax Foundation, since the enactment of "Proposition 2½", Massachusetts dropped from third nationally in 1980 to a high of 17th in 2007 and as of 2010 they are 8th in the nation on the measure of state and local tax burden[18]. The Bay State's business tax climate ranking, of which property taxes is a significant factor, was 25 in 2013, far below its geographic peer states of Rhode Island (46), Connecticut (42), New York (50) and New Jersey (49). In 1980, the combined Massachusetts state-local tax burden was 11 percent of resident income, well above the national average and only behind New York and Wisconsin.

As of 2010, the total Massachusetts tax burden was 10.4 percent, slightly above the national average of 9.9 percent. New York's State and local tax burden was 12.8 percent in 2010, a full 2.9 percentage points above the national average. Over the same time period, Massachusetts dropped in ranking in terms of state and local tax burden while New York maintained its number one position as the state with the highest state and local tax burden.

State and Local Tax Burden as a Percentage of State Income, FY 2010



Source: Tax Foundation

Pro-Growth Recommendations

Budget Reforms

Recommendation: Tax Freedom Fund with a Spending Cap

The underlying problem with our tax burden, and subsequently the solution, is restraint in State spending. Even though the past three budgets have kept State spending at or below two percent, a constitutional amendment limiting State spending to two percent is still needed in order to limit revenue increases in the future and provide a surplus for tax reductions. State spending constraint should be a constitutional imperative. Given the current projections for revenue growth, if the State adhered to spending controls, the State would have enough of a surplus to start cutting taxes.

This report recommends a two percent constitutional cap on State spending. This should be achieved by the immediate passage of legislation, and then the passage of a constitutional amendment to make it permanent.

This report recommends creating a "Tax Freedom Fund" (TFF). In conjunction with the two percent spending cap, any surplus revenues will be deposited into a TFF, which will serve as a lockbox to be used for specific tax cuts. When the amount of revenue in the TFF reaches pre-defined levels, it will trigger automatic/previously determined tax reductions equally in both the Personal Income Tax and the Corporate Franchise Tax.

Recommendation: Two-Thirds Majority for Tax Increases

This report recommends that a two-thirds legislative majority be required for approval of tax increases. This will ensure that in times of extraordinary circumstances the ability to maintain revenues for necessary programs will be available. This should be achieved by the immediate passage of legislation, and then the passage of a constitutional amendment to make it permanent.

Personal Income Tax Changes

Recommendation: Reduce Personal Income Taxes

The proposal for a Tax Freedom Fund (TFF) listed in the "Budget Reform" section of this report should also include automatic personal income tax reductions. **This report recommends that as amounts are added to the TFF, there should be automatic reductions and simplifications focused on: reducing and then eliminating the myriad of tax benefit recaptures; allowing the temporary high rate surcharge to phase-out; and reducing the number of tax brackets.**

Recommendation: Optional Simple Income Tax Calculation

The New York State personal income tax code has become so mired with credits and extra (sometimes very complex) calculations, such as the tax benefit recapture, that the average taxpayer cannot fill out his / her own taxes without the assistance of a tax professional or tax software.

This report recommends adding an optional Simple Income Tax Calculation (SITC) as part of a taxpayer's annual income tax filing. If the taxpayer chooses to calculate their taxes under the SITC, the taxpayer would:

1. **Begin with his / her Federal Adjusted Gross Income (F-AGI);**
2. The only adjustment to F-AGI would be a **deduction for income from pensions,** which for government employees are constitutionally exempt from taxation under the Personal Income Tax;
3. To determine tax liability, a taxpayer would then **multiply this income base by an "effective tax rate"** which would be provided in a table by the Department of Taxation and Finance. This table would report the historical average effective tax rates based on income brackets, the taxpayer's filing status, and the number of dependents claimed by the taxpayer; and
4. The taxpayer would then **subtract any withholding or estimated payments** to determine if a refund or payment is applicable.

There would not be any extra calculations or any additional figuring of credits. In short, in four easy steps the average taxpayer would realize approximately the same tax bill utilizing this calculation, with a lot less time, effort and cost than the current method. The State would also see a benefit of reduced paperwork and reduced audit expense.

Recommendation: Make Inflation Indexing Permanent

Under the Federal Personal Income Tax, the standard deduction, the personal exemption, the tax brackets, and the income threshold for the limitation on itemized deductions are all indexed to inflation, which is measured by the annual percent change in the Consumer Price Index, reported by the U.S. Department of Labor. By indexing the tax brackets and other income related thresholds, a taxpayer's tax burden is not increased simply due to normal wage growth. In addition, the standard deduction and the personal exemption reduce a taxpayer's taxable income to reflect everyday cost of living expenses. Indexing the personal exemption and the standard deduction allows these tax benefits to keep up with rising costs of living.

Prior to 2012, New York did not allow for inflation indexing. Excluding the tax surcharges that were imposed in 2003 and 2009, the tax brackets have not been amended since 1996. The standard deduction for single taxpayers has also not been increased since 1996. Although the standard deduction for married taxpayers was increased more recently in 2006, the only reason for this increase was to eliminate the marriage penalty rather than to reflect any cost of living increases since 1996. The dependent exemption, on the other hand, has not been increased since it was enacted in 1987. As a result of not indexing these rates, New Yorkers are paying hundreds of millions of dollars in increased taxes.

As part of the Middle Class Tax Reform that was enacted at the end of 2011, inflation indexing was authorized for the tax brackets, the standard deduction and the rate recapture beginning in tax year 2013. The dependent exemption was excluded in the legislation. However, this indexing is only temporary and expires at the end of 2017.

This report recommends that the current inflation indexing be made permanent beginning in 2018 and allow for inflation indexing of the dependent exemption.

Recommendation: Treat All Retirement Income Fairly

Currently, there is a major inequity in the tax treatment of retirement income under the Personal Income Tax. Pensions of state and municipal government retirees are exempt from the Personal Income Tax due to a provision in the State Constitution which prohibits the taxation of these pensions. Similarly, pensions of federal government retirees are exempt from the Personal Income Tax due to a U.S. Supreme Court ruling which required equal tax treatment for federal and state/local pensions. While all retirees' social security income is exempt from tax, private pensions as well as distributions from individual retirement accounts (IRAs), 401(K) programs, and deferred compensation programs are not.

In 1982, a Personal Income Tax deduction was authorized for a portion of a taxpayer's retirement income (other than government pensions and social security income) and only applies to retirement income received by the taxpayer in periodic payments. If the taxpayer receives this retirement income as a lump sum payment, the deduction cannot be taken. The maximum amount of retirement income that can be deducted is set at $20,000 and $40,000 for single taxpayers and married taxpayers, respectively.

The cap on the deduction has not been increased since its enactment in 1982. Since then, the Consumer Price Index has increased by 135 percent. Had the deduction for private retirement income been indexed to the rate of inflation, the cap would currently be $47,000 and $94,000 for single and married taxpayers, respectively.

The report recommends initially raising the deduction to the inflation adjusted amounts of $47,000 and $94,000 and then exempt all periodic payments from retirement plans that are currently eligible for the partial deduction.

Recommendation: Adjustments to Federal Adjusted Gross Income

Under the current Tax Law, a taxpayer is subject to over 70 adjustments to his / her Federal Adjusted Gross Income to determine his / her New York adjusted gross income. Of these adjustments, approximately half are additions to a taxpayer's Federal Adjusted Gross Income which, in turn, increases his / her New York taxable income.

While many of these additions relate to the recapture of tax preferences, such as the add back for contributions to a college savings account if the contributions are not used for higher education purposes. However, some of these provisions are antiquated as a result of a change in the tax benefit or a change in tax policy. For example, a taxpayer is required to add back a federal deduction for special additional mortgage recording taxes paid if the taxpayer claimed a New York personal income tax credit for the taxes paid. However, this provision only applies to the special mortgage recording tax paid prior to January 1, 1988. Another example is the gain on the sale of assets acquired from decedents. If a beneficiary sells an asset and realizes a gain on such asset, he is required to add the amount of the gain to his / her Federal Adjusted Gross Income, but only if the decedent died before February 1, 2000.

Many of these adjustments impact businesses that pay under the personal income tax such as sole proprietorships, partnerships, and S-corporations and pertain to decoupling with federal provisions. In most of these instances, the business taxpayer is required to add back a federal deduction and calculate a different State deduction. This decoupling primarily occurs in the calculation of the depreciation of a business's assets.

This report recommends that the calculation of personal income taxes be made less complex by repealing these antiquated federal adjustments.

Recommendation: Eliminate the Minimum Tax

Under the New York State personal income tax, there is a minimum tax and a supplemental tax (also known as the tax table benefit recapture or rate recapture). Both of these are significantly different than the Alternative Minimum Tax (AMT) at the Federal level.

The minimum tax in New York only applies to a small number of taxpayers, primarily fiduciary entities, such as estates and trusts. The tax is imposed at a rate of six percent on the total amount of deductions claimed for: Accelerated Cost Recovery System (ACRS) depreciation on recovery property placed in service in New York in 1985 and 1986; ACRS depreciation on all Internal Revenue Code (IRC) section 280F recovery property placed in service prior to November 1, 1987; or intangible drilling costs; and qualified small business stock. The State receives less than $1 million in collections from this tax.

This report recommends that for simplicity's sake and for administrative streamlining the minimum tax be repealed.

Recommendation: Increase the Personal Income Tax Filing Threshold

Every year thousands of New York taxpayers are required to file an income tax form, even though they don't owe any taxes. The filing threshold in New York requires that every taxpayer having at least $4,000 of income, file a return. The levels of standard deductions are $15,000 for married-joint, $10,500 for heads of household and $7,500 for single filers. At a minimum every taxpayer will be able to earn up to the level of the standard deduction without having to owe any taxes.

This report recommends that the filing thresholds be raised to the level of the standard deduction at each filing status. This will achieve a substantial administrative savings for the State and relieve the burden of filing for thousands of New Yorkers.

Recommendation: Equalize the Treatment for Users of Fulfillment Services

Fulfillment services include: the acceptance of orders on behalf of another company; the shipment of orders; the billing and collection activities; or customer service. Currently, if an out-of-state business is formed as a C-corporation or an S-corporation, that out-of-state business is not subject to New York State tax under either the Corporate Franchise Tax or the Personal Income Tax if its sole contact with New York is its relationship with an in-state fulfillment service company. However, this exemption does not apply to out-of-state partnerships, which results in the non-resident partners being subject to the Personal Income Tax on their entire income, as opposed to just the income that they earn from New York. This inequity is taking business away from New York's domestic fulfillment services by disincentivizing out-of-state partnerships from doing business with our domestic fulfillment service companies.

This report recommends that the Tax Law be amended to clarify that non-resident partnerships would not have nexus in the State for the purpose of the Personal Income Tax -- if their only contact in this State is the use of a domestic fulfillment service. This would thereby remove an impediment for out-of-state partnerships to do business with New York entities.

Estate Tax

Recommendation: Reform New York's Estate Tax – The "Death Tax"

New York was recently listed as one of the top ten states "Where Not To Die In 2013." This is a result of having the dubious distinction of being one of only 19 states that still levy a "death tax" and having one of the highest tax rates in the nation.[19]

The Estate Tax is imposed upon the total value of the estate. For family farms, this includes the value of the farmland, the farm machinery, the farm buildings, and the livestock. In 2007, (the latest data available) the U.S. Department of Agriculture reported over 3,000 farms in New York had land and buildings with a market value over $1 million. When the value of machinery and equipment is included, the number of farms increases to 4,400 and that figure does not include the value of any livestock the farm may have.

In February 2000, New York's Estate Tax was made a "pick-up tax" of the Federal Estate Tax. As such, New York's Estate Tax rates were aligned, to a large extent, with the Federal Estate Tax credit for state estate taxes paid so that a taxpayer's combined Federal and State Estate Tax liability for small to medium estates would be no greater than his / her Federal Tax Liability. However, in order to mitigate any fluctuations in collections that could occur as a result of a change in the Federal Estate Tax, New York's Estate Tax was pegged to the Internal Revenue

Code as of July 22, 1998. Any amendments to the Code subsequent to that date would have no effect on New York's Estate Tax.

In 2010, the Federal *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act* reinstated the Federal Estate Tax and increased the exemption threshold to $5 million for tax years 2011 and 2012. Subsequently, the federal $5 million exemption was made permanent and indexed to inflation by the American Taxpayer Relief Act (ATRA).

Although the State tax credit at the Federal level was eliminated, New York retained its Estate Tax due to it being tied to the Internal Revenue Code of 1998. In addition, although New York's exemption level was also pegged to the Federal exemption level, New York tax law caps this exemption at $1 million.

In order to remedy these inequities and to retain family farms, businesses and our retirees in New York, this report recommends that the State Estate Tax be coupled with the Federal exemption threshold (currently $5 million) phased-in over four years. This action would also allow for immediate inflation indexing, resulting in tax savings.

Business Tax Changes

Recommendation: Proportional Reduction in Corporate Franchise Tax

The Corporate Franchise Tax has 47 items of tax preference; 35 of these preferences are tax credits. The value of the majority of tax preferences totals over $1 billion (the exclusion of interest, dividends and capital gains from subsidiary capital is not included). Given the $3 billion collected by the State from the Corporate Franchise Tax, those preferences represent nearly a 25 percent reduction in tax liability. If these tax preferences were converted into rate reductions, the top rate of 7.1 percent could be lowered to 5.3 percent with zero revenue impact to the State. Preferences that are targeted at a narrow group of taxpayers have a tendency to distort the tax code. A large portion of taxpayers are paying a much higher effective tax rate than others solely due to the fact that they do not qualify for tax preferences.

Major Corporate Franchise Tax Credits
(millions of dollars)

Tax Preference Item	2013 Estimated
Empire State Film Production Credit	$420
Brownfield Redevelopment Tax Credit	$170
QEZE Real Property Tax Credit	$135
Investment Tax Credit, Retail Enterprise Tax Credit	$104
Excelsior Jobs Program Tax Credit	$75
*Amount that tax preferences reduces tax liability for a given tax year	

This report recommends a reduction in Corporate Franchise Tax (9-A) rates with a proportional reduction in tax credits across the board. For example, if rates are reduced by 25 percent, then all credits under Article 9-A would be reduced by 25 percent and so forth.

Recommendation: Reduce/Eliminate the Corporate Franchise Tax Through a Trigger

The New York State Corporate Franchise Tax is an example of double taxation. Since New York does not offer a deduction of dividends paid, dividends are taxed under the Corporate Franchise Tax and the dividends distributed to stockholders are then again taxed as personal income.

This report recommends a reduction in the rates of the Corporate Franchise Tax. If funds are available in the future, a goal for complete elimination should be considered. The proposal for a Tax Freedom Fund listed in the "Budget Reform" section of this report should also include an automatic corporate tax rate reduction for increasing amounts that are added to the lockbox.

Recommendation: Eliminate Corporate Taxes on Manufacturers

This year's Enacted Budget included a 25 percent reduction in corporate taxes on manufacturers. The Senate Budget Resolution proposal called for a complete elimination of the Corporate Franchise Tax on manufacturers. Manufacturing is an important part of any strong economy. Not only does it provide well paying jobs, but through the need for suppliers and equipment suppliers, it creates a multiplier effect like no other sector. The National Association of Manufacturers estimates that "For every $1 spent in manufacturing another $1.48 is added to the economy, the highest multiplier effect of any economic sector."[20]

This report recommends the elimination of the corporate tax on manufacturers.

Recommendation: Eliminate the Corporate Alternative Minimum Tax (AMT)

This report recommends a complete and immediate elimination of the AMT under any tax simplification/reduction scenario.

Recommendation: Combine the Bank Tax and Corporate Franchise Tax

This report recommends combining the Bank Tax and the Corporate Franchise Tax through an approach that will not result in any taxpayers paying more taxes. This approach should include the elimination of the Alternative Minimum Tax calculation and should also minimize the differences between the State tax base and the Federal tax base by repealing modifications to Federal income. This will help simplify the tax and ease some of the administrative burden on both taxpayers and the State.

Recommendation: Recouple with Federal Tax Preferences

In a further attempt to simplify the tax code, this report recommends that the State Corporate Tax Code recouple with the Federal tax treatment of depreciation by allowing New York companies to enjoy special bonus depreciation and the Qualified Production Activities Deduction. The recoupling of the special bonus depreciation will not cost the State significant revenue in the long term, but will simply allow companies to realize depreciation of their equipment purchases faster than they are currently able, thereby encouraging faster/immediate investment.

Recommendation: Couple More Closely with Federal Corporate Income Definition

New York currently has 38 modifications to Federal Entire Net Income (ENI). **This report suggests exploring the possibility of reducing the number of adjustments to Federal ENI with a goal of ensuring that these changes do not result in increased tax liability.** Proceeding even further along the lines of simplicity, this report suggests the exploration of a State Corporate Tax that is a percentage of Federal Corporate Tax liability allocated to this State; much like the MTA surcharge is a percentage of State Corporate Tax liability allocated to the MTA region.

Recommendation: Brownfield Credit

The Brownfield Cleanup Program is an essential tool for redeveloping our industrial past and advancing smart growth redevelopment of our urban areas. The program has been successful in redeveloping properties, neighborhoods, and communities with a direct private capital investment of over $10 billion. The Brownfield Tax Credits have resulted in $7 in investment for every $1 of tax incentives. This does not include other significant benefits to the economy including jobs, wage taxes, sales taxes, corporate taxes, property taxes, or the environmental benefits. The Brownfield Cleanup Program is one of the State's strongest economic development programs. The Brownfield Credit is unique in that it attempts to correct a market failure by using the tax code to achieve a goal (an expensive cleanup of a contaminated site) that, if left solely to market conditions, would otherwise not get done. The credit has already been a benefit to upstate urban areas and drives development of blighted areas.

This report recommends that the Brownfield Credit be made permanent so businesses can depend on access to this successful economic development tool.

Recommendation: Angel Tax Credit

New York State's small businesses have long expressed a need for more access to both public and private investment dollars. One of the ways the Senate addressed this need was to expand the Excelsior Linked Deposit Program as part of SFY 2013-14 Enacted Budget.

The Angel Investment Tax Credit will help solve the problem of limited investment opportunities for small businesses by leveraging tax credits to create private investment pools, which will support both business development and business attraction efforts.

This report recommends that a New York Angel Investment Tax Credit be adopted to increase access to investments to small businesses.

Recommendation: Film Tax Credit

Production studios have expressed that, even though they do not directly receive the Film Tax Credit, it has still benefitted them indirectly. As more films have been attracted to New York State and New York City by the lure of subsidized productions, business at the production studios has increased. At the same time, the interest in building more production facilities and expanding existing facilities within the State has also increased. However, economic development dollars are limited and some potential projects have had a difficult time accessing economic development funds and investment capital.

This report recommends that the existing Film Tax Credit also be made available for capital investments in film production studios. The credit will equal 30 percent of qualified costs of construction of such buildings and equipment permanently housed in those buildings. This will allow the Film Tax Credit to directly benefit the New York studios that produce these films, allowing an existing pool of investment funds to create permanent assets in the State benefiting the film industry for years.

Sales Tax

Recommendation: Sales Tax Changes

New York and the vast majority of other states offer sales tax exemptions to not-for-profits. California only permits sales tax exemptions to not-for-profits in specific instances, such as sales and donations used to relieve poverty. Louisiana does not exempt sales or purchases for most not-for-profits. However, Louisiana does offer sales tax exemptions to religious organizations for the purchase of items directly used in ceremony or religious instruction (bibles, songbooks, etc.) and the sales of items, as long as the sale does not directly compete with another business.

One of the problems with New York's exemption as it exists in statute is the lack of accountability. Sales to not-for-profits are exempt from sales taxes with no records of what or how much was purchased or the purpose. Underscoring the fact that some not-for-profits are on financial footings that are equal to or greater than those of private entities performing the same task, indicating that this type of State benefit doesn't seem essential for the economic health of the business. The current exemption reduces State sales tax revenue by over $500 million annually.

Recommendation: This report recommends a thorough review of the not-for-profit exemption for certain non-religious not-for-profits to require a filing with Tax And Finance to provide for accountability for this sales tax exemption.

Property Tax Relief Options

As previously stated, this preliminary report outlines some of the Joint Committee's initial findings and recommendations.

Recommendation -- Make the Property Tax Cap Statute Permanent: Under current law, the New York State Property Tax Cap sunsets on June 15, 2016. As noted above from the Massachusetts experience, tax caps need time to provide property tax relief that is meaningful. Massachusetts was able to dramatically improve its state and local burden by maintaining its property tax cap over several decades. Making this provision in New York State law permanent will ensure that property taxpayers receive ongoing protection from unsustainable growth on local levies and will prevent a drag on local economies associated with high property taxes.

- **Option - Reinstate STAR Rebate Checks –** Provide additional immediate temporary relief through the reinstatement of the STAR Rebate checks. The STAR Rebate check provided a direct benefit to property homeowners in the form of a wealth-adjusted amount built off of the homeowner's STAR benefit. In its last year, STAR Rebate checks totaled $1.4 billion ($300 million in SENIOR STAR relief and $1.1 billion for the BASIC STAR recipients);
- **Option – Standardize and Simplify Current Assessment System –** Localities are allowed to assess properties at different percentages of the market value, and total property assessments are not always kept up-to-date. Standardizing the assessment system would eliminate some of the inequalities that exist between different municipalities. For example, enacted legislation (Chapter 475 of the Laws of 2013) provided that telephone equipment (poles, wires, switch boxes) on all property be assessed by the Department of Tax and Finance. Currently, local governments assess telephone equipment on private property, and the Department of Taxation and Finance assesses telephone equipment on State right-of-ways and public properties. Many localities were using an outdated system of assessing this type of property, which resulted in assessment challenges. This change will not only create a more standardized system of assessment for this type of property but will eliminate costly litigation for localities; and
- **Option - Mandate Relief –** Mandate Relief initiatives allow localities to pass on the savings to taxpayers through reduced taxes. Since 2011, the State has enacted into law over 63 mandate relief initiatives. Major initiatives included Medicaid relief and pension reform. Starting in SFY 2012-13, counties will save roughly $1.2 billion over 5 years as a result of the State takeover of the growth in the local share program. This amount was enhanced in SFY 2013-14 by requiring that counties receive pre-payment of enhanced Federal Medicaid funds associated with the Affordable Care Act. This saves counties approximately $190 million over a two-year period starting in 2013.

Miscellaneous Taxes

Recommendation: 18-A Surcharge

The Senate fought for and won a significant victory in this year's budget by allowing the 18-A energy surcharge to phase-down to elimination. **This report recommends that the phase-out be accelerated so that it is halved in SFY 2015-16 and eliminated in SFY 2016-17.**

Recommendation: Payroll Mobility Tax (PMT) on Governmental Entities

In 2009, the MTA Payroll Mobility Tax (PMT) was enacted to provide the MTA an additional source of revenue in order to eliminate a large budget gap due to mismanagement and the Great Recession. The PMT was imposed upon the total payroll expenses of all businesses, with limited exceptions, at a rate of 0.34 percent. The PMT was also extended to business income in excess of $10,000 of self-employed individuals at the same rate.

In 2011, the PMT was amended to eliminate the tax on businesses with annual payrolls of less than $1.25 million and for self-employed individuals with net earnings less than $50,000. The tax rate was also reduced for those businesses with annual payrolls between $1.25 million and $1.75 million.

The PMT, along with the Metropolitan Commuter Transportation District (MCTD) Business Tax surcharge, the additional MTA Sales Tax, and the myriad of New York City local taxes, adds to the complexity of the tax burden in New York City, as well as the whole MTA region.

The PMT is also the only tax imposed in the State that is imposed upon State and local governmental entities. Even though the 2011 legislation eliminated the tax for the smaller municipalities, the tax is still imposed on the higher municipal levels, as well as the State. This essentially results in double taxation on the businesses and residents, since local property tax and local income tax revenues are used to pay this tax. In addition, since the State is liable for the tax, all State taxpayers are indirectly subject to the tax and not just those residing within the MTA district.

This report recommends exempting all governmental entities from the PMT resulting in savings which could be mitigated by continuing cost efficiencies within the MTA. For municipalities, this elimination will result in local property tax relief.

Recommendation: Metropolitan Transportation Authority (MTA) Driver Surcharges

In 2009, the MTA surcharge on automobile registrations and licenses was enacted to provide the MTA an additional source of revenue in order to eliminate a large budget gap due to mismanagement and the Great Recession. The surcharge increased the cost of automobile registrations by $25, nearly doubling registrations for many drivers. The license surcharge increased fees from 25 to 30 percent for licenses and permits.

This report recommends that these surcharges be eliminated.

Recommendation: Repeal the Stock Transfer Tax

The Stock Transfer Tax (Article 12 of the Corporate Franchise Tax) was effectively repealed in October of 1981. However, due to the fact that a portion of the revenue from this tax was dedicated to the payment of Municipal Assistance Corporation (MAC) bonds, the tax could not be taken off the books without violating bond covenants. In order to circumvent violating bond covenants, a refund mechanism was implemented where the tax would be "paid" and a refund mechanism would return all the taxes paid to the taxpayer. For the most part, today those transactions are done on paper only; no money ever changes hands. Since the MAC bonds were satisfied in 2008, there is no reason to keep this tax on the books.

This report recommends immediate repeal of this tax, which has outlived its usefulness and is now nothing more than an administrative burden.

Streamlining Tax Filings

Recommendation: Review the Administrative Cost of Taxation

The number of tax forms, the length of forms, filing requirements and payment requirements has increased over the years putting an ever-increasing burden on taxpayers to file and pay their taxes. The Council on State Taxation (COST) published a scorecard of state tax administration[21] in which New York was ranked tied for 32nd with six other states.

New York's Grade on COST 2010 Administrative Scorecard[21]

Independent Dispute Forum	Pay-to--Play	Even-handed Statute of Limitations	Equal Interest Rates	Ample Protest Period	Return Due Date/Automatic Extension	Filing of IRS Changes	Other Issues	Total Points	Grade
0	1	0	2	0	2	2	1	8	C+

Lower scores indicate better administration within a range of 0-3 for the first two categories, and 0-2 for the rest.

COST identified these issues with New York's tax system (as of 2010):

- **Pay-to-Play:** All taxpayers in New York City, plus sales tax and corporate franchise taxpayers in New York State, must pay the tax in order to appeal to the Appellate Division of the Supreme Court;

- **Unequal Interest Rates:** Interest rates are much higher for assessments than they are for refunds by the Department;
- **Return Due Date:** Corporate tax return is not due at least 30 days after Federal return and there is not an automatic extension when the Federal return is extended;
- **Filing of IRS Changes:** No definition of final determination. IRS and non-IRS changes must be reported within 90 days on an amended return where 180 days is suggested; and
- **Other issues:** Retroactive change in a controversial tax policy, presumption of nexus for soliciting sales.

This report recommends tasking the Department of Taxation and Finance with reviewing all tax forms, filing requirements and payment requirements, with the goal of reducing redundant and overly burdensome filings, as well as improving their administrative procedures to make them more taxpayer friendly. The Department will then report back to the Legislature with recommendations.

Appendix

Suggestions From Hearing Participants

Nearly every participant that spoke at the hearings was well aware of the shortcomings of the current tax system, and the vast majority of them had their own unique perspective on how to address these problems as they related to their particular industry or group of industries. However, when the participants were asked whether broad based tax relief or targeted tax relief was preferable, the vast majority of participants would choose broad based relief in some form.

There were many suggestions on how to amend the tax code to reduce the burden on the taxpayers of New York State, both financially and administratively. There were several common threads that ran through the participants' testimony. These broad themes are as follows:

Personal Income Tax

- Reduce tax rates;
- Index the Personal Income Tax to the inflation rate permanently;
- Reduce tax rates regionally, by lowering the rates for upstate counties that are underperforming with the rest of the State;
- Create equity between how different forms of income are treated at the State and Federal level; and
- Create equity between the taxation of businesses under the Personal Income Tax and the Corporate Franchise Tax.

The targeted tax cuts suggested for the personal income tax are as follows:

- Assess the LLC fee on gross income for agricultural businesses; and
- Reduce tax rates for small businesses.

Business Taxes

The suggestions for amending business taxes were:

- Overall reduction or elimination of corporate taxes;
- Eliminate taxes on manufacturers;
- Reduce tax rates regionally by reducing rates for businesses located in upstate counties;
- Simplification of the tax code by combining the Bank and Corporate Franchise Tax and eliminating the Alternative Minimum Tax (AMT); and
- Recouple with Federal tax treatment of depreciation by allowing special bonus depreciation and the Qualified Production Activities Deduction.

The targeted tax cut suggestions for business taxes are as follows:

- Make Low Income Housing Tax Credit refundable;
- Permit bifurcation of State and Federal Low Income Housing Tax Credit so that developers would be able to market the credits separately, and in the last instance, use the credits themselves;
- Move up the date of implementation of the refundability of Historic Tax Credit to property placed in service on or after January 1, 2014;
- Provide tax credit for asbestos abatement;
- Provide advanced approval process by NYS Department of Taxation and Finance with respect to eligibility for the Brownfield Tax Credits;
- Pass legislation to correct QETC-retroactively changed rules;
- Clarify and extend QETC;
- Make the Investment Tax Credit for the securities industry permanent;
- Eliminate Start-Up NY Program;
- Angel Tax Credit;
- Refundable R&D credits; and
- Reduce the Film Tax Credit.

Estate Tax

- Eliminate the tax completely, or at the very least, equalize with the Federal exemption threshold.

Highway Use Tax

- Repeal the Truck-Mileage Tax: In 1996, the Truck-Mileage Tax was repealed for miles traveled on the toll-paid portion of the New York State Thruway. However, the Truck Mileage Tax still remains for travel on all the other roadways of the State.

Sales and Use Tax

- Broaden sales and use tax base and cut the rate: Currently, the City of New York taxes several services that are not taxed by the State:
    - written or oral credit rating services; oral credit reporting services not delivered by telephone;
    - beautician, barbering, and hair restoring services;
    - tanning services;
    - manicure and pedicure services;
    - electrolysis;

- massage services; and
- the sale of the services of transporting, transmitting, distributing, or delivering gas or electricity, when purchased from someone other than the vendor of the gas or electricity.

There are currently 148 sales tax exemptions that offer exemptions totaling over $11 billion.

Miscellaneous Taxes

- Immediate and full repeal of the 18-A Energy Assessment;
- Elimination of MTA Payroll Tax;
- Eliminate Stock Transfer Tax; and
- Eliminate NYC Unincorporated Business Tax.

Property Taxes

- Create a more uniform assessment procedure which will lead to more accurate and less burdensome assessments on businesses; and
- Other reforms that pertain only to NYC and Nassau – dealing with property classes.

Changing the tax code is just one way to improve the business and tax climate in this State. There are other areas the participants mentioned that would help improve the tax climate in New York. The regulatory atmosphere and the administration of the tax code were mentioned as areas that needed improvement.

Department of Taxation and Finance (DTF)

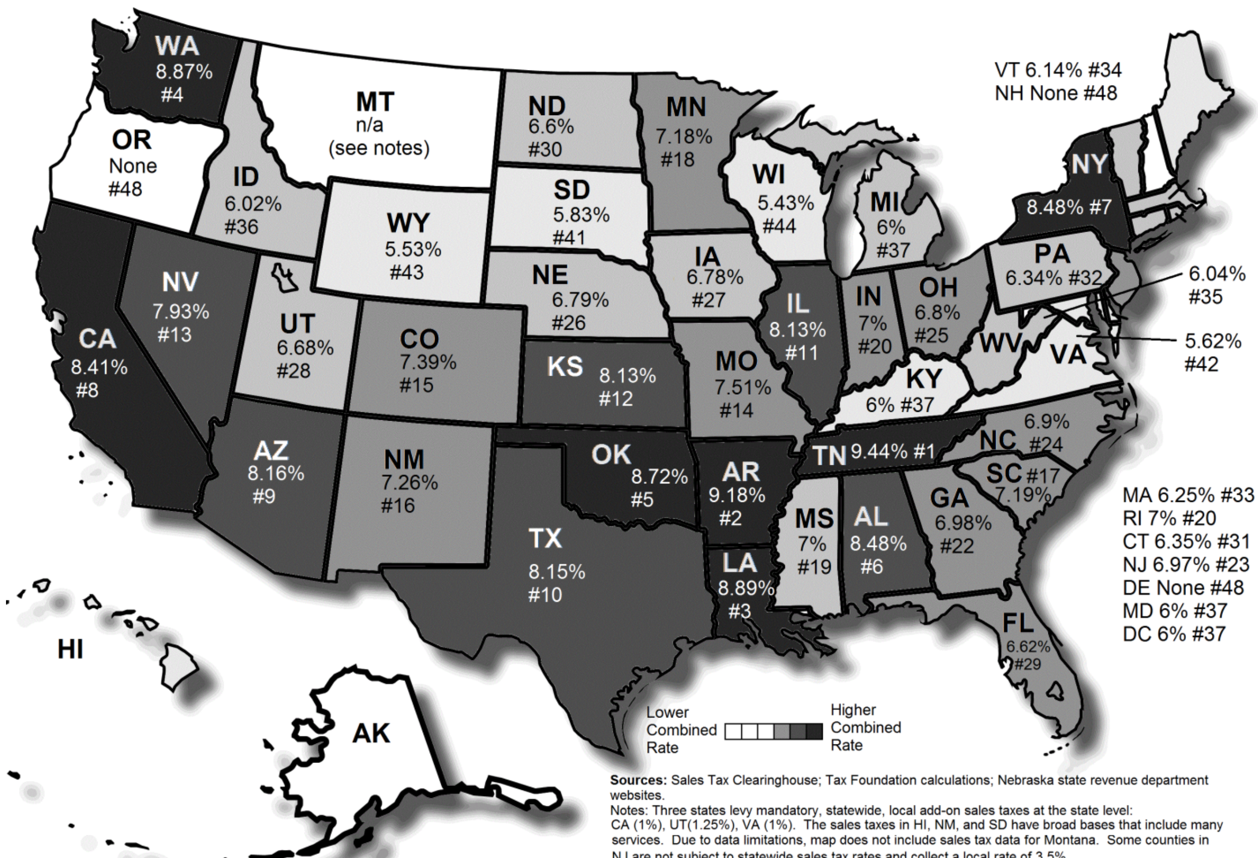
- Streamline and consolidate tax forms and deadlines (State and Federal);
- DTF collection compliance officers be empowered to use judgment in dealing with taxpayers who have outstanding liabilities;
- Streamline collection of Gross Receipts Tax to one central administration rather than by 400 localities; and
- Create a publicly available guidebook to the audit process so that taxpayers will know what to expect and what is expected on them when going into an audit.

Regulatory Reforms

- Reduce administrative requirements and fees to start a new business; and
- Eliminate the "newspaper publication" requirement where new LLC's must advertise in two papers.

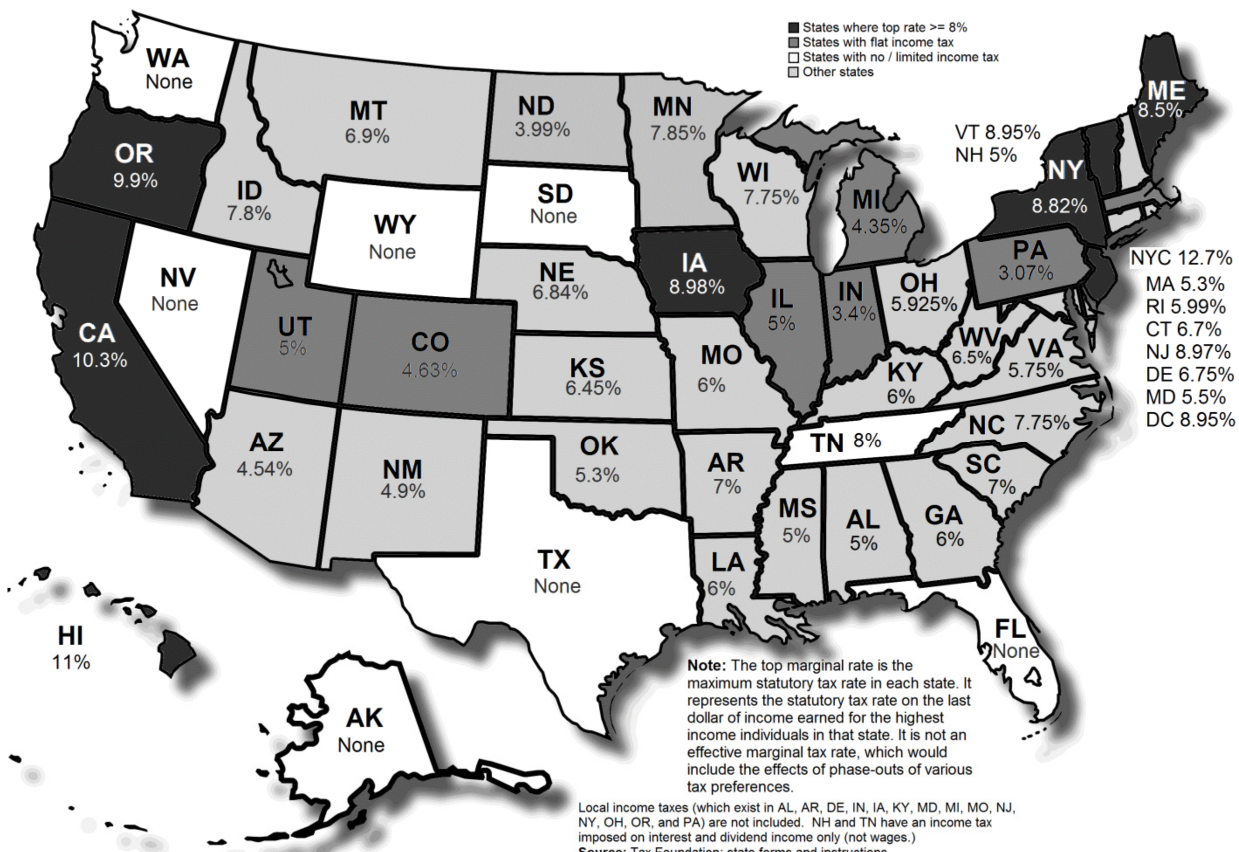
Appendix II

Combined State and Average Local Sales Tax Rates, as of July 1, 2013



Source: Tax Foundation

Top State Income Tax Rates, Tax Year 2012



Source: Tax Foundation

2013 State Business Tax Climate Index Ranks and Component Tax Ranks						
State	**Overall Rank**	**Corporate Tax Rank**	**Individual Income Tax Rank**	**Sales Tax Rank**	**Unemployment Ins. Tax Rank**	**Property Tax Rank**
Alabama	21	17	18	37	13	8
Alaska	4	27	1	5	28	13
Arizona	25	24	17	50	1	5
Arkansas	33	37	28	41	19	19
California	48	45	49	40	16	17
Colorado	18	20	16	44	39	9
Connecticut	40	35	31	30	31	50
Delaware	14	50	29	2	3	14
District of Columbia	*44*	*35*	*36*	*42*	*48*	*24*
Florida	5	13	1	18	10	25
Georgia	34	9	40	13	25	30
Hawaii	37	4	41	31	30	15
Idaho	20	19	23	23	47	2
Illinois	29	47	13	34	43	44
Indiana	11	28	10	11	11	11
Iowa	42	49	33	24	34	37
Kansas	26	36	21	32	9	28
Kentucky	24	26	26	9	48	18
Louisiana	32	18	25	49	4	23
Maine	30	41	27	10	32	39
Maryland	41	15	45	8	46	40
Massachusetts	22	33	15	17	49	47
Michigan	12	7	11	7	44	31
Minnesota	45	44	44	35	40	26
Mississippi	17	11	19	28	7	29
Missouri	16	8	24	27	6	6
Montana	8	16	20	3	21	7
Nebraska	31	34	30	26	8	38
Nevada	3	1	1	42	41	16
New Hampshire	7	48	9	1	42	43
New Jersey	49	40	48	46	24	49
New Mexico	38	39	34	45	15	1
New York	**50**	**23**	**50**	**38**	45	45
North Carolina	44	29	43	47	**5**	**36**
North Dakota	28	21	35	16	17	4
Ohio	39	22	42	29	12	34
Oklahoma	35	12	36	39	2	12
Oregon	13	31	32	4	37	10
Pennsylvania	19	46	12	20	36	42
Rhode Island	46	42	37	25	50	46
South Carolina	36	10	39	21	33	21
South Dakota	2	1	1	33	35	20
Tennessee	15	14	8	43	26	41
Texas	9	38	7	36	14	32
Utah	10	5	14	22	20	3
Vermont	47	43	47	14	22	48
Virginia	27	6	38	6	38	27
Washington	6	30	1	48	18	22
West Virginia	23	25	22	19	27	24
Wisconsin	43	32	46	15	23	33
Wyoming	1	1	1	12	29	35

Note: A rank of 1 is more favorable for business than a rank of 50. Rankings do not average to total. States without a tax rank equally as 1. D.C. score and rank do not affect other states. Report shows tax systems as of July 1, 2012 (the beginning of Fiscal Year 2013).

Source: Tax Foundation.

[1] *See, e.g.,* Josh Barro, *Do Property Tax Caps Work? Lessons for New Jersey from Massachusetts*, Manhattan Institute for Policy Research (May 2010), http://manhattan-institute.org/html/cr_62.htm; Noah Glyn & Scott Drenkard, *Prop. 13 in California, 35 Years Later*, Tax Foundation Tax Policy Blog (Jun. 6, 2013), http://taxfoundation.org/blog/prop-13-california-35-years-later.

[2] The Tax Foundation, 2014 *State Business Climate Index* by Scott Drenkard & Joseph Henchman. October 9. 2013
http://taxfoundation.org/article/2014-State-business-tax-climate-index

[3] The Tax Foundation, Data Tools *State to State Migration Data*
http://interactive.taxfoundation.org/migration/

[4] New York Times, Raymond Hernandez, *New York Will Lose Two House Seats, and New Jersey One*. December 21, 2010.

[5] Tax Foundation, October 2012, Number 65: *Annual State-Local Tax Burden Ranking New York Citizens Pay the Most, Alaska the Least* by Elizabeth Malm & Gerald Prante, PhD.
http://taxfoundation.org/sites/taxfoundation.org/files/docs/BP65_2010_Burdens_Report.pdf

[6] Challenger, Gray & Christmas, Inc. ,
November 6, 2013 *Announced Job Cuts Up Slightly in October, EMPLOYERS PLAN TO SHED 45,730 WORKERS*. http://www.challengergray.com/press/PressRelease.aspx?PressUid=292
November 1, 2012 *Job Cuts Surge to Five-Month High, OCTOBER JOB CUTS JUMP 41% TO 47,724*. http://www.challengergray.com/press/PressRelease.aspx?PressUid=243

[7] W.P. Carey School of Business, Arizona State University, JOB GROWTH USA, *Current State Non Farm Rankings August 2013 over August 2012*
http://legacy.wpcarey.asu.edu/bluechip/jobgrowth/jgu_States.cfm

[8] Forbes.com, February 7, 2013, *The States People Are Fleeing In 2013*, by Jenna Goudreau,
http://www.forbes.com/sites/jennagoudreau/2013/02/07/the-States-people-are-fleeing-in-2013/

[9] The total personal income tax includes: $40 billion in State income tax, $8.5 billion in New York City personal income tax, and $40 million in Yonkers personal income tax.

[10] New York State Comptroller Table 1: Overlapping Real Property Tax Levies Per Year (2012) available at: http://www.osc.State.ny.us/localgov/orptbook/taxrates.htm

[11] It should be noted that in making this comparison different data sets were used. Due to limited availability of recent data, County Property Tax and School Property Tax levies (NYS Comptroller) were used to identify the most current rate of growth in New York property tax-- County and School Property Taxes comprise 79% of property tax levied in New York (Outside NYC). U.S. Census Data was used to compile National property tax growth rates.

[12] Data obtained from US Census. Census Data on property taxes is collected from a mail-out/mail-back survey of about 5,400 selected local property tax collection agencies and is based on a calendar year.

Property taxes of local governments are estimated from a probability sample of county areas selected using a stratified sample procedure.

[13] Data obtained from NYS Comptroller. This % change figure represents changes in School Property Tax (Outside NYC) & County Property Tax levied. The State Comptroller compiles State tax levy data for each year. The year in OSC data refers to the fiscal year for which each locality's tax was levied, identified by the calendar year in which it ends. Local governments have different endings of their fiscal years. For example, the fiscal years of all counties, towns and fire districts are calendar years, and end December 31st. Most villages have fiscal years ending May 31st, but there are exceptions. Most cities have fiscal years ending December 31st, but, again, there are exceptions, most notably the Big 5 cities (Buffalo, Syracuse, Rochester, Yonkers, and New York City). All school districts have fiscal years ending June 30th.

[14] The year refers to the fiscal year for which each locality's tax was levied, identified by the calendar year in which it ends. All school districts have fiscal years ending June 30th. (Example: 2012-2013 means June, 2012 to June, 2013)

[15] Estimate based on a 10 year average levy increase Statewide (4.59 percent). Increase compared to actual school district increases from the NYS Property Tax Report Card (State Education Department).
[16] Does not include NYC
.
[17] NYS Commission on Property Tax Relief. Final Report 2008.

[18] The Tax Foundation State and Local Tax burden 2010.

[19] Forbes website, *Where Not To Die In 2013 Update* (June 13, 2013); http://www.forbes.com/sites/ashleaebeling/2013/06/13/where-not-to-die-in-2013-update/

[20] National Association of Manufacturers website: *Facts about Manufacturing in the United States* http://www.nam.org/Statistics-And-Data/Facts-About-Manufacturing/Landing.aspx

[21] Council on State Taxation (COST) *The Best and Worst of State Tax Administration; COST Scorecard on Tax Appeals & Procedural Requirements*, February 2010: http://www.cost.org/WorkArea/DownloadAsset.aspx?id=75910