

Revenue Actions and Tax Reform

Overview

There are no new taxes or fees in the Executive Budget. The Budget proposes to strengthen the State's already robust tax enforcement efforts to ensure all individuals pay their fair share. These provisions, as well as the extension of existing revenue sources, would generate an additional \$403 million in collections on an All Funds basis in 2013-14 from existing taxes and fees.

Tax and Assessment Actions

The Executive Budget proposes no new taxes or fees.

Expanded Tax Credits and Exemptions

The Executive Budget proposes five new tax credits or exemptions.

- **Establish the New York Innovation Hot Spots Program.** Create tax-free zones and a supportive environment in which inventors and entrepreneurs can foster innovation. A competitive program will be established to designate five higher education-private sector high-tech innovation incubators for start-up companies each year for two years. The start-ups will be free of sales and business taxes for the first five years of their existence.
- **Establish Tax-free Sales at Taste-NY Facilities.** Promote the sale of New York agricultural products, alcoholic beverages and similar items by combining tax-free sales at retail venues with aggressive branding and marketing. In high traffic rest areas, train stations and airports across New York, the State will establish "Taste-NY"-branded retail stores, carts, and next-generation luxury vending machines to sell predominantly New York State products free of all sales tax to the consumer.
- **Establish the Charge NY Electric Vehicle Recharging Equipment Credit.** Foster a consumer transition to plug-in electric vehicles (PEVs) by incentivizing the installation of PEV charging stations. The tax credit would be 50 percent of the taxpayer costs up to \$5,000 per charging station. Accelerating the replacement of less fuel efficient vehicles with PEVs benefits air quality and public health, reduces carbon and other emissions that contribute to climate change, and supports energy security efforts.
- **Extend, Enhance and Improve Transparency for the New York Film Production Tax Credit.** Provide predictability and opportunities for growth to an important industry by extending the Empire State film production tax credit of \$420 million a year for an additional five years, beginning in calendar year 2015. Restrictions on claiming the post-production portion of the credit will be reduced and additional reporting will be required to document the effectiveness of the credit in creating jobs.
- **Extend and Enhance the Historic Commercial Properties Rehabilitation Credit.** Provide assurance to developers who are rehabilitating historic commercial property, or are considering doing so, by extending the existing \$5 million per project tax credit for five years (2015-2019) and making the credit refundable beginning in tax year 2015.

Revenue Extenders

- **Extend the High Income Charitable Contribution Deduction Limitation for Three Years.** Extend for three years, starting with tax year 2013, the existing limitation on charitable contribution deductions for New York State and New York City taxpayers with adjusted gross income over \$10 million. The current limitation of 25 percent of any charitable contribution deduction allowed under the Internal Revenue Code has had no noticeable impact on charitable giving.
- **Extend Utility Assessment.** Extend the Temporary Utility Assessment on electric, gas, water and steam utilities for five years. Originally enacted in 2009, this assessment provides over \$500 million in General Fund revenues, the loss of which could force harmful reductions in economic development and human services programs.
- **Extend Monticello VLT Rates.** Extend by one-year the current distribution percentages for net machine income earned at the Monticello Video Lottery Terminal (VLT) facility.
- **Make Certain Tax Rates and Authorizations for Account Wagering Permanent.** Make permanent the pari-mutuel tax rate and other racing-related provisions that have been extended numerous times on an annual basis.
- **Extend the MTA Business Tax Surcharge for Five Years.** Extend the MTA business tax surcharge for an additional five years through tax year 2018. The MTA business tax surcharge has been in effect since 1982 and generates roughly \$950 million annually, which goes directly to support the cost of the nation's largest transit system.
- **Make Waste Tire Fee Permanent.** Make permanent the \$2.50 per new tire fee for waste management. This fee, which generates \$24 million annually, supports important environmental efforts undertaken by the Department of Environmental Conservation.

Loophole Closing Actions

The Executive Budget proposes two loophole closing actions that are expected to produce \$7 million in additional tax revenue on an All Funds basis in 2013-14.

- **Close Royalty Income Loophole.** The Executive Budget will close a loophole that allows New York companies that earn royalty income to avoid paying taxes on that income. Under the proposal, New York taxpayers would have to show on their tax return that the taxpayer's non-New York parent company included the royalty income in its tax liability. The demonstration would absolve taxpayers of the obligation to pay taxes on their royalty income.
- **Reform the IDA State Sales Tax Exemption.** Currently, Industrial Development Authorities (IDAs) are allowed to use State resources for economic development purposes without consulting with the State or receiving input from the regional economic development councils. The Executive Budget will make IDAs more accountable by limiting the industries to which IDAs can offer State sales and other use benefits to those key sectors (scientific research and development, software development, agriculture, back office operations, distribution centers, financial services data centers, and manufacturing) that are eligible to receive New York's Excelsior tax credits.

Additionally, IDA projects involving State sales tax exemptions will require the approval of the regional economic development council and in cases where an IDA recaptures State sales tax from under-performing projects, IDAs will be required to return the proceeds to the State.

Tax Enforcement Actions

The Executive Budget proposes five actions that would improve tax audit and compliance activities and make it more difficult for business owners who refuse to pay State sales tax to remain in business or to re-open in another form. These actions are expected to produce \$47 million in additional tax revenue on an All Funds basis in 2013-14.

- **Expand the Cigarette and Tobacco Retailer Registration Clearance Process.** Provide the Department of Taxation and Finance (DTF) the authority to refuse to issue a certificate of registration to retailers with unpaid tax delinquencies. The certificate is required to sell cigarettes and other tobacco products at the retail level in NYS.
- **Increase the Civil Penalty for Possessing Unstamped Cigarettes.** Increase the penalty for possessing unstamped or illegally stamped cigarettes from \$150 to \$600 per carton to reflect the increased value of bootlegged cigarettes resulting from increases to the tax rate since 2000.
- **Update Criteria for Refusal and Revocation of a Sales Tax Certificate of Authority.** Expand criteria to refuse to issue sales tax Certificates of Authority (CoA) to include all delinquent taxes, and increase penalties for operating without a CoA.
- **Suspend Delinquent Taxpayers' Driver's Licenses.** Create a new program to aid in the enforcement of past-due tax liabilities by suspending, with certain exceptions, the New York State driver's licenses of taxpayers who owe taxes in excess of \$10,000. A "past-due tax liability" refers to any tax liability that has become fixed and final such that the taxpayer no longer has any right to administrative or judicial review. The program will be modeled after the State's successful use of license suspensions to compel legally owed child support payments.
- **Allow Warrantless Wage Garnishment.** Allow DTF to garnish wages of delinquent taxpayers without filing a warrant with the Department of State or County Clerks. The current requirement that a warrant be filed with the County before wages can be garnished can be unnecessarily harsh, as a warrant appears on a person's credit report for seven years, even if the delinquency has been resolved. Warrants offer no additional protection for delinquent taxpayers and requiring counties to receive the warrants from DTF represents an unfunded mandate. Wages will only be garnished if a taxpayer rebuffs DTF's efforts to negotiate a repayment agreement.

Other Revenue Actions

- **Make Tax Modernization Provisions Permanent.** Make permanent the tax modernization provisions enacted in 2011 and extended last year. These provisions, including mandatory e-filing and e-payment for preparers and taxpayers, sales tax payment requirements, and segregated accounts for non-complying vendors, would otherwise expire at the outset of the tax year 2013 filing season on December 31, 2013.
- **Eliminate Remaining Square Footage Quick-Draw Restriction.** Allow businesses of less than 2,500 square feet without a license for on-premise alcohol consumption that sell lottery tickets to offer Quick-Draw. This change will eliminate the size requirement and, when annualized, is expected to generate \$24 million in increased aid for education.

- **Require the Racing Industry to Pay for Safety Reforms.** The Executive Budget will support implementation of regulatory changes recommended by Governor Cuomo’s Task Force on Racehorse Health and Safety, following a spate of horse fatalities at New York thoroughbred tracks. The enhanced oversight will be funded by diverting 1 percent of total purse money generated by the State’s VLT revenues.
- **Recover State Revenue Lost through Vehicle and Traffic Ticket Plea Bargaining.** Extend the current State surcharges of \$80 to the series of stopping/standing/parking violations, which are commonly used when speeding tickets are pled down to lesser.
- **Establish a Statewide STAR Anti-fraud Protection Program.** Establish an anti-fraud protection program to combat STAR fraud and waste by empowering DTF to confirm eligibility via the tax return. Currently, there is no existing statewide mechanism for assessors to determine whether a homeowner is receiving illegally a STAR exemption on two homes, or on a home that is not the homeowner’s primary residence, both of which are prohibited. To maximize the effectiveness of the agency’s fraud detection efforts, DTF will simplify and redesign the STAR application form and ask all basic beneficiaries to re-register for the program.

Technical Corrections

- **Make Technical Amendments to the Tax Classification of Uncompressed Natural Gas.** Clarify that the sales and use tax exemption for natural gas used in motor vehicles also applies to natural gas purchased with the intention to compress it for use in vehicles.

Revenue Actions, Tax Reform and STAR
(millions of dollars)

	General Fund		All Funds	
	2013-14	2014-15	2013-14	2014-15
Tax and Assessment Actions				
Total Tax and Assessment Actions	0	0	0	0
Expanded Tax Credits and Exemptions				
Establish the New York Innovation Hot Spots program	0	0	0	0
Establish tax-free sales at Taste-NY facilities	0	0	0	0
Establish the Charge NY electric vehicle recharging equipment credit	0	(1)	0	(1)
Extend, enhance and improve transparency for the New York Film Production tax	0	0	0	0
Extend and enhance the Historic Commercial Properties Rehabilitation credit	0	0	0	0
Total	0	(1)	0	(1)
Revenue Extenders				
Extend the high income charitable contribution deduction limitation for three years	70	140	70	140
Extend utility assessment	236	472	236	472
Extend Monticello VLT Rates	0	0	(3)	0
Make certain tax rates and authorizations for account wagering permanent	0	0	0	0
Extend the MTA business tax surcharge for five years	0	0	0	0
Make Waste Tire fee permanent	0	0	9	24
Total	306	612	312	636
Loophole Closing Actions				
Close royalty income loophole	0	25	0	28
Reform the IDA state sales tax exemption	7	13	7	13
Total	7	38	7	41
Tax Enforcement Actions				
Expand the cigarette and tobacco retailer registration clearance process	1	1	1	1
Increase the civil penalty for possessing unstamped cigarettes	2	3	9	12
Update criteria for refusal and revocation of a sales tax Certificate of Authority	1	1	1	1
Suspend delinquent taxpayers' driver's licenses	25	5	26	6
Allow warrantless wage garnishment	10	10	10	10
Total	39	20	47	30
Other Revenue Actions				
Make tax modernization provisions permanent	6	22	6	22
Eliminate remaining square footage Quick-Draw restriction	0	0	12	24
Require the racing industry to pay for safety reforms	0	0	2	2
Recover State revenue lost through vehicle and traffic ticket plea bargaining	16	25	16	25
Establish a statewide STAR anti-fraud protection program	0	0	1	1
Total	22	47	37	74
Technical Corrections				
Make technical amendments to the tax classification of uncompressed natural gas	0	0	0	0
TOTAL REVENUE ACTIONS	374	716	403	780