

2. REVENUE ACTIONS AND STAR

Overview

The FY 2017 Executive Budget continues efforts to improve New York's business climate and lower taxes on small businesses, simplify the tax code, and improve the fairness of the tax system.

The Budget builds upon five years of tax relief accomplishments, including: the enactment of a property tax cap; the property tax freeze credit; the lowest middle class income tax rate in 60 years; elimination of the MTA payroll tax for more than 700,000 small businesses and the self-employed; creation of a new family tax relief credit; tax cuts for small businesses and manufacturers; reforms to unemployment insurance and workers compensation insurance; new START-UP NY tax free zones; and the most important overhaul of corporate taxes in seven decades including a reduction in corporate rates.

The additional tax relief proposed in the Executive Budget is made possible by continued adherence to the two percent spending limit.

Tax Cuts and Credits

The Executive Budget presents five tax cuts and credits that will provide \$444 million in direct tax relief by FY 2018, growing to \$594 million when fully annualized.

- **Lower Taxes on Small Businesses.** Small businesses are the backbone of the State's economy, accounting for 43 percent of all private sector jobs in New York. The Budget includes reforms that will improve competitiveness for small businesses, promote continued growth within the small business sector, and help further the expansion of the State's economy. Taxes are lowered both for small businesses who pay via the corporate tax and those paying through the personal income tax.
 - *Corporate:* The Budget reduces the net income tax rate from the current 6.5 percent to 4 percent effective January 1, 2017 for small businesses that file under Article 9-A. For the purpose of this tax cut, the definition of "small business" is a business with less than 100 employees, with net income below \$390,000. To avoid a "cliff" and stay consistent with how the dual rates are

treated under current law, the lower tax rates would be available to small businesses with net income below \$290,000, and the rate is phased up to the standard rate applicable to businesses with net income of \$390,000 or more. Small businesses have traditionally paid a lower rate than large corporate taxpayers, but their current advantage would disappear as corporate tax rates were lowered effective January 1, 2016. This change preserves the small business tax advantage in the new lower-tax environment. As an example, a small business taxpayer with \$285,000 in net income currently pays \$18,525 at a tax rate of 6.5 percent. Under this proposal, the same taxpayer would pay \$11,400 when their corporate tax rate falls to 4 percent.

- *Personal Income Tax:* For small businesses whose members pay taxes via the personal income tax, the Budget provides new and expanded tax cuts. The existing 5 percent sole proprietor and farm business income AGI subtraction, available to taxpayers with small business income of \$250,000 or less, is increased to 15 percent. As an example, a farmer or sole proprietor with net business income of \$240,000 in the current year and an effective tax rate of 6 percent would exempt 5 percent of his net income to save \$720. Under the proposed 15 percent exemption, the savings would grow to \$2,160. In order to create tax parity between small business types, the Budget also expands this 15 percent AGI subtraction to

include members of partnerships, S-corporations, and LLCs as long as at least some of their business income is derived from a business entity with less than \$1.5 million in NY gross receipts, and their total business income from these sources is below \$250,000. As an example, if a taxpayer is a member of a qualifying partnership with net business income of \$200,000, at an effective tax rate of 6%, she would currently pay \$12,000 in tax. Under this proposal, 15 percent of her income would be exempted, lowering her tax bill by \$1,800.

- **Enhance the Urban Youth Jobs Program Tax Credit.** This program encourages businesses to hire unemployed, disadvantaged youth, ages 16 to 24, living in the cities and towns with the highest poverty and unemployment rates. The annual allocation is increased from \$20 million to \$50 million for hiring years 2016 and 2017, of which \$10 million annually may be allocated statewide.
- **Establish Thruway Toll Tax Credits.** To lower the cost of traveling the New York State Thruway for commuters and other heavy users, and to lower the cost of bringing products to market for businesses, the Executive Budget provides a nonrefundable credit for Thruway tolls paid electronically. Drivers of passenger vehicles who spend at least \$50, annually, and businesses and commercial account holders who spend between \$100 and \$9,999 in Thruway tolls, annually, would receive a tax credit worth 50 percent of tolls paid. For farmers, the Budget provides a

100 percent nonrefundable credit, regardless of usage, for farm vehicle use on the Thruway. Over the three years, drivers will save \$340 million.

- **Establish the Parental Choice in Education Act.** The Executive Budget promotes educational choice and philanthropy, and provides support for teachers in recognition of their personal spending for their classrooms. The new credits provide \$150 million in tax relief annually through the Parental Choice in Education Act. An aggregate total of \$50 million is dedicated to a 75 percent nonrefundable credit for charitable contributions to educational scholarship organizations that provide support to low income students seeking to attend a nonpublic school or a public school outside of the student's district. Corporation franchise and individual taxpayers may claim this credit, up to a maximum annual credit of \$1 million. Another \$20 million is dedicated to a credit for contributions to public education entities, school improvement organizations, and local education funds, based on the same parameters as the credit for contributions to educational scholarship organizations. The Act also establishes a refundable tax credit worth an aggregate \$70 million, against the personal income tax, for up to \$500 in tuition costs per pupil for families with New York Adjusted Gross Income below \$60,000. Finally, recognizing that many teachers spend their own money on materials for their classroom, the Act creates a refundable credit equal to the cost of instructional supplies purchased by a public, charter, or private school educator, up to a

maximum of \$200, with an aggregate cap of \$10 million.

- **Establish Additional Alcohol Beverage Tax Tasting Exemptions and Production Credits.** The beer, wine and spirits industry has created over 1,600 jobs since mid-2011. Further, wine, beer, cider and liquor tastings are a tourist attraction, helping bolster travel and exploration of New York products. Alcoholic beverages used in tastings are currently exempt from the sales and use tax. The Budget expands benefits for this industry by also: exempting any product used in on-site tastings from the alcoholic beverage tax; amending the beer production credit to also include New York wine, liquor and cider production; and by conforming provisions of the Tax Law with the Alcoholic Beverage Control Law to eliminate confusion and uncertainty.

Tax Simplification Actions

- **Simplify the Taxation of Remarketed Rooms.** The Budget streamlines the collection of sales tax on remarketed hotel rooms. The purchase of hotel room occupancies by room remarketers such as Travelocity or Hotels.com would be exempt from the sales tax when those purchases are made from hotels for later resale to consumers. Currently, room remarketers collect the full amount of tax at the time of final sale to the consumer, then request a refund from the Department of Taxation and Finance for the amount of tax already remitted to the hotel.

Enforcement Initiatives

- **Expand Jeopardy Assessments to the Cigarette and Tobacco Tax.** The Department of Taxation and Finance currently has the authority to issue a jeopardy (i.e. accelerated) assessment when a delinquent sales tax vendor is at-risk of fleeing the State. The Budget expands this authority to the assessment of cigarette and tobacco products. Currently, inter-state and international bootlegging operators are avoiding the payment of taxes by fleeing the State before their assets can be seized through the normal assessment process. This provision will support the efforts of the Governor's Cigarette Strike Force, which was established in 2014 to curtail bootlegging and its effects.

Tax Law Extenders

- **Extend the Empire State Commercial Production Tax Credit for Two Years.** This tax credit covers 20 percent of qualified commercial production costs in New York State that exceed the average of the three prior years' costs, plus five percent of costs above \$500,000 in the Metropolitan Commuter Transportation District (MCTD), and above \$200,000 outside the MCTD.
- **Authorize an Additional \$8 Million for the Low-Income Housing Credit in Each of the Next Five Fiscal Years.** To help expand affordable housing in New York, this program

provides credits to develop qualifying low income housing projects. The Executive Budget authorizes the Division of Housing and Community Renewal to allocate an additional \$8 million for the program in each of the next five fiscal years, beginning April 1, 2016. Credits are awarded in equal installments for a ten-year period. The total amount of credits to be awarded from this new authorization will be \$400 million over a multi-year period.

- **Extend the Hire-A-Vet Credit for Two Years.** To support veterans in their return to the workforce, the Budget extends this credit for an additional two years, adding the 2016 and 2017 hiring periods. The program provides a refundable tax credit to employers equal to 10 percent of wages paid to a qualified veteran (up to \$5,000) and 15 percent of wages paid to a disabled veteran (up to \$15,000).
- **Extend the Clean Heating Fuel Credit for Three Years.** To support efforts to reduce greenhouse gas emissions and to mitigate the effects of climate change, the Executive Budget modifies and extends, for an additional three years, the Clean Heating Fuel credit. The current credit is equal to one cent per percent of biodiesel per gallon of biofuel purchased by an eligible taxpayer. This proposal amends the credit to apply only to biofuel blends that are comprised of more than five percent biodiesel. The credit is currently scheduled to expire on December 31, 2016.
- **Extend the Alternative Fuels Tax Exemptions for Five Years.** The existing exemptions for e85,

CNG, hydrogen and B-20 from the sales, petroleum business and motor fuel taxes are extended for five years.

- **Extend the Excelsior Jobs Program for Five Years.** The Excelsior Jobs Program claims period is extended through 2029, allowing Empire State Development the ability to continue to offer a 10 year benefit period for the next several years. Unused credits from previous years will be used to fund the extension.
- **Extend the Credit for Companies that Provide Transportation to Individuals with Disabilities for Six Years.** The credit for companies who provide transportation to individuals with disabilities is extended for an additional six years. The current credit, scheduled to expire on December 31, 2016, offsets up to \$10,000 in costs associated with upgrading vehicles, or purchasing qualifying new vehicles, to accommodate the transportation of disabled individuals.
- **Permanently Extend the Non-Custodial Earned Income Tax Credit.** The non-custodial parent earned income tax credit is permanently extended, providing parity with the existing permanent earned income tax credit. The current credit is scheduled to expire on December 31, 2016. The credit complements the regular EITC by allowing a lower credit for parents who pay child support for a qualifying child with whom they do not reside.
- **Permanently Extend Tax Shelter Reporting Requirements.** The requirement for taxpayers

to provide the Department of Taxation and Finance with copies of federal tax shelter reports is permanently extended.

- **Make Permanent and Update Certain Modernization Provisions of the Tax Law.** The tax modernization provisions relating to electronic filing, payment requirements, sales tax compliance tools, and preparer penalties are made permanent.
- **Extend Tax Preparer E-File Failure Penalties.** Expiring and expired tax preparer e-file failure penalties are extended and tax law sections regarding the regulation of tax preparers are consolidated.

School Tax Relief (STAR) Program Actions

- **Convert the STAR Benefit into a Tax Credit for New Homeowners.** The STAR program is simplified by transforming the exemption into a refundable personal income tax credit, allowing school districts to collect revenue without having to wait for reimbursement from the State. The change will only apply to first-time homebuyers and homeowners who move. Under current law, school districts collect reduced revenue as a result of the STAR exemptions, and the State compensates them for the cost of the exemption. There is no change to the amount of the STAR credit for taxpayers, only the mechanism used to claim the credit.

- **Convert New York City Personal Income Tax STAR Credit into a State Personal Income Tax Credit.** Currently, eligible NYC taxpayers apply for a NYC STAR Personal Income Tax credit on their NYS tax forms. The State reimburses the City for the lost revenue. The Executive Budget gives eligible taxpayers a credit against their State PIT, as opposed to their City PIT, thereby eliminating the need for the State to reimburse the City government. This simplification effort has no impact on the taxpayer and no impact on revenues for the City of New York.
- **Cap Annual Growth in Basic and Enhanced Exemption Benefit at Zero Percent.** The Executive Budget maintains FY 2017 STAR exemption benefits at no more than their FY 2016 levels, rather than allowing them to grow by up to two percent. The significant reduction in property tax growth resulting from Governor Cuomo's property tax cap and the existence of the Property Tax Freeze program has diminished the necessity of growing the STAR benefit.
- **Allow Late Filing of Enhanced STAR Renewal Applications and Senior Exemptions for Cases of Hardship.** The Budget allows late filing of Enhanced STAR renewal applications for cases of hardship (such as a serious personal illness or hospitalization for the taxpayer or an immediate family member), as late as the last day of the interest-free period for payment of school taxes. Additionally, the local option under the senior exemption in RPTL 467 is expanded to allow a late filing of renewal applications for hardship

up to the last day of the interest-free period for payment of school taxes.

- **Make Participation in Income Verification Program (IVP) Mandatory.** Under current law, participation in IVP is optional and seniors who are not enrolled have to re-apply for their Enhanced STAR benefits annually. The Budget makes participation in the Income Verification Program (IVP) for Enhanced STAR recipients mandatory, therefore eliminating the annual need to re-apply. IVP allows seniors who are re-applying for Enhanced STAR to authorize the assessor to have their incomes verified in subsequent years by the Department of Taxation and Finance. This change will make it easier for qualified senior citizens to keep their Enhanced STAR exemptions.
- **Make Direct STAR Payments to Property Owners in Appropriate Cases.** The Budget would allow the Commissioner of Taxation and Finance to directly reimburse a STAR-eligible property owner who didn't receive the STAR tax savings to which she was entitled due to an administrative error, and where no other remedy is readily available.

Other Revenue Actions

- **Authorize Combative Sports.** The Executive Budget proposes to legalize and regulate combative sporting events in New York State. Currently, only New York State bans such events.

- **Amend State and Local Tax Law to Comply with Newly-Adopted Federal Tax Regulations on Aviation Fuel.** All petroleum business tax revenue imposed on aviation fuel is directed to a new dedicated airport fund effective April 1, 2017 and the local sales tax on such aviation fuel is repealed, effective December 1, 2017.
- **Conform to New Federal Tax Filing Dates.** NYS law is conformed to new federal tax filing deadlines for certain business taxpayers. Recent Federal legislation changed the federal tax filing deadline for partnerships from April 15 to March 15, and from March 15 to April 15 for corporations.
- **Eliminate Charitable Giving as a Factor in Determining Domicile for the Estate Tax.** The Department of Taxation and Finance's long-standing administrative practice of not using qualifying charitable gifts of time or money as a means of determining domicile for purposes of calculating New York State estate tax liability is codified.

Gaming Initiatives

- **Extend Certain Tax Rates and Certain Simulcasting Provisions for One Year.** The pari-mutuel tax rate and other racing-related provisions are extended for one year.
- **Extend the Video Lottery Gaming (VLG) Vendor's Capital Awards Program for One Year.** VLG operators are provided one additional

year to earn qualifying capital awards, which encourage facility upgrades and improvements.

- **Extend Monticello Video Lottery Terminal Rates for One Year.** The higher commission rate for the Monticello Video Lottery Terminal Facility is extended for one additional year.
- **Amend the Upstate New York Gaming and Economic Development Act for Technical Changes.** The Tax Law is amended to clarify that the reduced tax rate paid by a Video Lottery Terminal facility that competes with a commercial gaming facility in the same region only applies to the pro-rated portion of the year when the competing commercial gaming facility is open, and not for the whole of such opening year. Additionally, the Budget clarifies that host county payments are based solely on the net gaming income of the specific commercial gaming in that host community.
- **Provide for an Additional Commission for Certain Video Lottery Terminal Facilities.** The intention of the Upstate Gaming and Economic Development Act of 2013 was for a Video Lottery Terminal Facility competing with a commercial gaming facility to pay the same percentage share of net gaming income to support education. However, since the Finger Lakes facility is not in the same gaming region as the proposed LAGO facility, even though it is less than 30 miles away, no such relief from the Gaming Act would be provided to Finger Lakes. The Budget corrects this inequity.

- **Increase Purse Surcharge and Regulatory Fee to Support Racehorse Health and Safety.** Under current law, one percent of purse enhancements is redirected from the VLT program to fund costs associated with recommendations made by the Task Force on Racehorse Health and Safety report and 0.5 percent of regulatory fee is imposed on thoroughbred, harness, off-track pari-mutuel betting and simulcast racing. To fully fund the recommendations of the Task Force and to enhance Gaming Commission's capacity to promote equine health and safety, the Budget increases the amounts to 1.6 percent and 0.6 percent, respectively.
- **Adjust Timing of Reimbursement to Gaming Commission of Per Diem Costs for Harness Racing Judge and Starter.** Licensed harness tracks are required to pay the per diem costs for one associate judge and one starter at each harness track facility. Currently, the Gaming Commission is required to notify the facility of the per diem costs before the month begins, which the track pays on the last business day of the month. However, actual costs and race days are not known until well after the month has concluded, leading to a lengthy reimbursement process. The reimbursement timing requirements of harness tracks are adjusted to establish a more efficient requirement process.
- **Remove Restriction for a Single Lab Testing Provider.** Section 902 of the Racing Law dictates that drug testing for race horses shall be conducted by a "state college within this state

with an approved equine science program.” Morrisville State College is the only college that fulfills this statutory requirement. This restriction is eliminated to allow the Gaming Commission to entertain bids from other facilities which might provide lab testing services at a lower price.

Fee Actions

- **Extend Waste Tire Fee.** In order to avoid cuts to essential programs, the Budget extends the Waste Tire Fee, which is scheduled to expire December 31, 2016. This \$2.50 fee, which has been in place since 2003, funds the abatement of waste tire sites and supports approximately 140 Department of Environmental Conservation employees involved in critical solid and hazardous waste cleanup activities.
- **Redirect DMV Funds to Dedicated Highway and Bridge Trust Fund.** The DMV Seized Assets, Compulsory Insurance, Internet Point Insurance Reduction Program and the Motorcycle Safety Funds are consolidated into the Dedicated Highway and Bridge Trust Fund (DHBTF). This will increase efficiency and transparency by reducing the overall number of DMV fund sources, and improve programmatic flexibility.

REVENUE ACTIONS and STAR
(in billions of dollars)

	General Fund		All Funds	
	FY 2017	FY 2018	FY 2017	FY 2018
Tax Cuts and Credits	(1)	(#44)	(1)	(#44)
Provide a Corporate and Personal Income Tax Small Business Tax Cut	-	(298)	-	(298)
Enhance the Urban Youth Opportunity Program Tax Credit	-	(60)	-	(60)
Establish Thruway Toll Tax Credits	-	(113)	-	(113)
Establish Education Tax Credits	-	-	-	-
Establish Additional Alcohol Beverage Tax Tasting Exemptions and Production Credits	(1)	(6)	(1)	(6)
Tax Simplification Actions	-	-	-	-
Simplify the Taxation of Remodeled Rooms	-	-	-	-
Enforcement Initiatives	-	-	-	-
Expand Jeopardy Assessments to the Cigarette and Tobacco Tax	-	-	-	-
Tax Law Extenders	17	9	16	6
Extend the Empire State Commercial Production Tax Credit for Two Years	-	-	-	-
Authorize Additional Credits of \$8 Million for the Low-Income Housing Credit for Each of the Next Five Fiscal Years	-	(6)	-	(6)
Extend the Hire-A-Vet Credit for Two Years	-	-	-	-
Extend the Clean Heating Fuel Credit for Three Years	-	-	-	-
Extend the Alternative Fuel Tax Exemptions for Five Years	(1)	(1)	(2)	(4)
Extend the Excess Jobs Program for Five Years	-	-	-	-
Extend the Credit for Companies who Provide Transportation to Individuals with Disabilities for Six Years	-	-	-	-
Permanently Extend the Non-Custodial Earned Income Tax Credit	-	-	-	-
Permanently Extend Tax Shelter Reporting Requirements	18	18	18	18
Make Permanent and Update Certain Modernization Provisions of the Tax Law	-	-	-	-
Extend Tax Penalties for Failure to File	-	-	-	-
School Tax Relief (STAR) Program Actions	240	409	-	(#85)
Convert the STAR Benefit into a Tax Credit for New Homeowners - Credit Portion	-	(68)	-	(68)
Convert the STAR Benefit into a Tax Credit for New Homeowners - Spending Savings	98	194	-	-
Convert New York City Personal Income Tax STAR Credit into a State Personal Income Tax Credit - Credit Portion	-	(67)	-	(67)
Convert New York City Personal Income Tax STAR Credit into a State Personal Income Tax Credit - Spending Savings	87	284	-	-
Cap Annual Growth in Basic and Enhanced Exemption Benefit at Zero Percent	56	112	-	-
Allow Late Filing of Enhanced STAR Renewal Applications and Senior Exemptions for Cases of Hardship	(1)	(1)	-	-
Make Participation in Income Verification Program (VIP) Mandatory	-	5	-	-
Authorize the DTF Commissioner to Make Direct Payments of STAR Tax Savings to Property Owners in Appropriate Cases	-	-	-	-
Other Revenue Actions	1	1	1	1
Authorize Combatative Sports	1	1	1	1
Amend State and Local Tax Law for Consistency with Federal Tax Regulations on Aviation Fuel	-	-	-	-
Conform to New Federal Tax Filing Dates	-	-	-	-
Eliminate Charitable Giving as a Factor in Determining DOMI for the Estate Tax	-	-	-	-
Gaming Initiatives	-	-	(1)	2
Extend Certain Tax Rates and Certain Simulating Provisions for One Year	-	-	-	-
Extend the Video Lottery Gaming (VLG) Vendors' Capital Awards Program for One Year	-	-	-	-
Extend Monthly Video Lottery Terminal Rates for One Year	-	-	(6)	-
Amend the Update New York Gaming and Economic Development Act for Technical Changes	-	-	-	-
Provide for an Additional Commission for Certain Video Lottery Terminal Facilities	-	-	-	-
Increase Purse Surcharge from 10% to 16% and Regulatory Fee from 0.5% to 0.6%	-	-	2	2
Adjust Timing of Reimbursement to Gaming Commission of Per Diem Costs for Harness Racing Judge and Starter	-	-	-	-
Remove Restriction for a Single Lab Testing Provider	-	-	-	-
Fee Actions	-	-	6	24
Permanently Extend Waste Tie Fee	-	-	6	24
Redirect DMV Funds to Dedicated Highway and Bridge Trust Fund	-	-	-	-
TOTAL REVENUE ACTIONS and STAR	257	(25)	21	(696)

3. INVESTING IN NEW YORK

The State has received a total of \$8.3 billion from financial settlements with banks and insurers in FY 2015 and FY 2016, well beyond typical levels and what was budgeted in the Financial Plan. Using these resources, the FY 2016 Enacted Budget earmarked \$5.4 billion for one-time purposes, including \$4.6 billion for capital projects to support economic development and bolster some of the state's most vital infrastructure. The FY 2017 Executive Budget programs the remaining \$2.3 billion of available settlement funds for critical time-limited priorities.

Putting Settlement Revenues to Work

The FY 2017 Executive Budget directs \$2.3 billion in unallocated settlement funds to additional projects that will grow the economy over the long-term and position every region of the state for growth. Settlement funds will support transportation, housing, environmental infrastructure, economic development and other capital investments. These resources will support a wide array