



Division of
the Budget

REVENUE

Every New Yorker pays a **lower tax rate today** than before Governor Andrew Cuomo took office.

In Governor Cuomo's first two terms,
there has been

\$26.3B
in personal
income
tax cuts



\$7.6B
in business
tax cuts



New York State now has the **lowest corporate tax rate** since 1968, the **lowest middle class tax rate** since 1947, the **lowest manufacturers' tax rate** since 1917, and the **most private sector jobs** in history.

Controlling Property Tax Growth

The Property Tax Cap **saved taxpayers more than \$2,100** in the first five years.

This year, the Property Tax Credit program **reduces local property taxes by \$380**, on average, for **2.6 million** homeowners.



The Budget supports the phase-in of middle class tax cuts, with **average savings in tax year 2018 of \$250**. When fully effective, **six million New Yorkers will save \$700 annually**.

Tax Bracket Breakdown

\$40K to \$150K bracket: taxes drop from **6.45% to 5.5%**
\$150K to \$300K bracket: taxes drop from **6.65% to 6.0%**

Budget Highlights

Protecting New Yorkers from Federal Tax Reform. The Executive Budget begins the process of State tax reform in response to the Federal legislation.

Support Phase-In of Lowest Middle Class Tax Rates in more than 70 Years. The Budget supports the ongoing phase-in of middle class tax cuts, with average savings in tax year 2018 of \$250. When fully effective, six million New Yorkers will save \$700 annually.

Close the Carried Interest Loophole. If regional agreement is achieved, the Budget treats carried interest as ordinary income for New York State tax purposes and imposes upon it a fairness fee to eliminate the benefit from preferential tax rates that exist at the Federal level.

Connecting Youths to Jobs. Due to the success of the New York Youth Jobs Program, which has helped connect 31,000 youths to jobs, the Executive Budget increases the credit amounts by 50 percent.

The FY 2019 Executive Budget takes the first step in protecting taxpayers from the devastating impacts of Federal tax reform, continues the phase-in of the middle class tax cuts, and advances efforts to improve New York's business climate, simplify the tax code, and improve the fairness of the tax system.

Overview

The fiscal discipline of the past seven years positioned the State to deliver tax cuts for both individuals and businesses. Enacted personal income tax cuts are saving taxpayers \$26.3 billion through FY 2019 and every New Yorker now pays a lower tax rate than they did before the Governor took office. Enacted business tax cuts are saving businesses \$7.6 billion through FY 2019.

Tax relief accomplishments include: enactment of a property tax cap; the property tax freeze credit; the lowest middle class income tax rate in 70 years; elimination of the MTA payroll tax for more than 700,000 small businesses and the self-employed; creation of a newly enhanced family tax relief credit; tax cuts for small businesses and manufacturers; reforms to unemployment insurance and workers compensation insurance; tax free zones; and the most important overhaul of corporate taxes in seven decades including a reduction in corporate rates.

While the State has been lowering taxes and local governments have been finding new ways to work together and share services, changes to the Federal tax code have created new challenges for New York taxpayers. Most notably, Federal deductions of state and local taxes are now capped at \$10,000. Millions of New Yorkers will see their Federal income tax bill increase next year.

Responding to Federal Tax Reform

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act of 2017, putting into place dramatic reforms to the Federal tax system.

The law enacts sweeping changes to both individual and corporate taxes. Among its most consequential reforms, the law permanently cuts the corporate tax rate – lowering the top rate from 35 percent to 21 percent. It allows owners of certain “pass-through” entities to

take a 20 percent income tax deduction and makes a number of changes to other business credits and deductions, including limiting the deduction for interest expenses and research and development expenditures.

For individual taxpayers paying Federal income tax, the law also makes a series of changes to credits and deductions, including the limitation of the Federal deduction for State and local taxes, costing taxpayers in New York an additional \$14.3 billion per year. The new law alters a tax system that has been in place for more than 100 years in a way that has a significant impact on the tax system and economy of the State of New York by undermining the competitiveness of the State's economy.

The State's income tax system interacts with the Federal system in numerous ways, Federal changes will have significant flow-through effects on state tax burdens and revenues. In some cases, State tax law is linked to Federal tax law, necessitating State action to preserve existing programs at 2017 levels.

The Department of Taxation and Finance is preparing a preliminary report to outline options for State tax reform in response to the Federal legislation. The preliminary report is expected to outline a series of proposals for consideration and comment, including the potential to create additional opportunities for charitable contributions to New York State, the possibility of reducing income taxes and creating a statewide payroll tax, and the option to add tax deductibility through a new statewide unincorporated business tax, among other potential options.

Changes to the State tax code will be the result of a highly complex and measured process which will be built on achieving three primary objectives. First, promoting fairness for New York's taxpayers in light of the federal legislation; second, enhancing the competitiveness of New York's economy; and third, maintaining New York's revenue base.

Tax Cuts and Credits

- **Continue the Phase-In of the Middle Class Tax Cut.** The Budget supports the phase-in of the middle class tax cuts. Average savings in tax year 2018 are \$250 and, when fully effective, six million New Yorkers will save \$700 annually. Once fully phased

Performance Profile

Lowering Tax Rates for Every New Yorker. Enacted personal income tax cuts will save taxpayers \$26.3 billion through Governor Cuomo's first two terms (FY 2012 – FY 2019). Every New Yorker now pays a lower tax rate than they did before the Governor took office.

Cutting Taxes for Business. Enacted business tax cuts will save businesses \$7.6 billion through Governor Cuomo's first two terms (FY 2012 – FY 2019). New York now has the lowest corporate tax rate since 1968 and the lowest manufacturers' tax rate since 1917. The MTA payroll tax has been eliminated for more than 700,000 small businesses and the self-employed

Focusing Relief on the Middle Class. The new lower tax rates will save middle class New Yorkers nearly \$6.6 billion in just the first four years, with annual savings reaching \$4.2 billion by 2025. These tax cuts benefit more than 6 million filers who will save an average of about \$700.

Property Tax Credit is Providing Further Relief. The Property Tax Credit, enacted in 2015, will provide an additional \$1.3 billion in property tax relief and an average credit of \$530 when the program is fully phased-in by 2019.

in, the new rates will be the lowest in more than 70 years. These actions build on the middle class tax cuts of 2012, which lowered rates from 6.85 percent to 6.45 percent for taxpayers in the \$40,000-\$150,000 income bracket, and to 6.65 percent in the \$150,000-\$300,000 income bracket.

Under the new rates for tax year 2018, taxpayers in the \$43,000-\$161,550 income bracket will have a tax rate of 6.33 percent, and taxpayers in the \$161,550-\$323,200 income bracket will have a tax rate of 6.57 percent.

The rate will drop even further and will continue to drop all the way to 5.5 percent and 6.0 percent, respectively, when the cuts are fully effective. The new lower tax rates will save middle class New Yorkers \$4.2 billion, annually, by 2025.

- **Enhance the New York Youth Jobs Program.** This program encourages businesses to hire unemployed, disadvantaged youth, ages 16 to 24, who live in New York State, with a focus on the following cities and towns: Albany, Buffalo, New York, Rochester, Schenectady, Syracuse, Mount Vernon, New Rochelle, Utica, White Plains, Yonkers, Brookhaven and Hempstead. Due to the success of the program, which has helped connect 31,000 youths to jobs, the Executive Budget increases the credit amounts by 50 percent, from \$500 to \$750 per month for up to the first six months, and from \$2,000 to \$3,000 for each employee who is employed for additional time periods after six months with a maximum full time hire credit of \$7,500.
- **Increase the Vending Machine Sales Tax Exemption.** The Executive Budget incentivizes the vending machine industry to migrate to cashless machines and improve tax compliance in the process. The sales tax exemption that currently exists for food and drink purchases costing \$1.50 or less at vending machines would be expanded to exempt food and drink costing \$2 or less at vending machines accepting cashless forms of payment.

Tax Reform and Simplification Actions

- **Close the Carried Interest Loophole.** The Budget treats carried interest as ordinary income for New York State tax purposes and imposes upon it a fairness fee to eliminate the benefit from preferential tax rates that exist at the Federal level. In order to prevent New York from being placed at a competitive disadvantage, this will take effect only when functionally identical legislation is enacted in Connecticut, Massachusetts, Pennsylvania, and New Jersey.
- **Impose an Internet Fairness Conformity Tax.** Currently, internet sales are taxed and the largest retailers collect State sales tax. However, the law has not kept up with the technology and an inequity exists. The same item may be taxed by one online seller and not another. As more retail sales migrate to online platforms, the importance of ensuring tax compliance has grown. The Executive Budget requires marketplace providers to collect sales tax when they facilitate a third-party sale to residents, whether the seller is located within, or outside of, New York. Online providers such as Amazon and eBay supply a marketplace for sellers from outside of the online provider to sell their products to consumers. Currently, such outside sellers are required to collect sales tax from New York residents if the seller is in New York. Many marketplace providers agree to collect the tax for the outside seller in this instance.

- **Allow the Department of Taxation and Finance to Appeal Tax Appeals Tribunal Decisions.** Currently, both taxpayers and other State agencies may seek judicial review with respect to an adverse decision, while the Commissioner of the Department of Taxation and Finance may not. Thus, the Commissioner is precluded from appealing adverse decisions that DTF believes are contrary to the interests of the people of this State. The Executive Budget extends the right to appeal adverse Tax Appeals Tribunal decisions to the Commissioner of DTF.
- **Clarify New York Residency Requirements for Tax Purposes.** The Budget clarifies the definition of statutory residency in cases where a taxpayer changes domicile during the year. Counter to longstanding policy, recent administrative law judge interpretations have held that in such cases statutory residency does not apply if the taxpayer changing domicile does not spend more than 183 days in New York during the non-domicile period, creating unfairness vis-à-vis a statutory resident who is not domiciled in New York during the year.
- **Discontinue the Energy Services Sales Tax Exemption.** The Executive Budget eliminates the sales tax exemption on the non-residential transmission and distribution of gas or electricity when purchased from an Energy Service Company (ESCO). Enacted in the early 2000s to incentivize consumer choice, this exemption is no longer necessary now that ESCOs are established entities (New York City eliminated this tax exemption in 2009).
- **Provide Responsible Person Sales Tax Relief for Minority LLC Owners.** The Budget codifies existing DTF policy regarding relief from responsible persons' sales tax liability for minority members of LLCs and limited partners. A member's share of tax liability would be based on their percentage of ownership rather than full tax liability.
- **Simplify Taxes on the Resale of Prepared Food.** The Budget converts the current sales tax credit or refund to an upfront exemption when restaurants, caterers, cafeterias, and other businesses purchase prepared food for resale, increasing efficiency for both taxpayers and the State.
- **Convert the Veterinary Sales Tax Credit into an Exemption.** The Executive Budget converts the sales tax credit or refund for tangible personal property used in veterinarian services on a farm to an upfront exemption, increasing efficiency for both taxpayers and the State.
- **Simplify the Taxation of State-Owned Land.** Certain lands owned by the State, such as in the downstate watershed and in the Adirondack and Catskill Parks, are taxable, reflecting the benefit to a significant portion of the citizenry beyond the local level. Locally determined assessments of taxable State land are reviewed by the Office of Real Property Tax Services annually, encumbering agency resources. The Executive Budget converts the existing ad valorem tax on State-owned lands into a Payment in Lieu of Taxes (PILOT) at existing amounts, to be increased each year by the allowable levy growth factor for the property tax cap (the lesser of prior year inflation or two percent).

Enforcement Initiatives

- **Provide for Expedited Processing of Child Care Tax Credit Payments Using State Data.** The Executive Budget authorizes the Office of Children and Family Services to share child care data with DTF, allowing for legitimate credit claims to proceed without delay from waiting for additional documentation, and accelerating the auditing process for illegitimate claims.
- **Extend the Statute of Limitations on Amended Tax Returns.** The Executive Budget will reduce refund abuse by extending the statute of limitations to three years after the filing date of the amended return, rather than three years after the original return filing date. Currently, taxpayers can file an amended return containing a refund request close to three years after the due date of their initial return, hampering the possibility of an audit and assessment by DTF.
- **Provide for Employee Wage Reporting Consistency.** Employers are currently required to provide the Department of Labor with individual employee unemployment insurance information quarterly, while individual employee wage and withholding information is provided to DTF annually. The Executive Budget provides that DTF receive the same quarterly employer wage reporting that employers currently provide to DOL. Quarterly reporting will allow DTF to reduce fraudulent tax refund claims.
- **Allow Warrantless Tax Debt to be Assessed Against Unclaimed Funds.** Currently, the State may apply a taxpayer's unclaimed funds, such as from dormant accounts or unclaimed estate proceeds, to fixed and final warranted tax debt, but unclaimed funds cannot be accessed for unwarranted debt. The Executive Budget permits unclaimed funds to be accessed for payment of unwarranted fixed and final tax debt.
- **Improve Cigar Tax Enforcement.** The Executive Budget changes the definition of "wholesale price" to the invoiced price for which a manufacturer or distributor sells tobacco products to a New York State registered tobacco distributor. The current definition of "wholesale price" is the result of litigation and has resulted in revenue losses as it relies on the industry to determine the tax on its own products through a pricing survey.
- **Provide for Consistency Within the Real Estate Transfer Tax.** The Executive Budget extends from two to three years the statute of limitations for a taxpayer to file a refund claim, aligning it with DTF's assessment window. Additionally, it aligns the basic real estate transfer tax and the mansion tax with one another by making the grantor and grantee jointly liable for the tax if the liable party fails to pay the tax.

Tax Law Extenders

- **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 2018 and 2019 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 Telecom Mass Property Assessments for Four Years.** DTF establishes assessment ceilings for telecommunications “mass” properties located in or on private property. The 10 percent cap provision expired at the end of 2017, but the overall ceiling legislation remains in effect through the end of 2018. The Executive Budget extends the existing telecom ceiling law by four years and prevents a drastic ceiling decline in 2018 by repairing the cap provision to phase-in a formula, updating outdated market values.

School Tax Relief (STAR) Program Actions

- **Maintain Basic and Enhanced Exemption Benefits at Existing Levels.** The Executive Budget maintains FY 2019 STAR exemption benefits at no more than their FY 2018 levels, rather than allowing them to grow by 2 percent. Under the Property Tax Cap, the typical taxpayer saved more than \$2,100 in just the first five years. Combined with the Property Tax Freeze, local taxpayers have saved more than \$17 billion.
- **Make Participation in Income Verification Program (IVP) Mandatory.** The Executive Budget ensures that qualifying seniors enrolled in the PIT Credit program receive the full value of the benefits they deserve and simplifies the process for qualifying senior citizens to keep their Enhanced STAR exemptions by making participation in the Income Verification Program (IVP) for recipients of Enhanced STAR mandatory. By enrolling in the IVP, seniors will not have to go through the process of reapplying for the STAR benefit each year. Participation in the IVP is currently optional and seniors who are not enrolled are obligated to re-apply for their Enhanced STAR benefits annually. In cases where a PIT return is filed, the IVP allows seniors who are re-applying for an Enhanced STAR exemption to authorize the assessor to have their incomes automatically verified in subsequent years by DTF. In cases where no PIT return is filed, qualifying seniors will be guided through a simple application process to demonstrate their eligibility.
- **Require Manufactured Home Parcel Reporting.** DTF receives information on manufactured homes only when sales occur, but not when there are any other status changes. The Executive Budget requires park owners to report to the Division of Housing and Community Renewal (DHCR) quarterly, and requires DHCR to relay the info to DTF within 15 days of receipt to ensure data is collected consistently across all types of homes.

- **Require Filing of Real Property Transfer Reports.** The Executive Budget requires real property transfer reports to be filed upon the sale of cooperatives and upon sale of shares in a corporation that owns real property.

Other Revenue Actions

- **Defer Business Related Tax-Credit Claims.** Taxpayers must defer their usage of most business credits for tax years 2018 through 2020, where such credits exceed \$2 million. They can begin to use deferred nonrefundable credits in full starting in 2021, and may use 50 percent of refundable credits in 2021, 75 percent of the remainder in 2022, and the remainder in 2023.
- **Impose a Health Tax on Vapor Products.** The Executive Budget imposes an excise tax of 10 cents per fluid milliliter on vapor products at the distributor level, equalizing the tax treatment of tobacco products and the equivalent products used in e-cigarettes, and continuing the State's objective to reduce the use of tobacco products. To simplify record keeping requirements, distributors will provide customers with an invoice of total product sold in milliliters.
- **Establish an Opioid Epidemic Surcharge.** New York State, like much of the country, is battling an opioid epidemic. The Executive Budget imposes a new surcharge of 2 cents per milligram of active opioid ingredient on prescription drugs, directing all proceeds to the Opioid Prevention, Treatment and Recovery Fund. This new fund will support on-going efforts to respond to the epidemic.

Gaming Initiatives

- **Simplify Video Lottery Gaming (VLG) Rate and Additional Commission Provisions.** The Executive Budget reforms the VLG rate structure by providing more flexibility to the operators on how they use their existing capital awards and marketing allowance. In the interest of consistency across similar facilities, it reduces the number of VLG commission rates from 27 to 7. It also aligns the additional commission provisions with the original statutory intent, by keeping certain VLT facilities "held harmless" from the financial impact of a nearby casino.
- **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.
- **Eliminate the Video Lottery Gaming Hold Harmless Transfer Provision.** The Executive Budget eliminates the current VLG "hold harmless" language, simplifying the VLG and casino receipts reporting process. Since this transfer has not met its original intent, to account for the impact of casinos on VLT facilities, this part would eliminate this unnecessary and complicated transfer without impacting Aid to Education.

- **Allow Breeding Funds to be used for Equine Aftercare.** To help support and promote the well-being of racehorses, the Executive Budget allows both the New York State Thoroughbred and Breeding Fund, and the Agriculture and New York State Horse Breeding Development Fund, to contribute their own funds to certified equine athlete aftercare organizations at their own discretion.
- **Amend Racing Operations Provisions.** The Executive Budget improves racing operations by increasing the allowable reserves kept by the New York Racing Association (NYRA) and allowing NYRA to conduct evening racing under certain circumstances. Additionally, the Budget creates an advisory committee to make recommendations on the structure, operations, and funding of equine drug testing and research by December 1, 2018.

Fee Actions

- **Impose a Vehicle Safety Inspection Fee.** A new \$120 safety inspection fee will be charged to privately operated for-hire/for-profit passenger carriers for each inspection conducted by DOT to defray the costs of semiannual inspections. Vehicles affected will include motor coaches, ambulettes, and large passenger vans/limousines domiciled in New York; vehicles used for school transportation or public transit will be excluded.
- **Modernize Highway Right-of-Way Fees.** Certain companies are exempt from paying for use of fiber-optic cables along State Highway Right-of-Way. The Executive Budget closes this loophole and allows the Department of Transportation to create a modern rate structure for Right-of-Way fees.
- **Impose a Healthcare Insurance Windfall Profit Fee.** The Budget imposes a new 14 percent surcharge on the underwriting gain of health insurance policies.

Technical Amendments

- **Amend the Local Sales Tax Statute for Technical Changes.** The Budget equalizes county sales tax revenue distribution by extending existing provisions for Genesee, Monroe, Onondaga, and Orange Counties through November 30, 2020 via technical corrections to Chapter 61 of the Laws of 2017.
- **Amend Real Property Tax Law for Various Technical Amendments.** The Executive Budget amends Real Property Tax Law to: repeal obsolete provisions and outdated references; conform administration of the STAR programs by prohibiting married couples from getting two STAR credits and allowing senior citizens receiving a STAR Credit an extension to pay their property taxes; update certification of STAR exempt amounts; and amend Partial Payment law to provide for county's consent when preparing bills on behalf of a municipality.

Table 3: Revenue Actions and STAR (Millions of Dollars)

	General Fund		All Funds	
	FY 2019	FY 2020	FY 2019	FY 2020
Responding to Federal Tax Reform	-	-	-	-
Maintain 2017 Empire State Child Tax Credit Benefits	-	-	-	-
Tax Cuts and Credits	-	-	-	-
Enhance the New York Youth Jobs Program	-	-	-	-
Increase the Vending Machine Sales Tax Exemption	-	-	-	-
Tax Reform and Simplification Actions	165	275	176	292
Close the Carried Interest Loophole	-	-	-	-
Impose an Internet Fairness Conformity Tax	75	150	80	159
Allow the Department of Taxation and Finance to Appeal Tax Appeals Tribunal Decisions	-	5	-	5
Clarify New York Residency Requirements for Tax Purposes	-	-	-	-
Discontinue the Energy Services Sales Tax Exemption	90	120	96	128
Provide Responsible Person Sales Tax Relief for Minority LLC Owners	-	-	-	-
Simplify Taxes on the Resale of Prepared Food	-	-	-	-
Convert the Veterinary Sales Tax Credit Into an Exemption	-	-	-	-
Simplify the Taxation of State-Owned Land	-	-	-	-
Enforcement Initiatives	18	34	18	34
Provide for Expedited Processing of Child Care Tax Credit Payments Using State Data	-	5	-	5
Extend the Statute of Limitations on Amended Personal Income Tax Returns	3	3	3	3
Provide for Employee Wage Reporting Consistency	-	-	-	-
Allow Warrantless Tax Debt to be Assessed Against Unclaimed Funds	3	3	3	3
Improve Cigar Tax Enforcement	12	23	12	23
Provide for Consistency Within the Real Estate Transfer Tax	-	-	-	-
Tax Law Extenders	-	-	-	-
Extend the Hire a Vet Credit for Two Years	-	-	-	-
Extend Telecom Mass Property Assessments for Four Years	-	-	-	-
School Tax Relief (STAR) Program Actions	85	130	-	-
Maintain Basic and Enhanced Exemption Benefits at Existing Levels	49	95	-	-
Make Participation in Income Verification Program (IVP) Mandatory	35	35	-	-
Require Manufactured Home Parcel Reporting	-	-	-	-
Require Filing of Real Property Transfer Reports	-	-	-	-
Other Revenue Actions	85	283	212	454
Defer Business Related Tax-Credit Claims	82	278	82	278
Impose a Health Tax on Vapor Products	3	5	3	5
Establish an Opioid Epidemic Surcharge	-	-	127	171
Gaming Initiatives	-	-	22	20
Simplify Video Lottery Gaming (VLG) Rate and Additional Commission Provisions	-	-	22	20
Extend Certain Tax Rates and Certain Simulcasting Provisions for One Year	-	-	-	-
Eliminate the Video Lottery Gaming Hold Harmless Transfer Provision	-	-	-	-
Allow Breeding Funds to be Used for Equine Aftercare	-	-	-	-
Amend Racing Operations Provisions	-	-	-	-
Fee Actions	3	3	158	173
Impose a Vehicle Safety Inspection Fee	3	3	3	3
Modernize Highway Right of Way Fees	-	-	15	30
Impose a Healthcare Insurance Windfall Profit Fee	-	-	140	140
Technical Amendments	-	-	-	-
Amend the Local Sales Tax Statute for Technical Changes	-	-	-	-
Amend Real Property Tax Law For Various Technical Amendments	-	-	-	-
TOTAL REVENUE ACTIONS	356	725	586	973