

# Revenue Actions



Division of the Budget

## REVENUE

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



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.

The Budget reduces the tax burden on small corporate businesses by

**40%**

### PROPERTY TAX CAP



The Property Tax Cap program **saved taxpayers almost \$46 billion.**

### ENACT THE CANNABIS REGULATION & TAXATION ACT

The Budget establishes a regulatory structure for the **adult-use of marijuana**



and **generating revenue** for the State and local communities.



# Revenue Actions

---

The FY 2021 Executive Budget takes the next step in protecting taxpayers from the devastating impacts of Federal tax reform by continuing the phase-in of middle class tax cuts and advancing 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 nine years positioned the State to deliver tax cuts for both individuals and businesses. Enacted personal income tax cuts are saving taxpayers \$39 billion through FY 2021 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 \$12.2 billion through FY 2021.

Tax relief accomplishments include: enactment of a property tax cap and the property tax freeze credit; creating the lowest middle class income tax rate in over 70 years; eliminating the MTA payroll tax for more than 700,000 small businesses and the self-employed; enacting tax cuts for small businesses and manufacturers; delivering reforms to unemployment insurance and workers compensation insurance; creating tax-free zones; and reducing corporate taxes as part of the most important overhaul of corporate taxes in seven decades.

While the State has been lowering taxes, permanently capping property tax growth at 2 percent, and local governments have been finding new ways to work together and share services, Federal tax code changes have created new challenges for New York taxpayers, most notably, by capping Federal deductions of state and local taxes at \$10,000.

## Responding to Federal Tax Reform

On December 22, 2017, President Trump signed into law sweeping changes to the Federal tax system that have a disproportionate and negative impact on the State of New York. The law capped deductibility of State and local taxes – known as SALT – at \$10,000, costing New York taxpayers as much as \$15 billion a year. This undermines the progressivity of the State's tax system, the investments and services the State provides for its residents, and the competitiveness of New York's economy long-term.

In New York, Governor Cuomo's fiscal discipline has held state spending growth to two percent for nine consecutive years, making it possible for every New Yorker to pay a lower tax rate than before the Governor took office in 2011. The FY 2021 Budget implements further reductions to middle class tax rates and reduces the tax burden for certain small businesses and farmers as well. The Governor and the Legislature in 2011 capped annual property tax growth at two percent saving New Yorkers \$45.6 billion to date. This Property Tax Cap was made permanent in the FY 2020 Budget.

As a result of these efforts, New York State has had 36 consecutive quarters of job growth, adding nearly 1.3 million private sector jobs and marking the longest period of employment growth in at least 80 years. The State now has 8.3 million private sector jobs, an all-time high.

Yet the cap on SALT deductions puts this at risk. The cap raised taxes on more than one million New Yorkers, negatively impacting New York's ability to compete for jobs and undermining the decision by the State's voters to invest infrastructure, schools, and health.

It is the first double tax in U.S. history and the first time that a Federal law impinged on a state's sovereignty through the tax code. New York is already the number one donor state in the nation – sending billions of dollars more to the Federal government than it gets back.

## Revenue Actions

---

In response to this Federal attack, Governor Cuomo has launched a nationwide campaign in concert with New York's congressional delegation to repeal the cap on SALT deductions and sued the Federal government. Those lawsuits are still pending.

The FY 2019 and FY 2020 Budgets also took action to adjust the State's tax structure, creating an alternative employer compensation expense program, decoupling from the Federal tax code where necessary to avoid more than \$1.5 billion in State tax increases caused solely by increases in Federal taxes, and decoupling the taxability of certain economic development incentives provided through state taxes and grants that are reflected in taxable income.

The State also created in FY 2019 State-operated charitable funds, and enabled localities and school districts to do the same, all of which provided taxpayers the opportunity to manage their Federal tax liability by providing them a partial credit on their tax bill in exchange for a donation. On June 11, 2019, the U.S. Internal Revenue Service finalized a rule that ended the deductibility of these donations. New York and New Jersey were joined by Connecticut in challenging the rule in court.

Already the cap on SALT deductibility changed taxpayer filing habits creating uncertainty in the fourth quarter of FY 2019 as taxpayers changed their filing habits. Since the SALT cap was implemented in 2018, data show that the real estate market, particularly at the top of the residential market, is slowing and even declining in New York and anecdotal evidence has indicated New Yorkers, particularly the State's top earners, are moving away.

These migration patterns present a significant risk to the progressive government New Yorkers have voted for. New York collects nearly half of its personal income tax revenue from the top 1% of taxpayers, and over one-quarter of its personal income tax revenue from just 0.1% of its taxpayers – approximately 9,000 individuals.

By extending the Governor's fiscal discipline for a 10<sup>th</sup> consecutive year, the FY 2021 Budget represents Governor Cuomo's ongoing commitment to create a tax structure that benefits all New Yorkers and continues the State's efforts to strengthen its economy despite the Federal government's efforts to undermine it.

# Revenue Actions

---

## Tax Cuts and Credits

- **Continue the Phase-In of the Middle Class Tax Cut.** The Budget continues to support the phase-in of the middle class tax cuts. In Tax Year 2020, taxpayers will save nearly \$1.8 billion. When fully effective, six million New Yorkers will save \$700 annually and middle class tax 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 2020, tax rates will drop to 6.09 percent in the \$43,000-\$161,550 income bracket, and 6.41 percent in the \$161,550-\$323,200 income bracket.

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. The reforms to the tax code made New York State significantly more progressive, whether compared to the tax structure in 2011, or the then statutory default tax structure of 2008. Millionaires' share of the total tax burden increased by 21 percent between 2008 and 2015. The share of the overall tax burden by filers earning \$50,000 or less dropped by 41 percent. The share of the overall tax burden by filers earning \$100,000 or less dropped by 27 percent.

- **Reduce the Burden on Small Businesses.** Small businesses are the backbone of the State's economy. To continue the State's robust economic growth and record of job creation, the Executive Budget provides further tax relief for small businesses.
  - **Reduce Taxes on Small Businesses by 40 Percent:** The Budget reduces the business income tax rate from the current 6.5 percent to 4 percent for businesses with 100 or fewer employees and with net income below \$390,000 that file under Article 9-A. Small businesses have traditionally paid a lower rate than large corporate taxpayers and this reduction preserves the small business tax advantage in the new lower-tax environment created in 2014 with corporate tax reform.
  - **Triple the Current Income Exclusion for Farmers and Sole Proprietors:** The Budget triples the existing 5 percent sole proprietor and farm business income AGI subtraction to 15 percent for small businesses paying taxes via the personal income tax with small business income of \$250,000 or less.
  - **Make the Investment Tax Credit Refundable for Farmers:** The Budget expands refundability of the investment tax credit from only new businesses to include taxpayers whose primary source of income is from farming operations, allowing taxpayers to receive the full benefit of their credits earned.
  - **Repeal Penalty on Small Businesses for Underpayment of Estimated Taxes:** New York State S corporations are required to make estimated tax payments if they believe their tax will exceed \$1,000 and are subject to a tax penalty if they underpay. The Budget repeals this penalty, reducing both an administrative and financial burden on New York State's small businesses.
  - **Expand the Definition of Family in Farm Labor Practices Act:** The Budget expands the definition of family in the Farm Labor Practices Act to include extended family.

## Revenue Actions

---

- **Increase the DHCR Housing Revolving Loan:** Increase the DHCR housing revolving loan from \$9 million to \$15 million.
- **Enhance Empire State Child Credit.** Too often, parents incur significant childcare costs in order to work or forego employment entirely due to unaffordable expenses. New York is one of only six states providing a state-specific credit. The credit is equal to 33 percent of the pre-2018 Federal Child Tax Credit, or \$100 per qualifying child, aged four to 16, whichever is greater. The FY 2021 Budget expands this credit to include children under the age of four for the 398,000 families (with 535,000 dependents) who need it most – those with NYS AGI of \$50,000 or less.
- **Extend Excelsior Tax Credit Program and Enhance Tax Credits for Green Projects.** The Excelsior Jobs Program is extended by establishing new credit caps through 2039 and allowing the use of unused credits through 2049. Absent an extension, new program entrants would not be given the opportunity to receive tax benefits for the full 10-year benefit period. Additionally, the Budget defines and targets those taxpayers engaged in the green economy by enhancing credits within the Excelsior Jobs Program, namely:
  - Increasing the refundable Jobs Credit from up to 6.85 to up to 7.5 percent for net new jobs in a qualifying Green Project;
  - Increasing the refundable investment tax credit from 2 to 5 percent for new capital investment in a qualifying Green Project; and
  - Increasing the Research and Development Tax Credit from up to 6 percent to up to 8 percent of eligible expenses in a qualifying Green Project.
- **Extend 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 2020 and 2021 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).

# Revenue Actions

---

## Reform and Simplification Actions

- **Reform the Tobacco Products Tax.** As a result of a loophole in the current statute, when tobacco products did not pass directly from the manufacturer to the distributor, as is often the case with imported tobacco products, tobacco distributors have the option to establish a different “wholesale price” by demonstrating an “industry standard of markups relating to the purchase price,” rather than the higher price actually paid by the distributor for the products being distributed, resulting in substantial State tax receipt losses. The Budget eliminates that option and amends the definition of “wholesale price” to reflect the price at which a tobacco product is sold to a New York State registered distributor.
- **Authorize DTF to Provide Unclaimed Tax Benefits.** Many low-income New Yorkers fail to claim the valuable earned income tax credit to which they are entitled. When DTF has sufficient information to verify eligibility, the Budget authorizes DTF to pay this credit to these families automatically, without the need to file an amended tax return. In addition, the Budget will allow DTF to provide the standard deduction instead of the itemized deduction elected by the taxpayer when the standard deduction is greater than the allowable itemized deductions.
- **Cap the Maximum Amount and Income for the Long-Term Care Insurance Credit.** New York State allows one of the highest credits in the nation for long-term care insurance premiums: 20 percent with no maximum credit amount, and no income limitations. The credit helps offset the cost of insuring for long-term care costs associated with aging and disability. To better direct this important benefit to families who most need it, the Budget proposes to limit the credit to \$1,500, and to taxpayers with incomes under \$250,000.
- **Extend and Reform the Film Production Tax Credit.** New York State’s film credit program has incentivized motion picture filming activity in the State. To enhance the effectiveness and sustainability of the \$420 million annual allocation, the Budget reduces the credit rate from 30 to 25 percent for both the production and post-production credits and requires minimum project spending amounts of \$1 million in NYC, Westchester, Rockland, Suffolk and Nassau and \$250,000 for the rest of the State (excluding pilots). In addition, variety shows – except for current productions – will be excluded from the definition of “qualified” film. In addition, the credit is extended for one more year through 2025.
- **Make Technical Amendments Related to Alcoholic Beverage Taxes.** The Budget makes the following technical amendments:
  - Updates and conforms annual reporting requirement thresholds for small alcohol producers in Tax Law to the State Liquor Authority’s (SLA) annual alcohol production caps for farm producer licenses;
  - Standardizes the tax exemption on inter-distributor sales by extending the exemption to every registered distributor; and
  - Repeals the one cent per liter tax levied on liquor containing less than two percent of alcohol by volume, simplifying the ABT return process and move towards web-based filing.
- **Make Technical Amendments to Telecommunications and Railroad Ceiling Programs.** Clarify that a final equalization rate cannot be established until the telecommunications ceiling is established while also eliminating the specialty property

## Revenue Actions

---

reporting requirement. Align the mismatched valuation dates in the railroad ceiling program to ensure that the State ceiling and the local assessment both reflect the same set of facts.

- **Abolish the State Board of Real Property Tax Services.** The Budget eliminates the State Board of Real Property Tax Services and transfers its powers to the Tax Commissioner, consistent with the structure of other agencies that hear appeals.
- **Allow for the Appointment of Acting County Directors of Real Property Tax Services.** As the property tax cycle can be time-sensitive, the Budget allows counties to appoint an Acting County Director of Real Property Tax Services. An authorized Acting County Director of Real Property Tax Services can provide the necessary service coverage until a new director is appointed.
- **Provide Local Options for Placing Converted Condos into the Homestead Class.** The Budget enables municipalities to place converted condos assessed at full value using the sales-based approach into the homestead class, thus aligning these units with other residential properties and affording homeowners lower property taxes.
- **Modernize and Merge Real Property Tax Forms and Processes.** The Budget clarifies that certain modernizations and simplifications taken to the Real Property Tax Form submissions will not alter local revenue streams.

## Enforcement Initiatives

- **Enhance Cigarette Tax Enforcement and Penalties.** State tax revenue from cigarettes are invested in health care, and a robust black market drives down those resources. The Budget combats the black market by making it more difficult for sellers to evade tax liabilities and violation penalties while increasing the severity of penalties if they do.

Currently, if a retailer is caught selling untaxed cigarettes, DTF is authorized to suspend a retailer's Certificate of Registration (CoR) to sell tobacco products. DTF subsequently notifies SLA and the Gaming Commission when such action is taken, and the respective agencies can then suspend the retailer's applicable liquor and/or lottery licenses as well. The Budget makes the following amendments:

## Revenue Actions

---

- Authorize DTF to revoke a retailer's CoR for its first violation for selling untaxed cigarettes, which will automatically result in the initiation of the revocation process of their Certificate of Authority (CoA), which is the required license to collect sales tax and operate a business;
  - Increase the first CoR revocation from six months to one year (to reflect the time a CoA revocation hearing may take);
  - Add affiliate persons language to eliminate the common practice of one individual being the owner of several different retail locations using slightly different business names each with its own CoR and thereby accumulating several violations at different locations while avoiding impactful penalties and punishments; and
  - Amend the revocation process for lottery and liquor licenses by requiring they automatically be revoked upon revocation of a CoR for a violation for selling untaxed cigarettes.
- **Update Criminal Tax Fraud Statutes.** The Budget updates various fraud statutes, allowing for charges against tax preparers, separating the statute regarding the failure to pay tax liabilities, eliminating confusing language regarding non-filers, and clarifying the aggregation of tax fraud counts.
  - **Make Warrantless State Tax Debt Collection Methods Permanent.** The Budget makes permanent two DTF authorizations for warrantless debt collection methods. These programs for income executions (effective since FY 2014) and bank account data matching (effective since FY 2018) make collection of past-due fixed and final tax debts more efficient and are taxpayer-friendly as they reduce the need for issuing public warrants.

## Other Actions

- **Enact a Comprehensive Tobacco Control Policy.** Governor Cuomo has taken unprecedented steps to ensure the health and safety of all New Yorkers by combatting the use of harmful tobacco and nicotine products. The Budget prohibits the sale or distribution of e-cigarettes or vapor products that have a characterizing flavor; prohibits the sale of tobacco products, including e-cigarettes, in all pharmacies; expands the definition of "place of employment" to define indoor space and limit second hand smoke exposure; restricts the delivery of e-liquid products only to NYS-licensed vapor retailers; restricts the advertising of vapor products in periodicals targeting youth, limits production value of audio and video advertising, and restricts claims of safety and efficacy for vaping as a smoking cessation device without FDA approval; requires manufacturers of vapor products to disclose to the DOH Commissioner and the public, information regarding the ingredients, by-products, or contaminants in vapor products, whether intentional or unintentionally added; bans certain carrier oils if they are determined to be harmful; bans coupons and manufacturer discounts and displays in shops; and increases penalties for illegally selling tobacco products to minors. This comprehensive tobacco control policy action will prevent death and disease, as well as save the State billions of dollars associated with the astronomical cost of health care for tobacco-related illnesses. For more information on this comprehensive policy, please see the *Health Care* section of this volume.
- **Enact the Cannabis Regulation and Taxation Act.** The Budget regulates and controls the production, distribution, transportation, and sale of cannabis, cannabis related



## Revenue Actions

---

products, and medical cannabis within the NYS, for the purposes of fostering and promoting temperance in their consumption, to properly protect the public health, safety, and welfare, and to promote social equality. Three taxes are imposed on the adult-use of cannabis:

- The cultivation of cannabis is taxed at the rate of \$1 per dry weight gram of cannabis flower, \$0.25 per dry weight gram of cannabis trim, and \$0.14 per gram of wet cannabis;
- The sale by any entity to a retail dispensary is taxed at a rate of 20 percent of the invoice price; and
- The same sale by any entity to a retail dispensary is taxed at a rate of two percent of the invoice price but collected in trust for and on account of the county or a city with a population of a million or more in which the retail dispensary is located.

## School Tax Relief (STAR) Program Actions

- **Shift Basic STAR Exemptions to the Credit Program.** The FY 2020 Enacted Budget limited the Basic STAR benefit for homeowners in the Exemption program to an income threshold of \$250,000 (rather than \$500,000), while leaving the income threshold for the STAR Credit unchanged at \$500,000. To continue the shift of administering the STAR program as a tax credit to align it with other tax relief programs, the Budget limits the Basic STAR benefit for homeowners in the Exemption program to an income threshold of \$200,000 while keeping the income threshold for the STAR Credit unchanged at \$500,000. Benefits are not reduced as a result of this shift, which enables the State to more efficiently administer the program while separating STAR savings from the tax bill to help make school districts more accountable to taxpayers.
- **Make Exceptions for Late Enhanced STAR Filers.** Though the FY 2019 Enacted Budget required all Enhanced STAR recipients to enroll in the Income Verification Program (IVP), some of these Enhanced recipients failed to do so in time to receive their full STAR benefit. The Budget re-opens this enrollment period to allow these recipients to retroactively verify their income, with DTF sending STAR checks to qualified late enrollees.

## Revenue Actions

---

- **Deny STAR Benefit to Delinquent Property Owners.** The Budget eliminates STAR benefits for homeowners that do not pay their property taxes. The Budget requires localities to report tax delinquents to DTF so that a STAR credit or exemption can be justifiably withheld. Homeowners will be excluded from the STAR program until past-due property taxes are paid.
- **Remove References to the STAR Offset Program.** The STAR Offset program that applied to school years 2013-14 through 2015-16 permitted DTF to use a homeowner's STAR benefit to offset a past-due State tax liability. Since this program is no longer active, the Budget removes references to this obsolete offset program from statute and appropriation.

## Gaming Initiatives

- **Amend Sports Wagering Lounge Restrictions.** Current law requires that wagering on sports be exclusively operated in a casino's designated sports wagering lounge. The Budget ends this restriction by allowing for sports wagering outside the lounge, but still within the casino, per Gaming Commission regulations.
- **Eliminate QuickDraw Minimum Size Restriction.** The Budget eliminates the current 2,500 square feet size restriction imposed on locations offering Quick Draw, expanding the current number of eligible license agents to approximately 17,000.
- **Extend Pari-Mutuel Tax sRates and Simulcast Provisions for One Year.** The current pari-mutuel tax rate structure and other racing-related provisions are extended for one year.
- **Build a New Equine Drug Testing Lab.** The Budget authorizes NYRA to use their capital funds to finance and construct a new equine drug testing laboratory. Updating the equine drug testing lab is critical for the continued enhancement of testing protocols and laboratory equipment.
- **Authorize Entry into the Mid-Atlantic Drug Compact.** The Gaming Commission is authorized to enter the Mid-Atlantic Drug Compact, to enhance equine drug testing, and standardize the ability to maintain the integrity of the racing industry.

## Fee Actions

- **Impose Certificate of Need Fee.** Increased Certificate of Need fees will be assessed on hospital construction projects to provide resources needed under the Medicaid program to administer necessary hospital-related functions.
- **Establish a Motion Picture Theater Alcohol Permit.** The Budget allows traditional motion picture theaters to sell wine, beer, liquor, and cider on premises through a special permit. Currently, only motion picture theaters classified as a restaurant, where patrons sit at tables, are permitted to sell alcohol.
- **Extend Oil and Gas Fee for Three Years.** DTF establishes unit of production values that local assessors must use when assessing oil and gas wells and related facilities. Currently set to expire on March 31, 2020, the Budget extends this program through FY 2024.

## Revenue Actions

### Table 4: Revenue Actions and STAR (Millions of Dollars)

REVENUE ACTIONS				
(millions of dollars)				
	General Fund		All Funds	
	FY 2021	FY 2022	FY 2021	FY 2022
<b>Tax Cuts and Credits</b>	-	(33)	-	(39)
Reduce the Burden on Small Businesses	-	(33)	-	(39)
Enhance Empire State Child Credit	-	-	-	-
Extend Excelsior Tax Credit Program and Enhance Tax Credits for Green Projects	-	-	-	-
Extend Hire-A-Vet Credit for Two Years	-	-	-	-
<b>Reform and Simplification Actions</b>	8	49	8	49
Reform the Tobacco Products Tax	10	23	10	23
Authorize DTF to Provide Unclaimed Tax Benefits	(2)	(2)	(2)	(2)
Cap the Maximum Amount and Income for the Long-Term Care Insurance Credit	-	28	-	28
Extend and Reform the Film Production Tax Credit	-	-	-	-
Make Technical Amendments Related to Alcoholic Beverage Taxes	-	-	-	-
Make Technical Amendments to Telecommunications and Railroad Ceiling Programs	-	-	-	-
Abolish the State Board of Real Property Tax Services	-	-	-	-
Allow for the Appointment of Acting County Directors of Real Property Tax Services	-	-	-	-
Provide Local Options for Placing Converted Condos into the Homestead Class	-	-	-	-
<b>Enforcement Initiatives</b>	40	40	40	40
Enhance Cigarette Tax Enforcement and Penalties	-	-	-	-
Update Criminal Tax Fraud Statutes	-	-	-	-
Make Warrantless State Tax Debt Collection Methods Permanent	40	40	40	40

# Revenue Actions

	General Fund		All Funds	
	FY 2021	FY 2022	FY 2021	FY 2022
<b>Other Actions</b>	-	-	(5)	30
Enact a Comprehensive Tobacco Control Policy	-	-	(25)	(33)
Enact the Cannabis Regulation and Taxation Act	-	-	20	63
<b>School Tax Relief (STAR) Program Actions</b>	(4)	-	(78)	(68)
Shift Basic STAR Exemptions to the Credit Program - Credit Portion	(74)	(68)	(74)	(68)
Shift Basic STAR Exemptions to the Credit Program - STAR Savings	74	68	-	-
Make Exceptions for Late Enhanced STAR Filers	(4)	-	(4)	-
Deny STAR Benefits to Delinquent Property Owners	-	-	-	-
Remove References to the STAR Offset Program	-	-	-	-
<b>Gaming Initiatives</b>	-	-	15	30
Amend Sports Wagering Lounge Restrictions	-	-	-	-
Eliminate QuickDraw Minimum Size Restriction	-	-	15	30
Extend Pari-Mutuel Tax Rates and Simulcast Provisions for One Year	-	-	-	-
Build a New Equine Drug Testing Lab	-	-	-	-
Authorize Entry Into the Mid-Atlantic Drug Compact	-	-	-	-
<b>Fee Actions</b>	0	-	70	70
Extend Oil and Gas Fee for Three Years	-	-	-	-
Establish a Motion Picture Theater Alcohol Permit	0	-	0	-
Impose Certificate of Need Fee	-	-	70	70
<b>TOTAL REVENUE ACTIONS</b>	<b>44</b>	<b>56</b>	<b>51</b>	<b>112</b>