New York: Budget approved with new millionaire's tax, but without new online sales tax

David M. Kall | Wednesday, April 19, 2017

In a press release touting the passage of New York state's $153.1 billion budget for fiscal year 2018, Gov. Andrew Cuomo claimed that "we've embraced the politics of unity," in spite of the divisiveness of these "trying times." The press release highlights the following items:

- $25.8 billion in education, "the most in history." This includes free tuition at public colleges and universities for middle-class students;
- $100 billion for infrastructure investment in projects at LaGuardia Airport, Penn Station, the Bruckner-Sheridan Interchange, and the Kosciusko Bridge, among others;
- $10 million to the Liberty Defense Project to provide free legal assistance to immigrants, and to enforce anti-discrimination and hate-crimes laws through the newly established $1 million Hate Crimes Task Force; and
- $2 billion over five years for the Clean Water Infrastructure Act.

In addition, the budget enacts a "middle class tax cut" for six million New Yorkers, saving households an average of $250 next year, and $700 annually when fully effective. It also contains plans to combat the heroin epidemic, implement the Governor's "Buy American" plan, protect the environment, enable access to ridesharing throughout the state, cap property taxes, build and/or preserve 112,000 affordable housing units, and advance ethics reforms.

New tax on the top 1 percent

In March 2016, we described an effort by the Patriotic Millionaires to repeal New York's carried interest tax break. That measure remains stalled in the legislature. Another group of high-income earners used a different, more successful strategy in New York to achieve a similar result.

The Empire State currently imposes a "millionaire's tax" on the wealthiest taxpayers, but it is set to expire at the end of 2017. In protest of the expiration, which lawmakers initially refused to extend with the new budget, the Fiscal Policy Institute and Responsible Wealth sent a joint letter to Gov. Cuomo and legislative leaders containing the signatures of more than 80 taxpayers. They called for a balanced budget solution that includes "maintaining, expanding, and making permanent the top marginal income tax rates for upper-income New Yorkers, like us, who can afford to pay more." Taxpayers who earn more than $665,000 annually are in the top 1 percent in New York.

The signatories' "1% Plan for New York Tax Fairness" is calculated to bring in an additional $2.2 billion in revenue. This is above and beyond the current surcharge, which generates $3.7 billion per year. The 1% Plan will impose new marginal rates of 7.65 percent, 8.82 percent, 9.35 percent, 9.65 percent and 9.99 percent for brackets starting at $665,000, $1 million, $2 million, $10 million and $100 million, respectively. The new tax affects 45,000 taxpayers, 50 percent of whom are non-residents.

These wealthy advocates want the extra revenue to be spent on "investments in both its human capital and physical infrastructure," such as anti-poverty efforts, public education, and investments in "the fragile bridges, tunnels, waterlines, public buildings, and roads that we all depend on.

No new tax on certain online purchases

One thing that is not included in the budget is Gov. Cuomo's controversial online sales tax proposal, the Marketplace Sales Tax (MST). TechNet and Web Enabled Retailers Helping Expand Retail Employment, known as We R Here, lead a large coalition of tech companies to fight the MST's passage, contending that it would "make online shopping more expensive and push economic growth and innovation out of state."

The MST would have required online marketplaces with more than $100 million in annual sales like eBay and Etsy, to collect the state's sales tax from customers who are New York State residents, regardless of whether the seller is located in or outside of New York. According to the coalition, almost 70 percent of New Yorkers opposed the measure, because it would make internet purchases more expensive, and "make it more difficult for innovative companies to grow in New York."

Describing the campaign that killed the online tax, Broadcastingcable.com quoted a TechNet director who opined that the "measure was bad policy that would have set a dangerous precedent across the country."

On the other hand, and not surprisingly, many others, like the Retail Council of New York State, supported Gov. Cuomo's initiative, which was estimated to bring in $275 million in fiscal year 2018-19. Bloomberg noted that the group's president and CEO was disappointed that democratic lawmakers who supported the effort "capitulated to the histrionics of the dot-coms worth billions rather than listen to the brick-and-mortar stores in their own districts…. They'd rather have cardboard boxes from out-of-state merchants on their doorsteps than level the sales tax playing field for the stores that—today, anyway—employ so many New Yorkers."

Support for millionaire's taxes spreading

Despite its setback in New York, Patriotic Millionaires is persistent, and is now pushing for reform in Connecticut, by way of Raised H.B. 7313, which would impose a surcharge on income derived from investment management services. A different Bloomberg piece reported that a Millionaires representative testified before the Finance, Revenue and Bonding Committee on April 11, 2017, in support of a 19 percent surcharge on such services. This amount is the difference between the 20 percent capital gains tax rate that hedge-fund and private-equity managers currently pay, and the 39.6 percent tax rate for ordinary income.

A Massachusetts lawmaker is also promoting a millionaire's tax in his state. The *Boston Business Journal* revealed that Massachusetts Senate President Stanley Rosenberg is pushing for a ballot proposal that would impose an additional 4 percent surtax on Bay State residents who make $1 million or more a year. The estimated $2.2 billion of new revenue would be put toward transportation and education spending. Reasoned the Senator: "We've got it good now. So let's not ruin it for ourselves by failing to invest in some of our state's basic needs."

David M. Kall
Team member bio