New York: State of the state speech rails against federal tax bill

David M. Kall | Thursday, January 11, 2018

Last Wednesday, New York's Gov. Andrew Cuomo gave his 2018 state of the state speech, the first governor to do so in the new year. After acknowledging that "2017 was a tough year by any measure," due to terrorism and Mother Nature, the governor celebrated "historic investments in education, health care and economic development." He was pleased that "state government is back," having done "more with less and it's working," touting the passage of "seven timely, responsible budgets," the highest credit rating in 40 years, a drop in unemployment from 8.3 percent to 4.7 percent, and the highest number of private sector jobs ever, 8.1 million.

He spoke of critical areas of need are reforms in the justice and court systems, support for minority and women owned businesses at the local level, homelessness and the mentally ill. Newer problems include the "rise in terrorism, environmental change, the opioid crisis, the federal threat to the labor movement and the distortion and manipulation of our elections by big donors, foreign money and social media advertising and the alienation of our citizens," and the transportation system.

In little time, however, he got to into the core of his speech: the "federal and economic challenges never experienced before. They threaten the essence of our economy." The Empire State's budgetary and economic challenge are "in many ways the greatest." It has a $4 billion deficit, which is made worse, the governor asserted, by the alleged "federal assault on New York" in the form of the "$2 billion cut primarily from the federal government and health care."

Of the federal tax bill, which eliminates the full deductibility for state and local taxes where such taxes are not incurred through a trade or business (subject to a $10,000 cap), the governor had this to say: "it is crass, it is ugly, it is divisive, it is partisan legislating, it is an economic civil war." In addition, it will have the following effects, according to the governor:

- Raise middle class and working family's property tax 20 to 25 percent all across the state without any "conceivable justification."
- Turn New York, and California, into "piggy banks to finance tax cuts for Republican states."
- Cost New York an additional $14 billion on top of the $48 billion that we currently pay.

To fight it, the governor promised to challenge the federal measure in court, initiate a repeal and replace effort with a "tax fairness for all campaign," and explore a "major shift" to restructure the tax code. Additionally, legislation introduced on Nov. 22, 2017, the "Hold New Yorkers Harmless Tax Credit," S. 6951, is currently pending to lessen the impact of the federal SALT provision. We detailed this in a recent article.

Among the options for the "major shifts" to restructure the tax code, the governor mentioned:

- Adopting a statewide payroll tax system.
- Creating additional charitable organizations so that contributions to those charitable organizations would be tax deductible.
- Doing something about the carried interest loophole, "which is another device to give away revenue to people who don't need it."

Beyond these, the governor hopes to "continue to attack the highest tax burden in the state," local property taxes. Before the federal SALT provision, these were merely "a major economic problem for the state." But now, they are "an economic cancer."

Ever defiant, said Gov. Cuomo: "We are New York State, we have faced challenges internationally, domestically, and the threat from this federal government is not going to derail the great State of New York, that I promise you….don't tell me we can't do it, because we can."

Meanwhile, the millionaire's tax that the fiscal year 2018 budget extended last summer, projected to bring in a $2.2 billion annually, is still on the minds of some. At the 29th annual People's State of the State, the executive director of the Fiscal Policy Institute wants to tweak the millionaire's tax already in place of 8.82 percent on those with incomes above $1 million, reported the *TimesUnion*: "We should be looking at a new top rate for the billionaires or those making $100 million." That rate is currently set to drop back to 6.85 percent at the end of 2019.

On the other side, the research director at the Empire Center "urged policymakers to 'ensure the additional state 'millionaire tax' rate is phased out on schedule at the end of 2019.'"

Others also seeking relief from the federal tax bill

WASHINGTON DC

With respect to the federal tax reform and the state and local tax deduction changes, New York is not the only jurisdiction up in arms. Washington, D.C. Councilmember Mary Cheh introduced a bill just before Christmas, the District Tax Independence Act of 2017, that "requires the Chief Financial Officer of the District of Columbia submit a report to the Council outlining the steps and amendments necessary to ensure that the District's tax laws are independent from federal law, no later than April 30, 2018."

In an emailed statement to Bloomberg Tax, Councilmember Cheh said that given the extremely partisan way in which the federal tax laws have been revised, it would be prudent to insulate ourselves, to the extent possible, from any ill effects the current federal tax revision could bring to our own tax systems."

CALIFORNIA

In the Golden State on Jan. 4, 2018, the Senate president pro tempore announced legislation, SB 227, "to protect California residents from the targeted federal tax increases that were enacted in the GOP's recent tax reform."

A fact sheet posted on the senator's web site explains that "[t]he Protect California Taxpayers Act will allow California taxpayers to make charitable donations to the California Excellence Fund, and in turn the taxpayer will receive a dollar-for-dollar tax credit for their contribution. The taxpayer will then be able to deduct the contribution from their federal taxes just as they have historically done with their state tax payments."

The fact sheet notes that a number of states already use this model to fund private education: Alabama, Arizona, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Montana, Nevada, New Hampshire, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Virginia, and Wisconsin.

Another lawmaker who supports SB 227 reasoned that "[t]his legislation will protect Californians from losing money as a result of the federal tax ripoff. I applaud Senate President de León for leading this effort that will help many of my constituents and residents all over the state."

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Team member bio