



NEW YORK

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Testimony to the Senate and Assembly Joint Public Budget Hearing on Taxes

February 13, 2020

Testimony delivered by Greg Biryla, NYS Director for NFIB (National Federation of Independent Business)

I am Greg Biryla, New York State director for NFIB, also known as the National Federation of Independent Business, the nation's and the state's leading small business advocacy association.

Thank you very much to Committee Chairs Weinstein and Kruger for allowing NFIB to participate today and thanks to their legislative colleagues and staff who are present to listen to important perspectives regarding the state's FY 2021 budget, the executive's proposals, and taxation.

NFIB is a member-driven organization representing hundreds of thousands of small businesses across this country and close to 11,000 in New York State.

NFIB members define our neighborhoods, fill our communities with character, create local jobs and homegrown economic opportunity for small businesses owners and their employees alike: local hardware stores, independent restaurants, florists and barbers, plumbers and paper companies, roofers, landscapers and mechanics; fitness and retail boutiques. These are NFIB members.

Small businesses employ nearly half the state's workforce, 4 million New Yorkers. When they succeed, communities succeed.

A strong, vibrant small business eco-system supports local tax bases, governments and schools. 67 cents of every dollar spent at a local small business is reinvested into the community.

I trust you all recognize and value the importance of small businesses in your home districts. It's also important to keep small businesses in mind when considering the wide-ranging impacts that policy set forth during the state budget process has on local entrepreneurs.

The state budget process is supposed to center on the state's annual fiscal plan, a balanced ledger of the state's expected revenues and expenditures. There may be no more important budget hearing than today's in ensuring a timely, balanced, and equitable budget is enacted.

New York's reputation as a high tax, difficult-to-do-business state is well established. The most recent Tax Foundation Rankings place New Yorkers among the highest taxed in the nation. Paying the third highest income taxes, eighth highest sales taxes, and fifth highest property taxes¹. New York also imposes the 7th highest gas taxes² and applies billions of dollars of taxes on private health insurance plans utilized by many small businesses³.

That being said, New York has taken some incremental but important steps in recent years to address its high tax perception, notably, making permanent 2011's property tax cap permanent in 2019.

What has been absent, is targeted tax relief for New York's small, independent, local businesses, which is exactly what I wish to discuss today.

In his budget, the Governor advanced a very welcomed small business tax relief proposal that will benefit approximately 36,000 small businesses. The Governor's proposal achieves this by reducing the corporate tax rate from 6.5 percent to 4 percent for small businesses employing less than 100 workers and reporting less than \$390,000 in business income.

The Governor's proposal also expands the "income exemption" to 15% for small farms and sole proprietors earning less than \$250,000 in business income.

I want to be clear that NFIB, our members and membership organizations like ours across the state fully support the Governor's proposal.

It will help thousands of small businesses organized as "C-corps", sole-props and certain small farms. Many types of businesses are organized as these entities, unfortunately most small businesses are not.

Generally speaking, most small businesses are organized as entities whose tax "passes through" the business and is paid as the owners' personal income tax. Some of these "pass-throughs" are organized as sole-proprietors, but most are constructed as LLCs, partnerships, and S-corporations. They do not pay a corporate franchise tax and will not qualify for the expanded income exemption. The majority of small businesses will not be among those benefiting from the currently proposed small business tax relief.

Today, I ask both houses of the legislature, Majority and Minority, to build upon the Governor's initiative and support a bipartisan-backed solution to achieve broader tax relief for additional small businesses trying to grow and hire in New York.

The proposal I speak of already exists in bill form and mirrors the executive proposal in many ways – S.5954 / A.6309 – sponsored by Senator Anna Kaplan and Assemblyman Robin Schimminger. This legislation includes the Governor's proposal to reduce the tax rate for small

¹ [2020 State Business Tax Climate Index; The Tax Foundation.](#)

² [State Gasoline Tax Rates as of July 2019; The Tax Foundation.](#)

³ [Hooked on HCRA: New York's 20-Year Health Tax Habit; Bill Hammond; The Empire Center](#)

C-corporations but also extends the 15% business income exemptions to LLCs, S-corps, and partnerships.

Late last month, 34 organizations – including statewide advocacy groups like NFIB, regional and community chambers of commerce, and trade groups – wrote legislative leaders to announce their strong support for the Governor’s proposal and a broader approach to tax relief that will support the entire spectrum of small businesses and encourage community-driven economic growth and opportunity. The letter is included with my testimony submitted today.

Small businesses have seen a rapid escalation of state mandated costs in recent years. Aside from the taxes mentioned earlier, small businesses have seen new wage mandates that have –since 2013 – increased minimum wage 32% across Upstate, 38% percent on Long Island and in Westchester, and 47% in New York City. Beyond labor costs, small businesses are still struggling to adjust to New York’s paid family leave program which disproportionately burdens small employers. They contend with other escalated cost drivers like the highest workers compensation insurance premium costs in the nation (181% above the national median)⁴, and elevated general liability insurance costs driven by labor law 240/241.

I recognize that many legislators on the dais and many of your colleagues support the policies I mention. Some of you advocated for their implementation and protection for years. That’s a perfectly fair position to hold. But it’s equally fair to acknowledge that these are real cost burdens that strain small businesses’ finite resources and threaten already thin profit margins.

And today, this year, we have an opportunity to provide some modest relief on the other side of the balance sheet for the mom-and-pop enterprises that employ half our state’s workforce. Wall Street and Main Street, “big-box” and “small-biz” are very different types of employers who face different hurdles to success. The policy I am advocating for today ensures that our tax code treats them as such.

The state faces fiscal challenges and all of you must work together to address a multi-billion-dollar budget deficit.

In 2017 The Division of Budget and the Assembly Ways and Means Committee scored the broader tax relief proposal around \$300 million dollars. That is not an insignificant sum but is not unreasonable when viewed against a \$176 billion spending plan.

As previously mentioned, sixty-seven cents of every dollar spent at a small business stays within the local economy as their profits and wages stay local, and small businesses are more likely to source services, materials, and employees from within their community. Small businesses stabilize municipal tax bases, provide local jobs and homegrown economic development. They strengthen “Main Street” commercial districts and bring vibrancy to our neighborhoods.

⁴ [2018 Workers’ compensation premium index rates; State of Oregon Department of Businesses and Consumer Resources.](#)

These are social and economic goals we can all agree are worthwhile and beneficial to all. You can help to ensure they continue and are strengthened by enacting responsible small business tax relief in this year's final budget.

Thank you.



January 30, 2020

Honorable Andrea Stewart-Cousins, Majority Leader
 New York State Senate
 907 Legislative Office Building
 Albany, New York 12247

Honorable Carl E. Heastie, Speaker
 New York State Assembly
 932 Legislative Office Building
 Albany, New York 12248

RE: Small Business Tax Relief NYS FY 2021 Executive Budget Proposal

Dear Leader Stewart-Cousins and Speaker Heastie:

On behalf of our organizations which represent hundreds of thousands of small businesses throughout New York State, we are writing to express our support for Governor Cuomo’s proposal

to reduce the tax rate for qualified small businesses organized as corporations from 6.5% to 4% and to expand the income exclusion for qualified sole proprietors and small farms to 15% of business income.

This proposal – outlined in the Governor’s 2020 State of the State Address and his executive budget documents – will benefit tens of thousands of small businesses and local agriculture, but unfortunately does not extend its relief to LLCs, LLPs, or S-corporations, which constitute the majority of small businesses operating and employing in New York State.

To ensure that tax relief benefits the true small businesses and family farms which remain the economic bedrock of communities across our state, we believe the Governor’s proposal can be modestly expanded upon to provide relief to all types of small businesses. **To that end, we respectfully ask that you consider including the entirety of [S.5954 \(Kaplan\) / A.6309 \(Schimminger\)](#) in your chambers’ respective 2020 one-house budget proposal.** S.5954 / A.6309 mirrors the executive budget language but also applies the expanded 15% income exclusion to LLCs, LLPs, and S-corporations.

Sixty-seven cents of every dollar spent at a small business stays within the local economy as their profits and wages stay local, and small businesses are more likely to source services, materials, and employees from within their community. Small businesses stabilize municipal tax bases, provide homegrown job creation, strengthen neighborhood commercial districts, bring vibrancy to the community, and are among the most dependable supporters of local charitable programs.

Small businesses are also often disproportionately burdened by one-size-fits-all policies that treat Wall Street and Main Street the same. Small businesses employ half our state’s private sector workforce but are far less likely to count in-house accounting, legal, and human resource professionals on their payroll. Simply put, “big box” and “small biz” are very different types of employers.

Further, legislation similar to the Governor’s 2020 executive budget proposal and S.5954 / A.6309 has received overwhelming bipartisan support from the legislature in the past:

- In 2017, the New York State Senate passed S.2120 with unanimous support; and
- The New York State Assembly passed similar language as part of its 2017 one-house budget legislation.

New York has made efforts to improve its tax climate in recent years. Previous reductions in the corporate tax rate, middle-class income taxes, taxes for qualified manufacturers, and making the property tax cap permanent have benefited the state’s economy and individual market sectors but haven’t necessarily benefited small, independent businesses. **Now is the time to provide long awaited relief to real local job creators – the small businesses of New York.**

Enacting Governor Cuomo’s proposed small business tax reform and expanding its application to include additional types of small businesses should be a top priority for every lawmaker who values local jobs and community-driven economic growth. Small businesses have always and continue to deliver opportunity for our neighbors and stability in our neighborhoods. We the undersigned respectfully ask that you reciprocate that support by including small business tax

relief as part of your chamber's one-house budget proposal and the final enacted New York State Budget.

Your time and attention to this matter are greatly appreciated. Never hesitate if our organizations can ever be of any additional service to your office, your district, or your constituents on this or any other issue.

Sincerely,

Amherst Chamber of Commerce
Associated Builders and Contractors, Empire State Chapter
Big I
Buffalo Niagara Partnership
Capital Region Chamber
Chemung County Chamber of Commerce
Commerce Chenango
Corning Area Chamber of Commerce
Cortland County Chamber of Commerce
Delaware County Chamber of Commerce
Greater Binghamton Chamber of Commerce
Greater Rochester Chamber of Commerce
Greece Regional Chamber of Commerce
Long Island Association
Manufacturers Assoc. of Central New York
New York Alliance for Environmental Concerns
New York Association of Convenience Stores
New York Farm Bureau

New York State Builders Association
New York State Economic Development Council
New York State Hospitality & Tourism Association
New York State Liquor Store Association
New York State Restaurant Association
New York State Vegetable Growers Assoc.
NFIB
Niagara USA Chamber
North Country Chamber of Commerce
Northeast Agribusiness and Feed Alliance
Northeastern Retail Lumber Association
Orange County Chamber of Commerce
Seneca County Chamber of Commerce
Ulster County Regional Chamber of Commerce
Unshackle Upstate
Wyoming County Chamber of Commerce

cc: Robert Mujica, Director, NYS Division of Budget
Elizabeth Garvey, Counsel to the Governor
Hon. Will Barclay, NYS Assembly Minority Leader
Hon. John Flanagan, NYS Senate Minority Leader
Hon. Helene Weinstein, NYS Assembly Ways and Means Committee Chair
Hon. Liz Krueger, NYS Finance Committee Chair
NYS Assembly
NYS Senate