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Dear Colleague:

Due to the prospect of New York State losing a significant amount of Federal funding, the Stock Transfer Tax (STT) has been raised by other members. Since I am the sponsor of the bill, and have substantial knowledge of the issue, I am providing an overview of it (a1494a/s1237).

<u>What the Stock Transfer Tax Is</u>

The stock transfer tax (STT) is a sales tax of 0.1% or .001 on the sale of stock up to a maximum per transaction of $350. For example, the tax on the purchase of a stock that costs $100 would be ten cents.

<u>The Opposition</u>

Let's get right to the heart of the matter. I have met with the "Partnership for New York," which represents the securities industry. They understand that this is not a tax on Wall Street firms, like the tax we imposed this year on New York City employers with 100 or more employees, which is far more damaging to Wall Street. STT is a sales tax paid by investors like any other sales tax. Wall Street firms do not pay the tax. They simply collect it and remit it to the government.

The argument that Wall Street would leave is a more complicated argument. It asserts that investors would stop buying stock in NYC because of the tax and then Wall Street would leave.

This argument depends on a concept in economics called elasticity of demand. Demand is said to be inelastic when the item being purchased is a necessity and no substitutes are available. The demand for gasoline is inelastic, which explains why consumers will pay almost any price for it. When demand is elastic, consumers will substitute other products and forego the product subject to the tax.

The Partnership for New York contends that the securities market is perfectly elastic. Even the tiniest increase in price will cause investors to buy elsewhere, thus adversely affecting sales and causing Wall Street to move in the long run.

Whether this argument has merit can be seen in two ways. First, investors do not buy securities based on how much a broker charges or the management fees in a fund. It is but one factor to be considered. Some funds have high cost but are nonetheless purchased because of historical low risk and high performance. Second, when Hong Kong increased its stock transfer tax from 1% to 1.3%, Goldman Sachs Asian Markets said it was irrelevant since investors don't base their decisions on a transfer tax. Many other stock exchanges, such as London, a competitor of NYC, impose a transfer tax.

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While demand for securities in NYC is not inelastic, there is no reasonable likelihood that it is perfectly elastic, such that Wall Street would move rather than permit investors to pay the tiny tax.

This issue is addressed in greater detail in the enclosed article from Jim Henry, who, among other qualifications, was the former chief economist of General Electric Company.

History of the Tax

The tax was first adopted in 1905 by the Republican Party because the State needed revenue and the Republicans preferred sales taxes (which STT is) to income and real property taxes. The *New York Times* panned it, claiming the Stock Exchange would move to New Jersey. In fact, the NYSE created a corporation symbolically for that purpose but took no steps toward moving. The New York Times was wrong. Volume on the exchange increased, the New York exchanges prospered, and all the other exchanges, which did not have the tax, died out.

The proceeds of the tax were diverted in the 1970s to New York City to address the financial crisis the City was facing at that time. It was eliminated in 1981, ostensibly on the ground that NYC had recovered, forgetting about other needs of the City and State as a whole. This was also the Reagan era filled with artificial exuberance about the stock market generally (which was adopted by Bill Clinton leading to the financial crisis of 2008).

The legislation eliminating STT declared that 100% percent of it would be rebated back to those who collected it, but as a practical matter, that is not how it works. Firms are supposed to tell the state how much the tax would have brought in if collected, but according to the testimony of the Commissioner of Taxation and Finance, reporting is sparse.

How the Tax is collected

When first passed, the tax was collected by buying stamps. which were then affixed to the stock certificates as proof that the tax had been paid. Without the stamps, the transaction was not enforceable under New York law.

The tax would be remitted electronically today. The objection has been raised that the NYSE would move transactions to “the cloud” to escape the tax. Transactions are already done on “the cloud.” “The cloud” is not mysterious but simply a series of linked computers. As long as some portion of the computer activity causing the transaction takes place in New York, it is taxable here. See the 2018 Supreme Court decision in South Dakota v. Wayfair.

The economics of the STT

The STT operates the same as any sales tax. When you go to the store and pay sales tax, the customer (here the investor) pays, not the store owner (here the stock exchange). The store owner simply collects the tax and remits it to the government. If the tax is too high, no one will buy the product, and the store owner is harmed. If the tax is set low enough to be inconsequential, the seller is not harmed at all.

Thus, this is not a tax on Wall Street. It is a sales tax on stock purchases. Since neither NYSE nor Wall Street firms pay the tax, it is unlikely that either would move to escape a tax they don't pay. The cost of moving would be astronomical in comparison. See enclosed Henry article. They would have to move out of spite, but these are rational economic actors. The bottom line is it costs too much to move in comparison to the minuscule tax. As Mr. Henry points out, it is far easier for a wealthy person, who may already have homes outside New York, to move than it is to move an exchange.

One group of businesses claim they will be harmed by the tax – computerized day traders. Economists, however, do not regard this type of activity as productive investment activity but more a form of gambling. For this reason, economists, like Nobel Prize winner Joseph Stiglitz, support STT to discourage misuse of the stock market. See enclosed Henry article. The extent of the effect on these businesses is unclear. It might just be another factor to build into their computerized model. It should be noted that these traders are large contributors to both political parties.

Who pays the STT

Most people who buy stock in New York are non-New Yorkers, either from other states or other nations. 40% of all stock sold in the world is sold in New York. Finance is our greatest resource in New York. For example, if Texans wish to trade in New York, Texans pay no tax to New York. However, New Yorkers pay tax on Texas oil, which is one reason their tax burden is lower than ours.

Other exchanges, foreign and domestic

At the time STT was instituted, there were other stock exchanges in the United States. Notwithstanding STT, the NYSE prospered, and almost all the others closed. There is no evidence that a significant number of investors would migrate to Chicago or Texas because of STT (one of the new exchanges planned for Texas is owned by the NYSE; the other Texas exchange is designed as an alternative to the NYSE for more speculative products: people who want those products would go to Texas for that reason; they are people like Elon Musk who trying to escape the rules of the NYSE). See enclosed Henry article.

Foreign exchanges like London and Hong Kong already have STT. London has maintained the tax since the 18th century even when it loosened controls on finance to try to compete as a world financial center with New York.

The Chicago Stock Exchange is owned by NYSE. Illinois has a Democratic government. Cooperation with Illinois, which has a similar legislative proposal, might be wise, though migration of investors would be most unlikely for the reason cited by Goldman Sachs.

Impact on pensions

There is no impact on public pensions. Public pensions do not attribute sales of stock to individual plan members. The plan buys and sells stock *en masse*. To do this, the Comptroller hires Wall Street firms to evaluate investment prospects. Because of the huge size of public pensions, Wall Street firms compete for these lucrative contracts. Even if firms had to absorb the relatively small cost of the tax to be hired, they would not hesitate because the contracts to manage these funds are so lucrative.

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There is an impact on 401k plans when individuals are self-managing their accounts but only when stock is being purchased, not when it is sold to finance retirement. If I buy $20,000 of stock a year, I would pay $20 on that transaction. That is far less than the hidden (or explicit) transaction fees charged by companies involved in processing such purchases. It is far less than what money managers charge.

The impact of Federal law

A nationwide STT would be wise and was supported by certain economists in the Biden administration. Former Treasury Secretary Robert Rubin and Michael Bloomberg supported it. Democratic leadership in the U.S. Senate, however, did not support it.

How much would STT raise

As stated, the numbers reported by NYS Tax and Finance for possible collections are inaccurate due to widespread underreporting. Based on average share price and volume, which has been growing exponentially, Mr. Henry estimates the tax would now raise as much as $60 billion per year (compared to prior estimates of $14-16 billion). The growth in sales has continued notwithstanding the economic disruptions occasioned by the recent Federal administration.

Funding breakdown

Should the STT be enacted, the following is a breakdown of a proposed allocation in the bill where the money raised per year would be spent. This proposal predated the present crisis and focused on infrastructure:

- 25% to the Metropolitan Transportation Authority (MTA)
- 15% to the Dedicated Highway and Bridge Trust Fund
- 15% to Clean Energy Projects
- 10% to the New York City Housing Authority
- 10% to AMTRAK
- 5% to the Consolidated Highway Improvements Program (CHIPS)
- 5% to the Safe Water Action Program (SWAP – similar to CHIPS but for water and sewer)
- 5% to the Aid and Incentives to Municipalities (AIM)
- 5% to Downstate non-NYC Transit
- 5% to Upstate Transit

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Conclusion

The rationale behind the stock transfer tax is sound, and it is historically proven to have no adverse effect.

CO-SPONSORS: Jacobson, Stirpe, Burke, Epstein, Simon, Lupardo, Hunter, Reyes, Williams, Kim, Benedetto, Rosenthal, Dinowitz, Cruz, Rivera, Taylor, Seawright, P. Carroll, Glick, Davila, Cook, Bronson, Bichotte Hermelyn, Anderson, Walker, Meeks, Kelles, Lunsford, Zinnerman, Clark, Burdick, Fall, Septimo, Simone, Conrad, Romero

If you would like to sign on as a co-sponsor or multi-sponsor of this bill, or if you have any questions, please email my Legislative Director Dylan MacQuoid at macquoidd@nyassembly.gov

I can also be reached on my cell phone: 518-573-3173.

Sincerely,

Phil Steck
Member of Assembly, 110th A.D.

enclosure

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