

**Testimony for Joint Legislative Public Hearing:  
On Taxes (February 23, 2021)**

Democratic Socialists of America (DSA)  
Debt & Finance Working Group - Boris Santos

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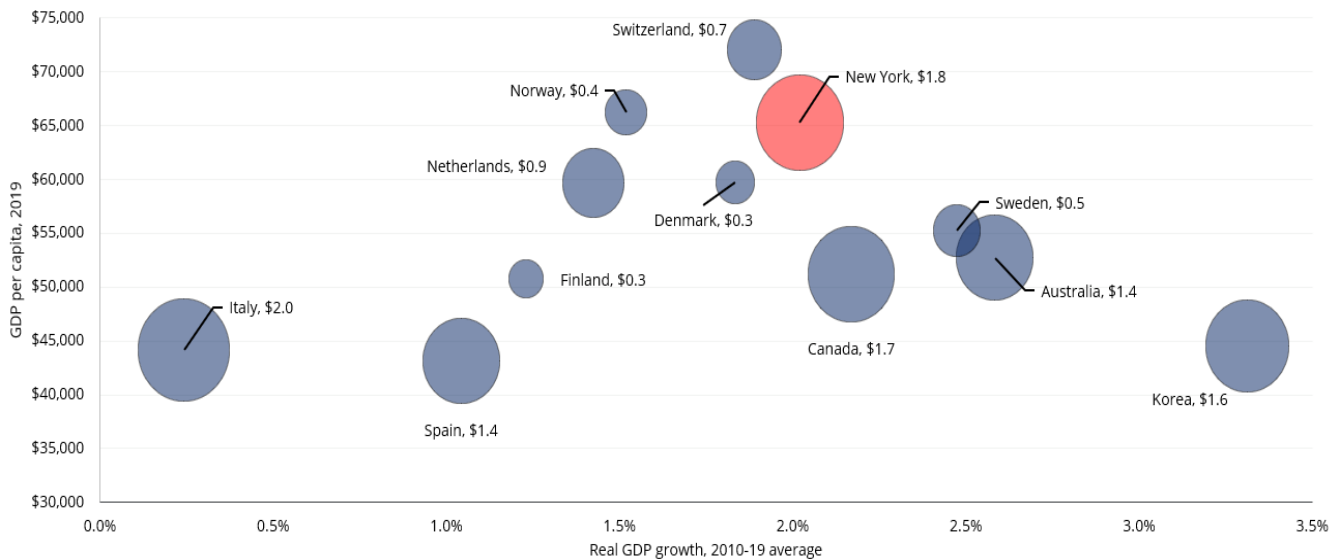
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## The Invest in Our NY Act: The Framing

The [Invest in Our NY Act](#) (IIONY), a package of five revenue raising options, was written with the understanding that New Yorkers, especially wealthy ones (particularly the top five percent), are currently being undertaxed across the federalist scale (local, state, and federal levels). Comprehensively, at all levels of government, the tax burden of the top five percent should increase considerably given the size of our state's *Gross Domestic Product* (GDP), or aggregate goods and services produced. This is especially true if you consider the amount of wealth or GDP that our state produces. Social democratic countries that have a vibrant safety net, tax proportionately more in comparison to their GDP than New York. If considered to be a country on its own, New York would have the tenth highest GDP.

In 2019, New York had a GDP of \$1.7 trillion. However, the entirety of the New York tax base was taxed roughly twenty six percent in proportion to its GDP whilst the tax base of other countries bore a wider tax load across all local, state, and federal taxes.

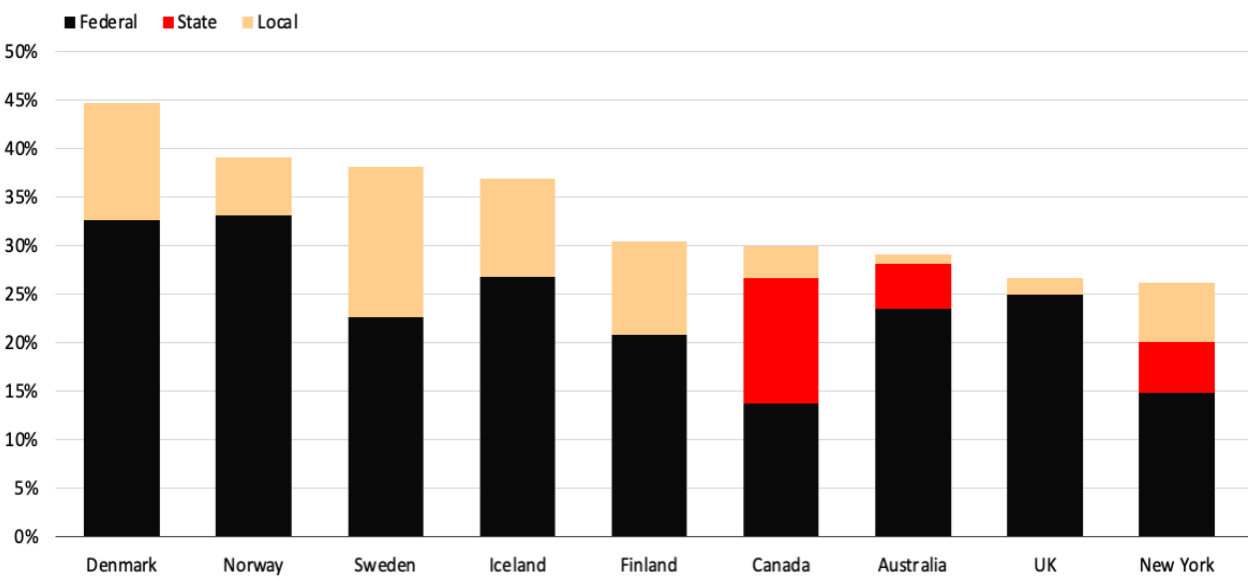
### NY GDP per capita and growth rate vs. select countries, size of bubble: 2019 GDP (\$ trillions)



*Note: US GDP per capita is a proxy for New York State in order to keep international comparisons consistent. However, New York's GDP per capita is likely higher than that of the US.*

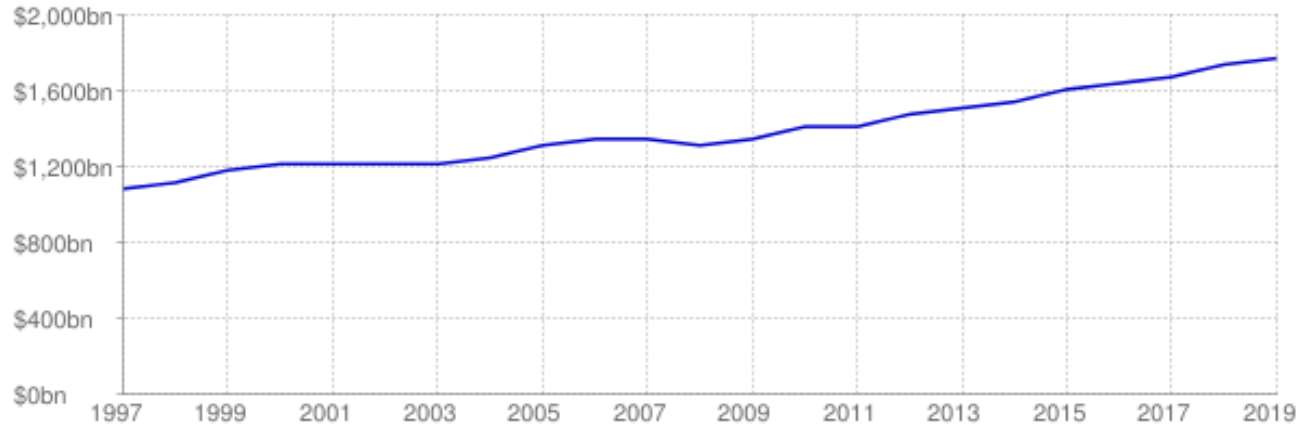
**Sources: US BEA, US Census, IMF, Macro for the Many**

## Federal, state and local government tax revenue as a % of GDP, 2018



Note: New York's federal tax burden represents the amount that New Yorkers paid to the federal government in the form of income, payroll, corporate, excise and estate taxes  
 Sources: US BEA, US Census, IMF OECD, Macro for the Many

## Real GDP (2019 Dollars): New York



Annual growth of New York's GDP (from 1997 to present)

Source: [Department of Numbers](#)

## Historical Real GDP (2019 Dollars) data for New York

Date	New York (Billions)
2019	\$1,772.261
2018	\$1,735.448
2017	\$1,676.929
2016	\$1,641.667
2015	\$1,594.120
2014	\$1,544.404
2013	\$1,502.636
2012	\$1,485.716
2011	\$1,415.673
2010	\$1,416.275
2009	\$1,360.115

Source: [Department of Numbers](#)

The only time GDP growth has dipped for the state of New York in the last three decades have been for the years of 2007 to 2008 (GDP decreased \$35.36B) and the years of 2010 to 2011 (GDP decreased \$602M). Additionally, the only time GDP growth has dipped for the US in the last three decades was in the years of 2008 and 2009 (GDP decreased \$444.4B).

## The Personal Income Tax Proposal

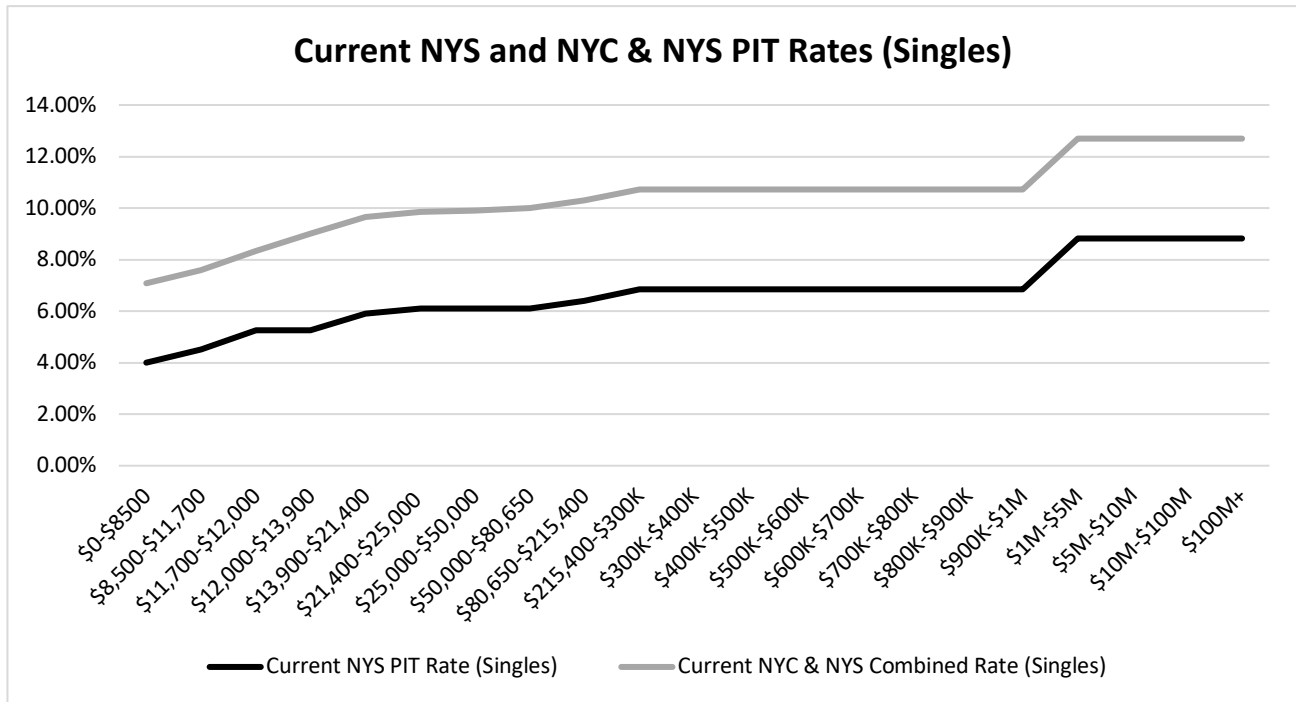
### I. Introduction

New Yorkers pay personal income taxes on the annual wages or salaries they earn. This tax is paid at the state and at the federal level. Additionally, New York City and Yonkers residents pay local personal income taxes as well. The City, State, and Federal government all impose **marginal** personal income tax rates – the amount of additional tax paid for every additional dollar earned as income. This contrasts with **effective** personal income tax rates – the average rate at which earned income is taxed. There are three main filing categories from which individuals can file as: single or married filing separately, married filing jointly, or head of households.

### II. New York State Personal Income Tax (PIT) Rates

The marginal personal incomes tax rates imposed by New York state is relatively flat. For example, at the bottom marginal tax bracket of \$0-\$8,500, New Yorkers that file as *singles* are taxed four percent. While at the top marginal tax bracket of roughly over \$1 million, *single* New Yorkers pay only 8.82%. The mean (sum of all marginal rates divided by the number of them) marginal personal income tax rate for all *single*

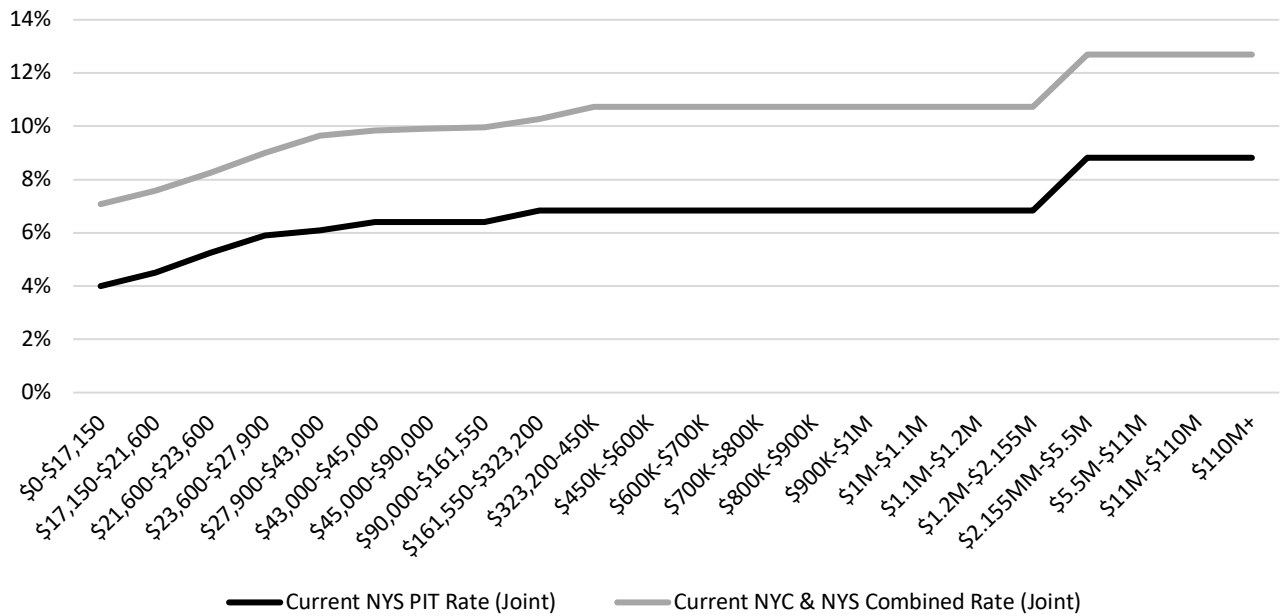
New York filers is roughly six percent. Although the combined New York City and New York State marginal rates paid by New York City residents is higher and comparably more progressive (i.e. the mean is 9.56% for *single* filers), the overall flatness presented by our personal income tax structure necessitates transformation.



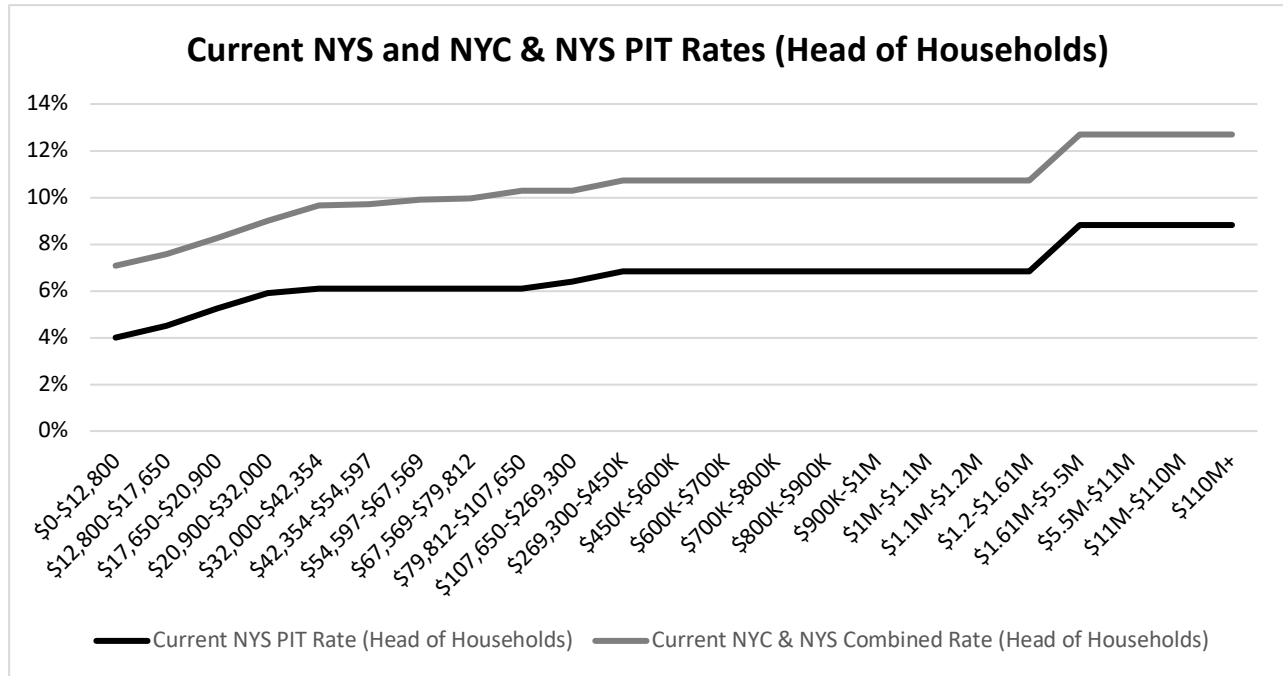
Income Range	Current NYS PIT Rate (Singles)	Current NYC & NYS Combined Rate (Singles)
\$0-\$8500	4.00%	7.08%
\$8,500-\$11,700	4.50%	7.58%
\$11,700-\$12,000	5.25%	8.33%
\$12,000-\$13,900	5.25%	9.01%
\$13,900-\$21,400	5.90%	9.66%
\$21,400-\$25,000	6.09%	9.85%
\$25,000-\$50,000	6.09%	9.91%
\$50,000-\$80,650	6.09%	10.00%
\$80,650-\$215,400	6.41%	10.29%
\$215,400-\$1M	6.85%	10.73%
\$1M+	8.82%	12.70%

There are basically two marginal rates for the top five percent of earners (either 6.85% for those earning between \$215K and \$1M and 8.82% for those earning more than \$1 million; for the combined NYC and NYS PIT rates it is either a marginal tax of 10.73% for \$215K-\$1M earners or 12.70% for those earning over \$1 million). This exists for **joint** and **head of household** filers as well (see the following charts below).

### Current NYS and NYC & NYS PIT Rates (Joint)



Income Range	Current NYS PIT Rate (Joint)	Current NYC & NYS Combined Rate (Joint)
\$0-\$17,150	4%	7.08%
\$17,150-\$21,600	4.50%	7.58%
\$21,600-\$23,600	5.25%	8.26%
\$23,600-\$27,900	5.90%	9.01%
\$27,900-\$43,000	6.09%	9.66%
\$43,000-\$45,000	6.41%	9.85%
\$45,000-\$90,000	6.41%	9.91%
\$90,000-\$161,550	6.41%	9.97%
\$161,550-\$323,200	6.85%	10.29%
\$323,200-\$2.155M	6.85%	10.73%
\$2.155M+	8.82%	12.70%



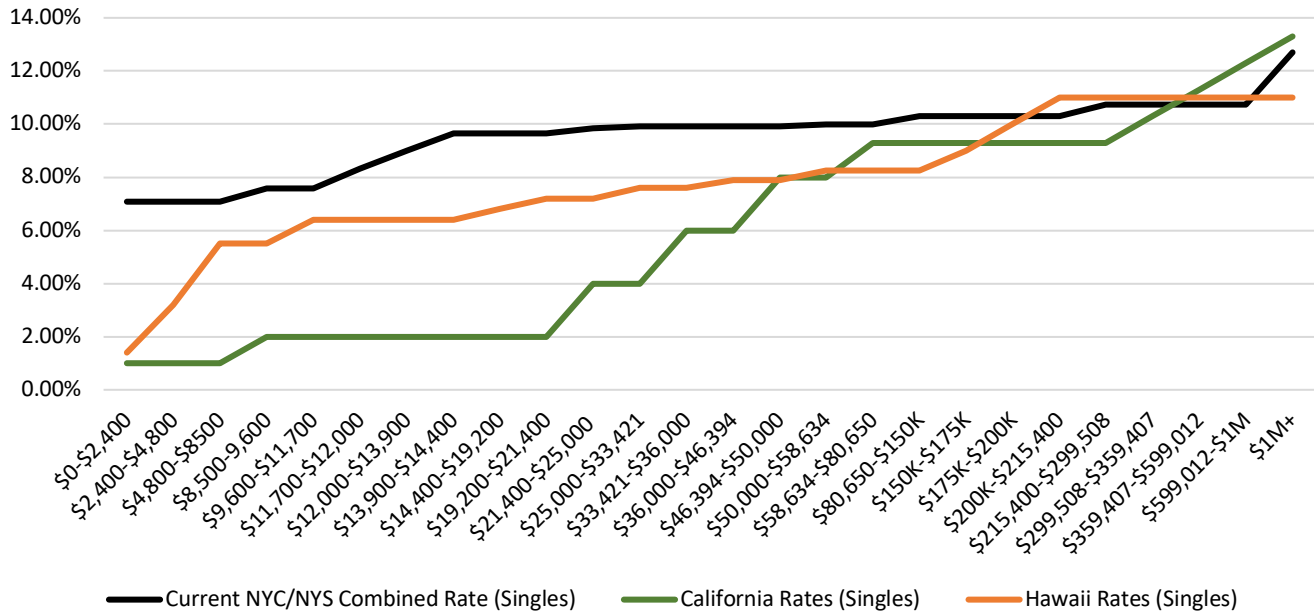
Income Range	Current NYS PIT Rate (Head of Households)	Current NYC & NYS Combined Rate (Head of Households)
\$0-\$12,800	4%	7.08%
\$12,800-\$17,650	4.50%	7.58%
\$17,650-\$20,900	5.25%	8.26%
\$20,900-\$32,000	5.90%	9.01%
\$32,000-\$42,354	6.09%	9.66%
\$42,354-\$54,597	6.09%	9.72%
\$54,597-\$67,569	6.09%	9.91%
\$67,569-\$79,812	6.09%	9.97%
\$79,812-\$107,650	6.09%	10.29%
\$107,650-\$269,300	6.41%	10.29%
\$269,300-\$1.61M	6.85%	10.73%
\$1.61M+	8.82%	12.70%

The following are comprehensive reasons why we must transform our PIT structure in New York:

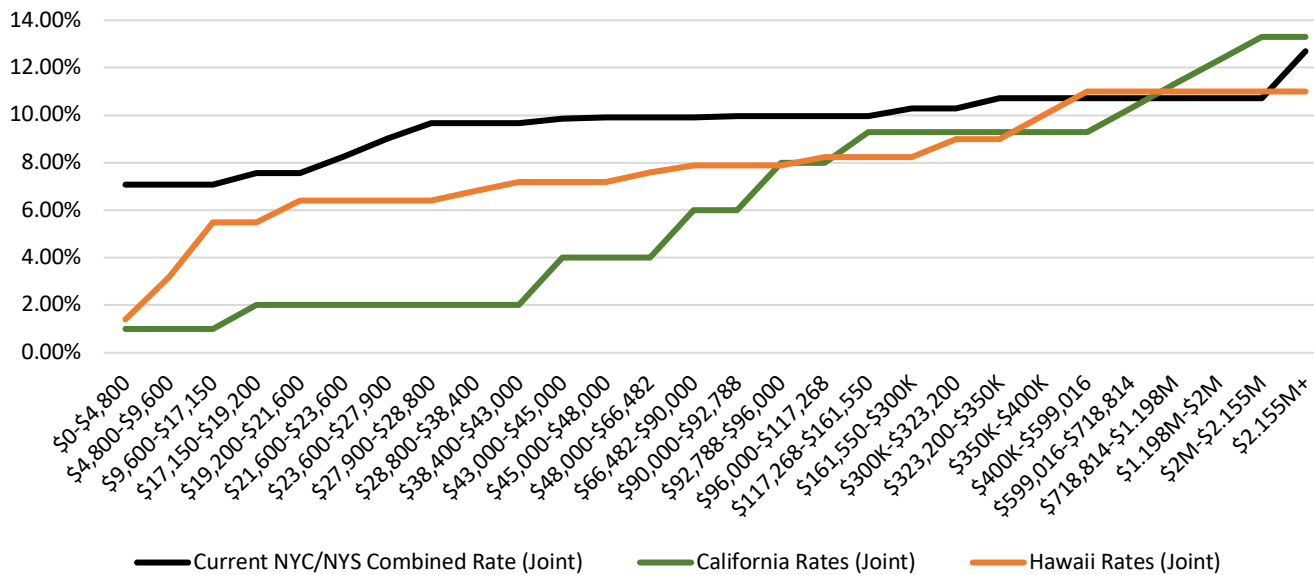
- (1) The top five percent of taxpayers (defined as those earning over \$300K for single filers based on data from the *Department of Taxation and Finance*) pay relatively the same amount and must pay progressively more among themselves. This is especially true if you cross compare New York City and the State’s combined PIT rates with California’s for the \$359K-\$1M+ income bracket for *singles* filers, the \$718K-\$2.155M+ income bracket for *joint* filers, and the \$488K-\$1.616M+ for *head of households*. Californian taxpayers that fall in those tax brackets pay more in comparison with New York’s top five percent. Likewise, Hawaiian’s that file as *singles* within

the \$200K-\$1M bracket, *jointly* within the \$400K-\$2.155M bracket, and as *head of households* within the \$300K-\$1.6M bracket also pay more than New York City dwellers.

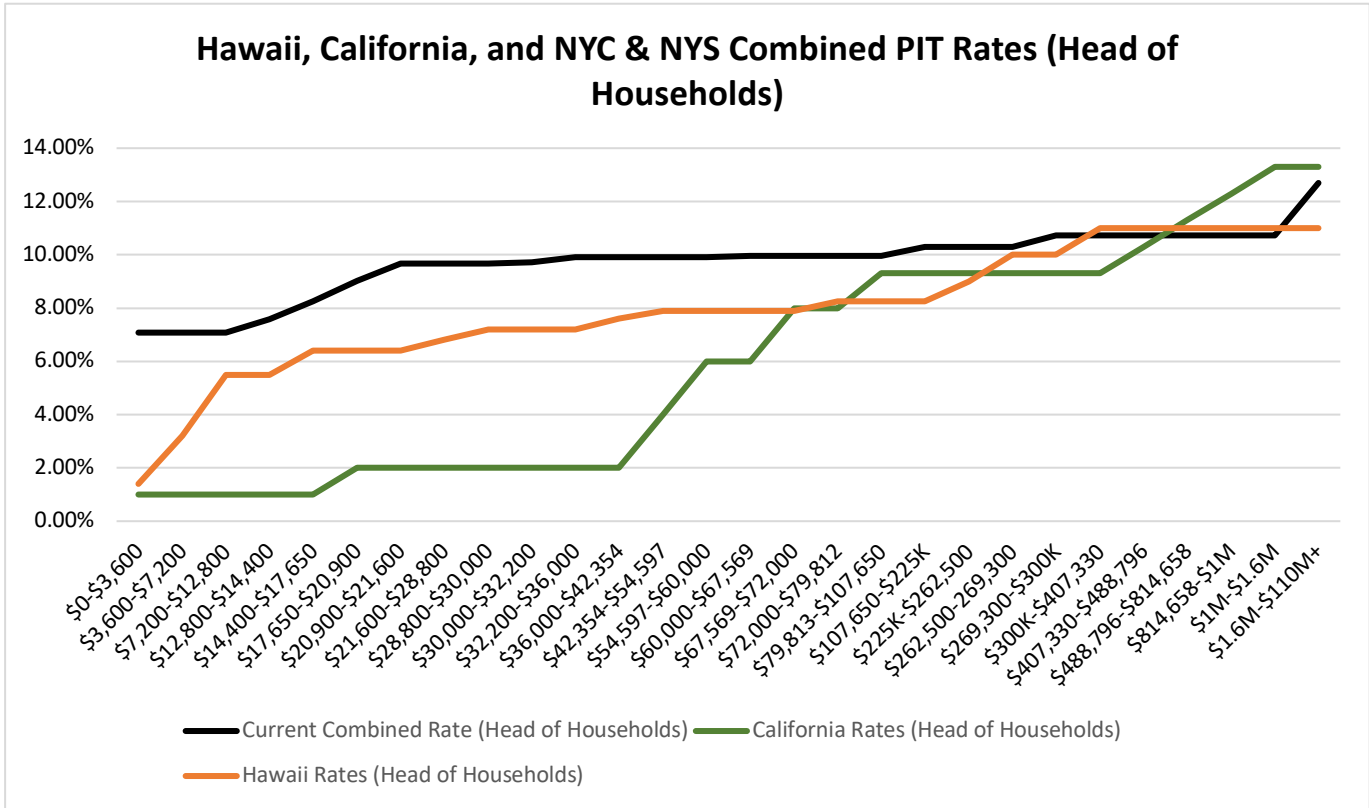
### Hawaii, California, and NYC & NYS Combined PIT Rates (Singles)



### Hawaii, California, and NYC & NYS Combined PIT Rates (Joint)



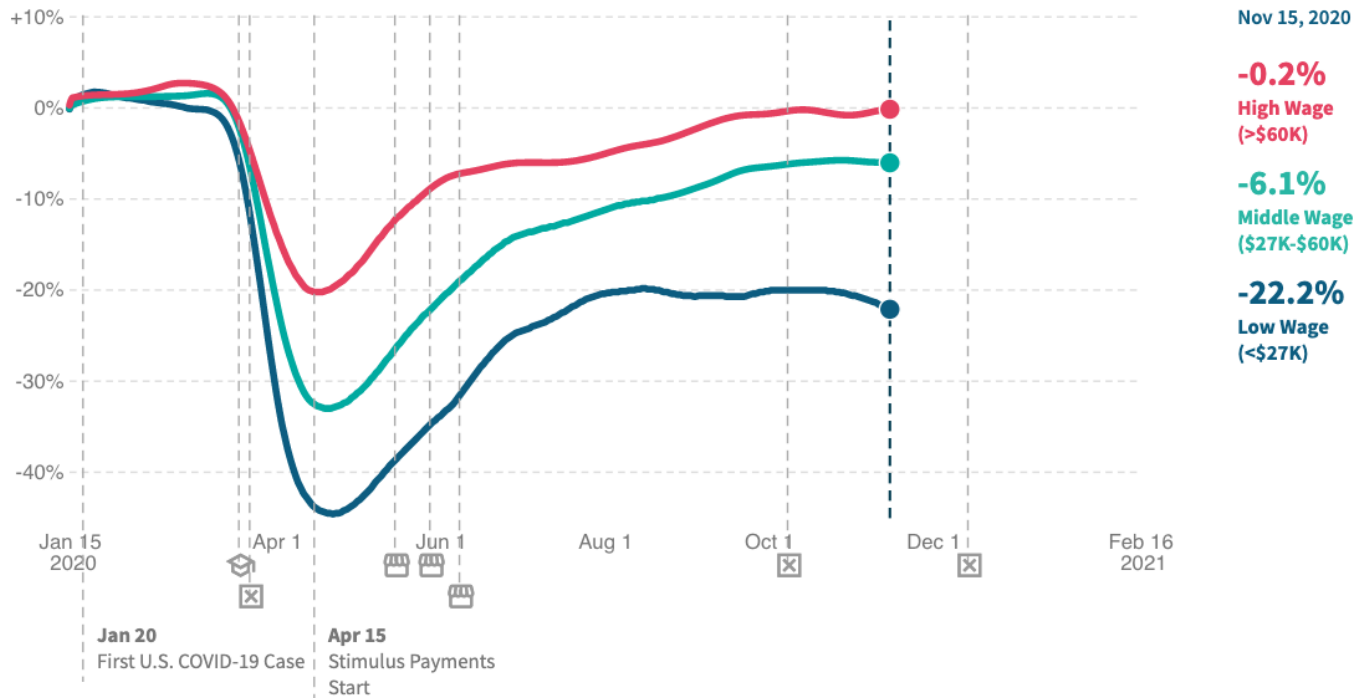




(2) The Covid-19 pandemic has highlighted and exacerbated the inequities that have existed within our communities across New York (and also across the country). Economic inequality is widening and economists have signaled that we are experiencing a [K-Shaped Recovery](#) – in which working class New Yorkers are continuing to suffer (they remain unemployed or earning stagnant wages) – while high-wage earners mostly prosper. Transforming our PIT structure to capture more of the wealth generated by the top five percent of income tax filers and utilizing it to invest in our public safety net or one-time pandemic needs (i.e. providing relief for tenants, small homeowners, and undocumented workers and families that have mostly been left out) is not only appropriate but necessary to ensure a truly equitable recovery.

## Percent Change in Employment\*

In **New York**, as of **November 15 2020**, employment rates among workers in the bottom wage quartile **decreased** by **22.2%** compared to January 2020 (not seasonally adjusted).

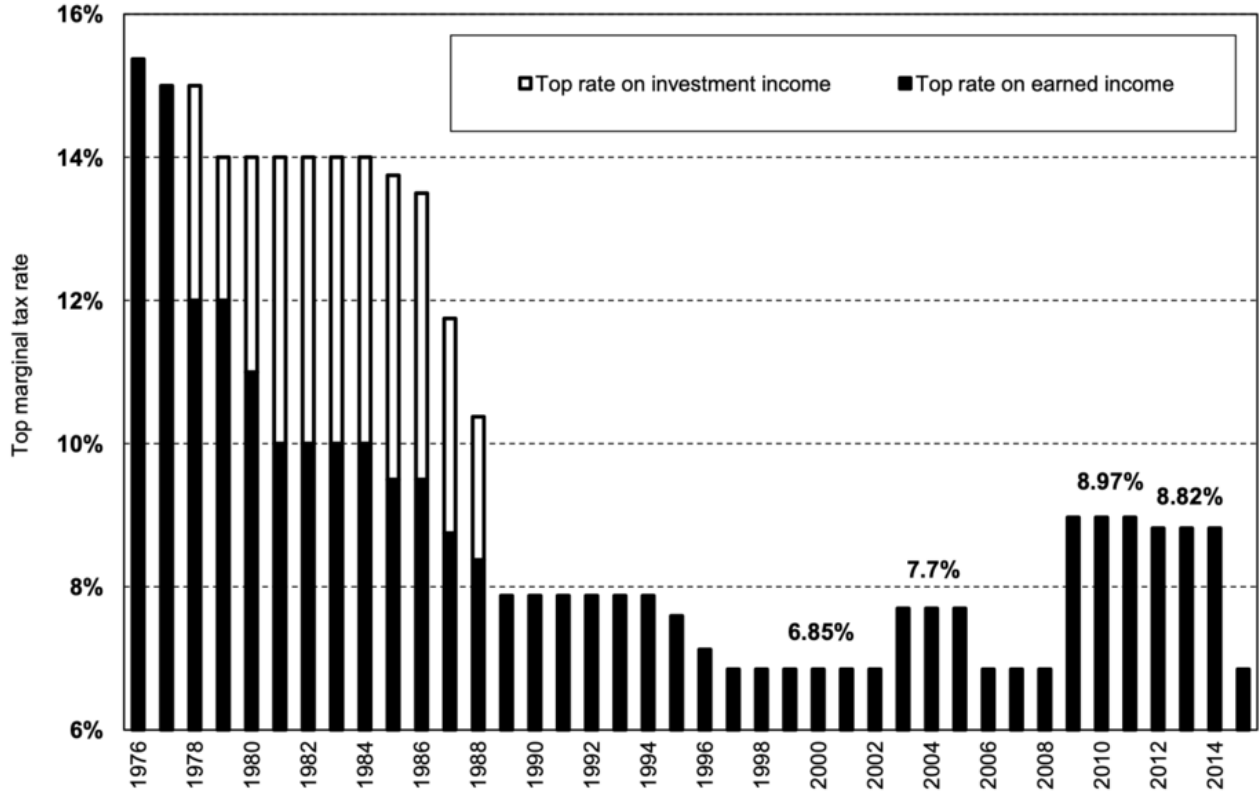


\*Change in employment rates (not seasonally adjusted), indexed to January 4-31, 2020. This series is based on payroll data from Paychex and Intuit, worker-level data on employment and earnings from Earnin, and timesheet data from Kronos. The dotted line in the low-wage series is a prediction of employment rates based on Kronos data.

Source: [Opportunity Insights](#)

- (3) It is clear that New York's economy can and has historically been able to withstand a higher tax load, especially for the top rates. In 1977, the top marginal income tax rate was fifteen percent for taxable income in excess of \$30K. In December 1995, the Office of Tax Policy Analysis (OTPA) published a report titled [Progressive Improvement](#) where they determined that the 1977 top rate amounted to fifteen percent for taxable income over \$76K at that time. I recommend that our state's budgetary and economic experts help to establish what the 1977 top rates would amount to in income today accounting for inflation. Lastly, today we have varying rates for eight different tax brackets whereas in 1977 there existed fourteen brackets.

**After cutting its top personal income tax rate by more than 50%, from 15.375% to 6.85%, New York has enacted several changes—increasing the top rate to 8.97% and then decreasing it to 8.82%.**



Source: Fiscal Policy Institute, *Economic and Fiscal Outlook 2013-2014*

### III. The Invest in Our NY (IIONY) Coalition’s Personal Income Tax Proposal [S2622/A4604](#)

The Invest in Our NY Coalition has proposed a progressive PIT structure that would essentially create twelve additional income tax brackets with new marginal rates. If passed, the IIONY PIT bill would translate to New York having a total of eighteen tax brackets. The margin of increase would begin at the \$300K threshold for *single* filers and at \$450K for *joint* filers and *head of households*. The proposal begins increases at that income level because it intends to transform our PIT structure into a progressive one by raising taxes on the roughly **top five percent** of New York taxpayers. How do we know the top five percent of filers begin at those income thresholds cited? Personal income tax filer data from NY’s *Department of Taxation and Finance* for the years of 2018 and 2019 show us that. Take a look:

<b>NY Adjusted Gross Income (AGI) Ranges for 2017</b>	<b># of Single/Head of Household Filers for 2017</b>	<b># of Married/Joint Filers for 2017</b>
Under \$5,000	101,961	381
\$ 5,000 - 9,999	188,666	1,731
\$ 10,000 - 14,999	327,368	8,384
\$ 15,000 - 19,999	346,095	28,201
\$ 20,000 - 24,999	339,342	59,292
\$ 25,000 - 29,999	314,089	63,159
\$ 30,000 - 34,999	312,514	66,240
\$ 35,000 - 39,999	303,350	73,959
\$ 40,000 - 44,999	282,205	80,524
\$ 45,000 - 49,999	253,000	86,117
\$ 50,000 - 54,999	224,965	88,666
\$ 55,000 - 59,999	197,571	87,526
\$ 60,000 - 64,999	167,382	85,424
\$ 65,000 - 69,999	143,063	83,088
\$ 70,000 - 74,999	123,894	81,817
\$ 75,000 - 79,999	106,860	80,200
\$ 80,000 - 99,999	312,706	303,142
\$ 100,000 - 149,999	324,255	559,584
\$ 150,000 - 199,999	102,677	317,251
\$ 200,000 - 249,999	44,708	177,057
\$ 250,000 - 299,999	24,886	102,331
\$ 300,000 - 499,999	39,139	175,302
\$ 500,000 - 999,999	20,517	113,151
\$ 1,000,000 - 1,999,999	8,267	48,796
\$ 2,000,000 - 4,999,999	4,270	26,056
\$ 5,000,000 - 9,999,999	1,284	7,821
\$10,000,000 and Over	868	415
<b>All Income Ranges</b>	<b>4,616,047</b>	<b>2,811,171</b>

*NY Dept of Taxation and Finance Personal Income Tax Filer Data for 2017*

A total of 7,427,218 taxpayers filed in 2017. Of those taxpayers, a total of 415,886 *single, joint, and head of household* taxpayers made over \$300K. That's an equivalent of 5.5% of taxpayers for 2017. The taxpayer data for 2018 also shows us a similar tale. Personal income tax filer data for 2019 was not revealed to the public prior to this testimony.

NY Adjusted Gross Income (AGI) Ranges for 2018	# of Single/Head of Household Filers for 2018	# of Married/Joint Filers for 2018
Under \$5,000	96,445	255
\$ 5,000 - 9,999	188,104	1,644
\$ 10,000 - 14,999	333,275	8,614
\$ 15,000 - 19,999	341,126	29,652
\$ 20,000 - 24,999	335,271	60,828
\$ 25,000 - 29,999	331,034	66,099
\$ 30,000 - 34,999	324,478	67,469
\$ 35,000 - 39,999	313,306	74,265
\$ 40,000 - 44,999	292,731	79,830
\$ 45,000 - 49,999	262,494	85,240
\$ 50,000 - 54,999	236,180	87,803
\$ 55,000 - 59,999	206,768	87,209
\$ 60,000 - 64,999	178,109	84,668
\$ 65,000 - 69,999	152,568	82,466
\$ 70,000 - 74,999	130,524	81,417
\$ 75,000 - 79,999	113,068	79,828
\$ 80,000 - 99,999	332,812	300,702
\$ 100,000 - 149,999	356,773	565,805
\$ 150,000 - 199,999	113,462	325,846
\$ 200,000 - 249,999	49,683	186,135
\$ 250,000 - 299,999	27,484	109,921
\$ 300,000 - 499,999	43,672	191,057
\$ 500,000 - 999,999	22,826	123,240
\$ 1,000,000 - 1,999,999	8,825	53,396
\$ 2,000,000 - 4,999,999	4,565	27,724
\$ 5,000,000 - 9,999,999	1,368	8,479
\$10,000,000 and Over	941	440
<b>All Income Ranges</b>	<b>4,798,067</b>	<b>2,875,777</b>

NY Dept of Taxation and Finance Personal Income Tax Filer Data for 2018

A total of 7,673,844 taxpayers filed in 2018. Of those taxpayers, a total of 486,569 *single, joint, and head of household* taxpayers made over \$300K. That’s an equivalent of 6.3% of taxpayers for 2018. In addition to both the 2017 and 2018 tax filer data showing us that the \$300K income threshold for *single* filers and the \$450K income threshold for *joint* and *head of household* filers signals the top five percent of filers, we also know the state has previously defined “middle class” to encompass incomes below this threshold.

Cuomo’s “middle class” tax cuts enacted in 2016 and to be fully phased in by 2025, impacts filers specifically within the \$27K to \$320k income range. The Governor aims to pause this “middle class” tax cut unless the \$15 billion budget deficit (project for both FY21 and FY22) is plugged. However, the

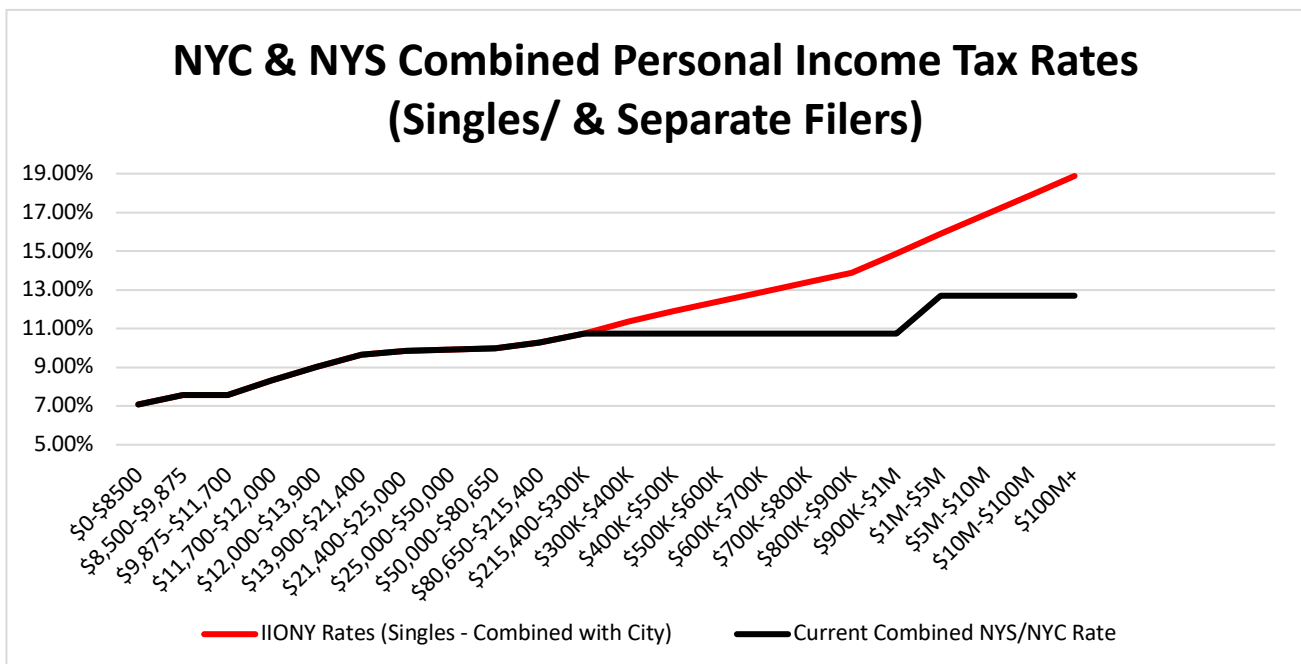
point is that recent State-promoted PIT policy and their specific definition of “middle class” is aligned to the progressive PIT structure proposed by IIONY. The proposal is meant to prevent adversely impacting working class New Yorkers or “the middle class”.

<b>New York State Personal Income Tax Schedule for Married-Filing Jointly</b>										
2016 Tax Brackets <sup>1</sup>	1997	2011	New Law - Tax Years							
	Law	Law <sup>2</sup>	2018	2019	2020	2021	2022	2023	2024	2025
0 - 17,050	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
17,050 - 23,450	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%
23,450 - 27,750	5.25%	5.25%	5.25%	5.25%	5.25%	5.25%	5.25%	5.25%	5.25%	5.25%
27,750 - 42,750	5.90%	5.90%	5.90%	5.90%	5.90%	5.90%	5.85%	5.73%	5.61%	5.50%
42,750 - 160,500	6.85%	6.45%	6.33%	6.21%	6.09%	5.97%	5.85%	5.73%	5.61%	5.50%
160,500 - 321,050	6.85%	6.65%	6.57%	6.49%	6.41%	6.33%	6.25%	6.17%	6.09%	6.00%
321,050 - 2,140,900	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%
2,140,900 and over	6.85%	8.82%	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%	6.85%

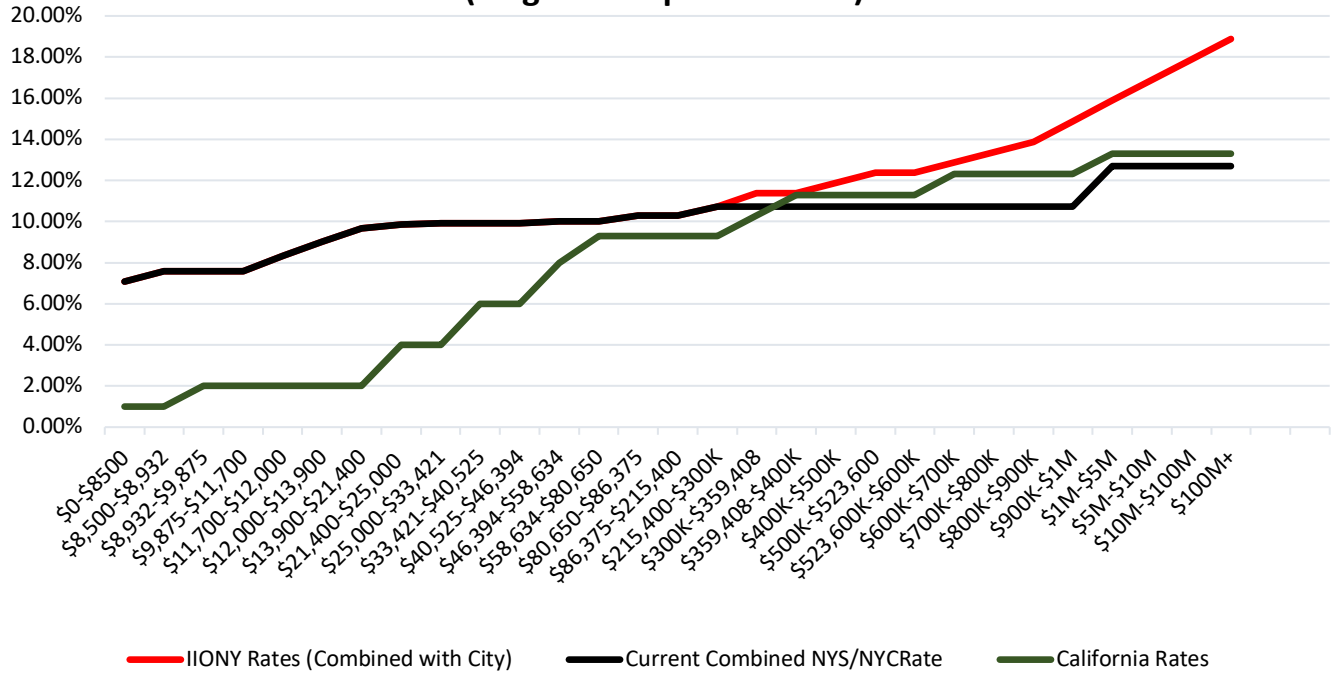
<sup>1</sup> Applies to taxable income after exemptions, deductions  
<sup>2</sup> As extended in 2013, through 2017 tax years  
Source: Executive Budget, FY 2017 Revenue Bill

Source: [Empire Center, How the tax cuts stack up](#)

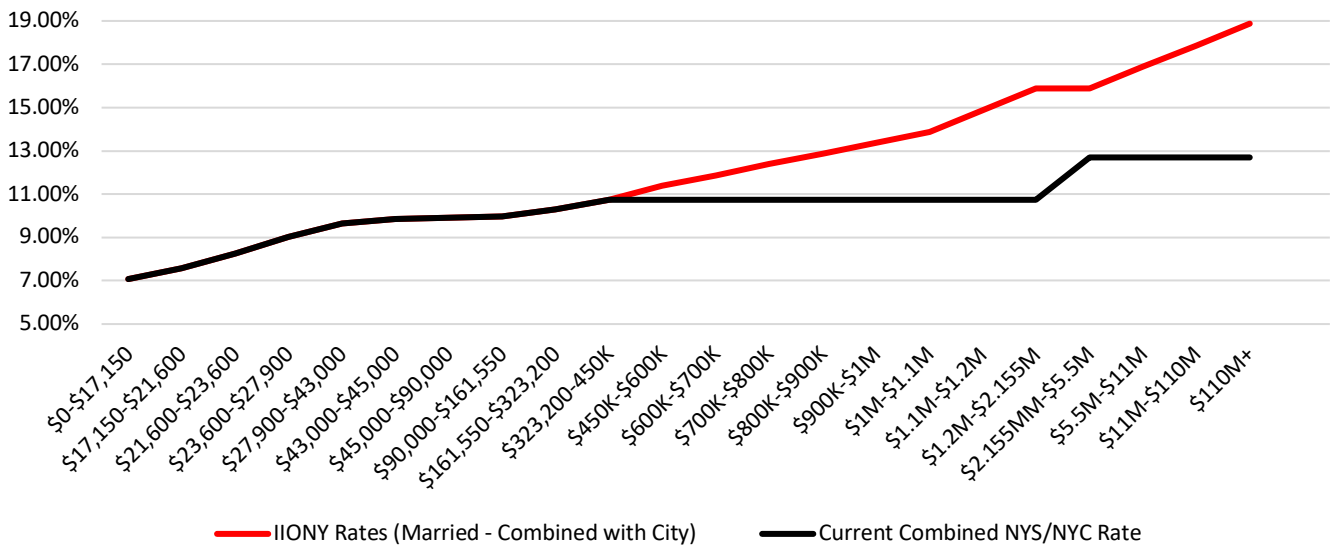
Although the IIONY PIT proposal is solidly grounded in data and class-conscientiousness, many have questioned the aggressive rates proposed. For instance, the top rate for those earning over \$100 million would amount to a combined rate of 18.88% for NYC residents subject to the local PIT. That’s six percent more than the current combined NYS and NYC rate and five and one-half percent more than the state with the current highest top rate in California.



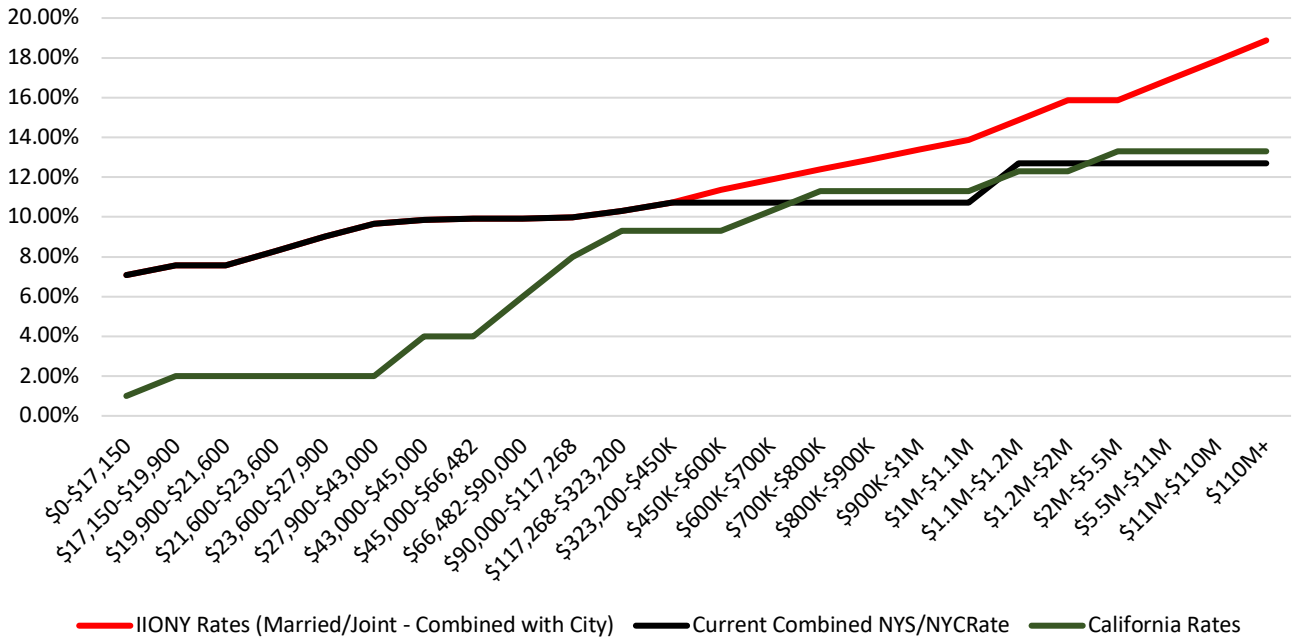
### Comparing California with Current NYC/NYS and IIONY PIT Rates (Singles & Separate Filers)



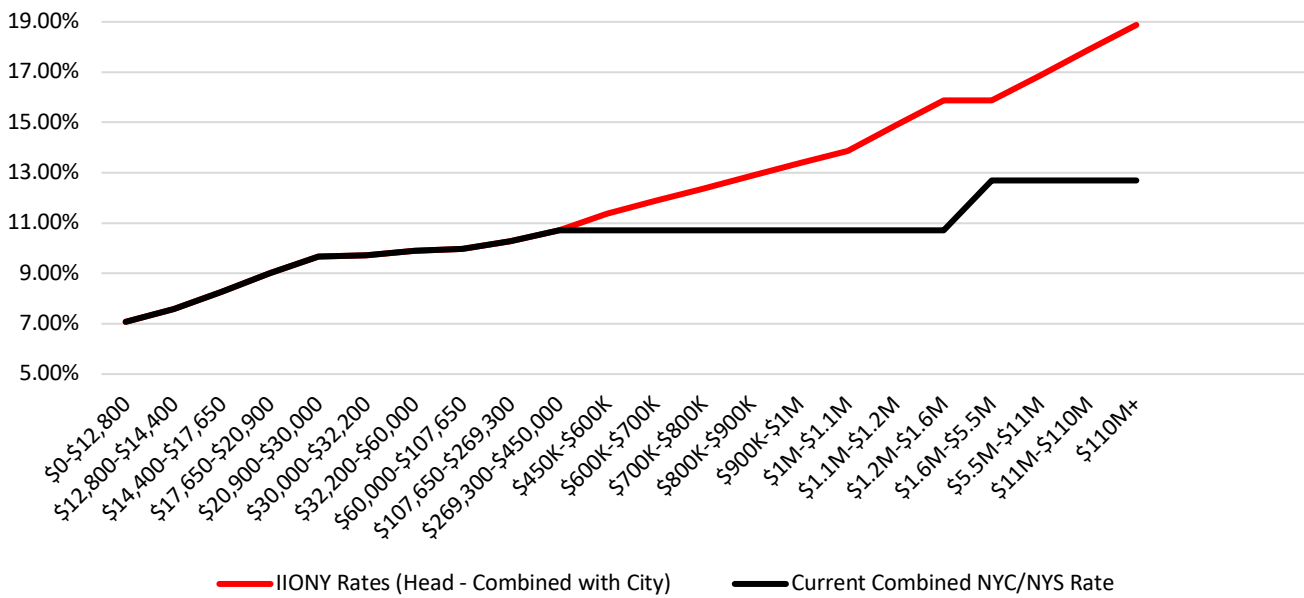
### NYC & NYS Combined Personal Income Tax Rates (Joint)



### Comparing California with Current and IIONY PIT Rates (Joint)

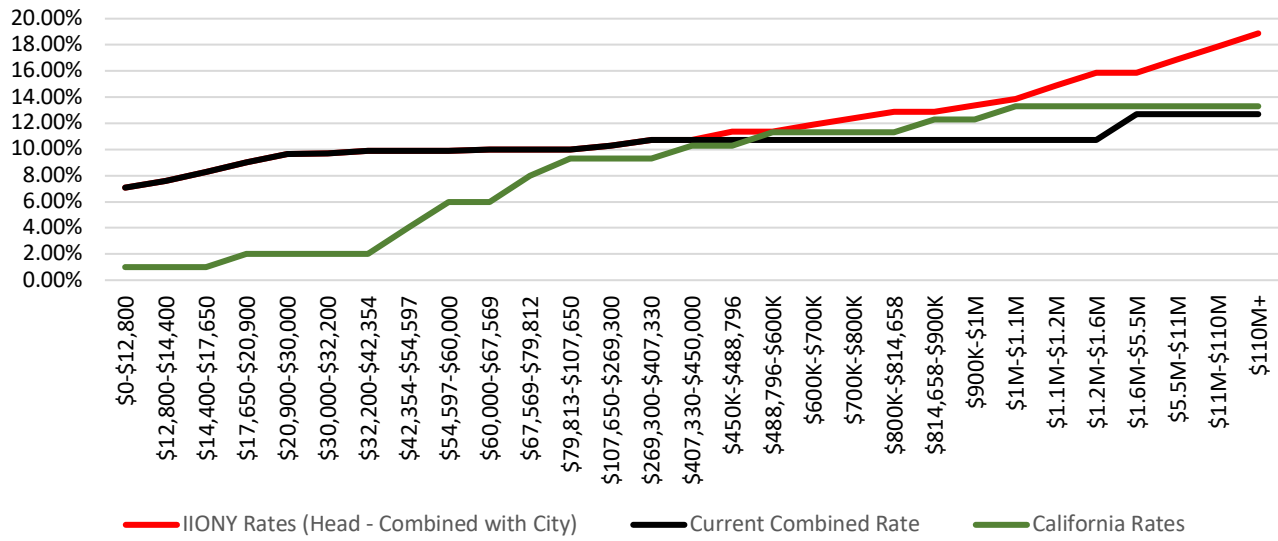


### NYC & NYS Combined Personal Income Tax Rates (Head of Household)



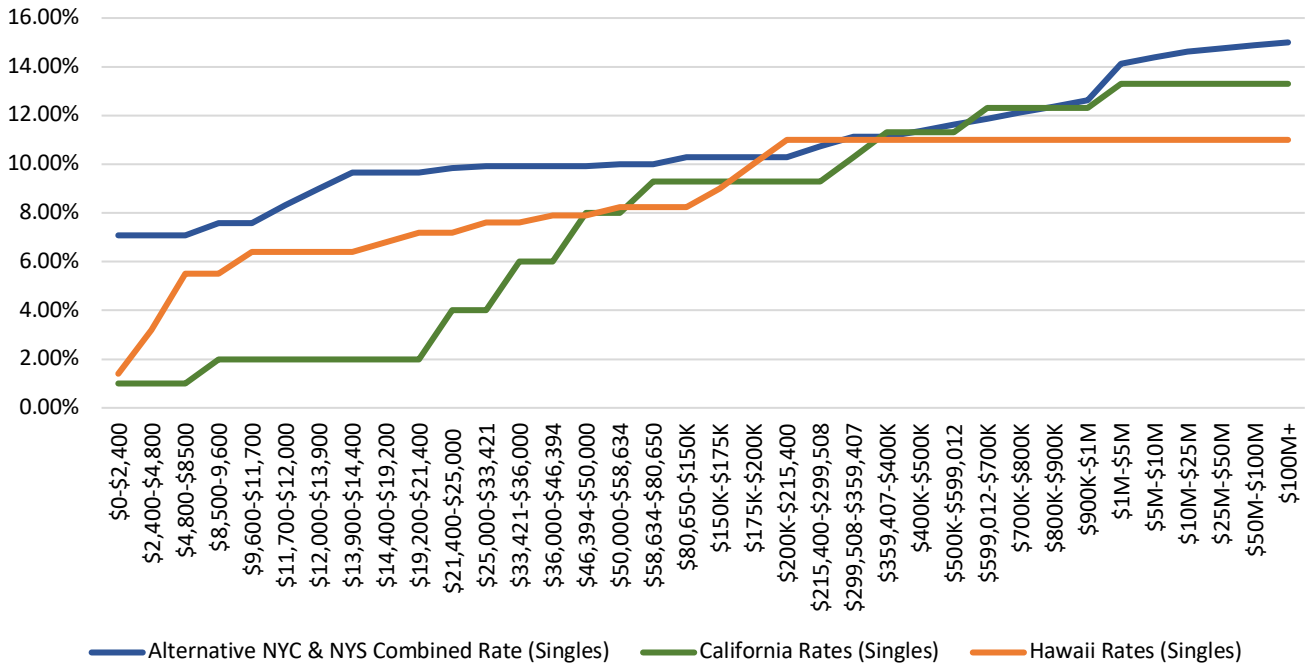


## Comparing California with Current and IIONY PIT Rates (Head of Household)

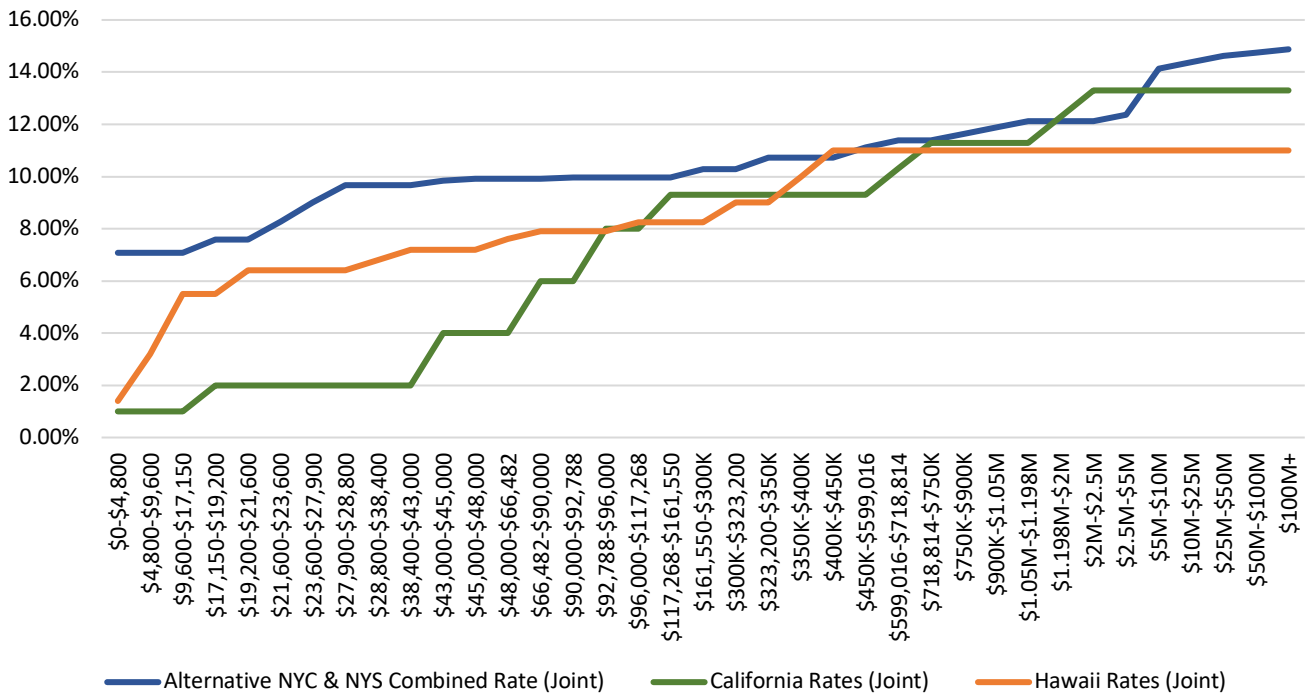


Despite anyone’s outrage or voiceful disagreement with the particular rates proposed by IIONY (this is true especially if one is concerned with outward migration even though [studies](#) have shown that when taxes are raised specifically on Millionaires that migration does not occur), it does not take away from the fact that our PIT structure in NY could benefit from more progressivity (especially beginning with the *top five percent* threshold as highlighted by IIONY) and from higher rates. How high? This is something the Legislature and Executive ultimately have to agree to but both history and the current state of wealth for high earners show us that higher rates could be borne by New Yorkers. Having our PIT structure both max out at close to fifteen percent (for City dwellers or those that also pay the NYC PIT) at the top rate and begin at the top five percent income threshold (roughly \$350K in income for singles and \$450K for joint filers) would make for robustly progressive policy. The following charts hint at what another progressive PIT alternative would look like (apart from the IIONY proposal):

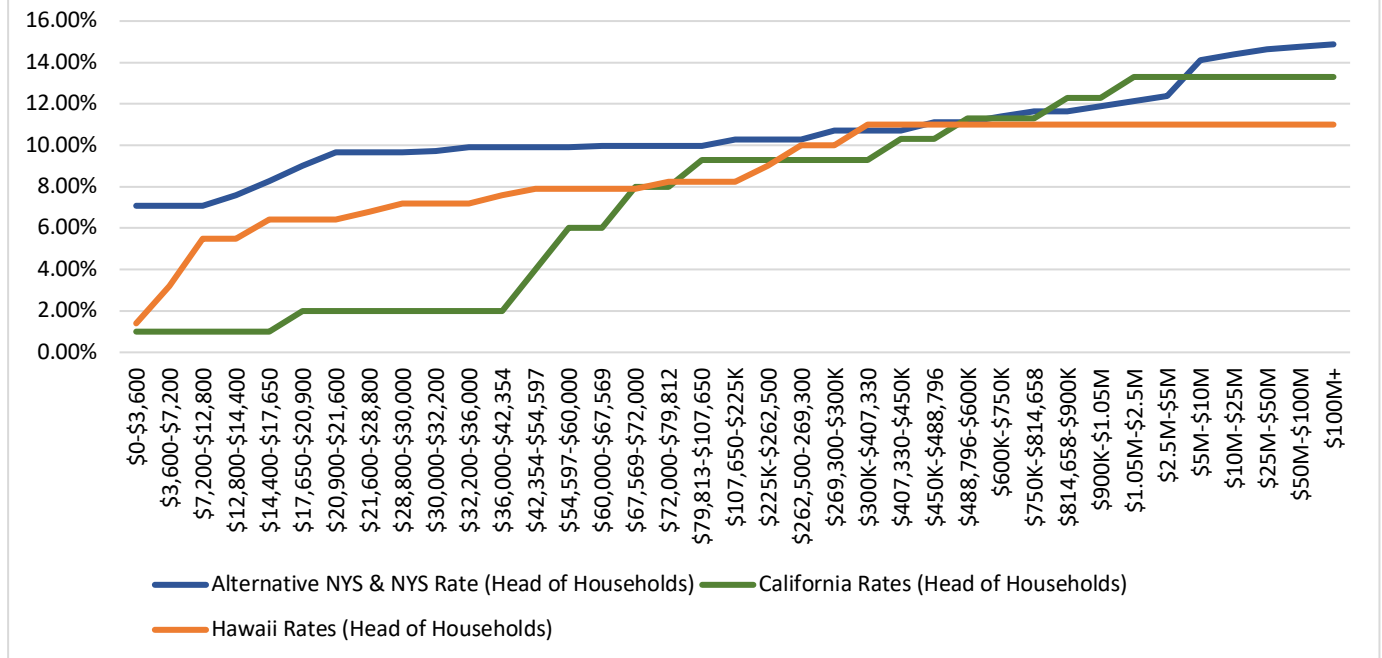
### Progressive Alternative (Singles)



### Progressive Alternative (Joint)



## Progressive Alternative (Head of Households)



### IV. Cuomo’s Personal Income Tax Proposal (in Executive Budget)

Within his Executive Budget proposal, Governor Cuomo included a PIT surcharge to earners making \$5 million and over. Taking into consideration taxpayer filer data for 2017, that would amount to 0.14% of taxpayers or 0.15% of taxpayers based on 2018 taxpayer data. Below are the proposed rates:

Cuomo Proposed Tax Bracket	Current State Income Tax Rate	Proposed Temporary Surcharge	Proposed State Tax Rate
\$5M-\$10M	8.82%	0.50%	9.32%
\$10M-\$25M	8.82%	1%	9.82%
\$25M-\$50M	8.82%	1.50%	10.32%
\$50M-\$100M	8.82%	1.75%	10.57%
\$100M+	8.82%	2%	10.82%

The following are a list of comprehensive reasons as to why Governor Cuomo’s PIT proposal should be rejected and replaced with a more progressive PIT proposal:

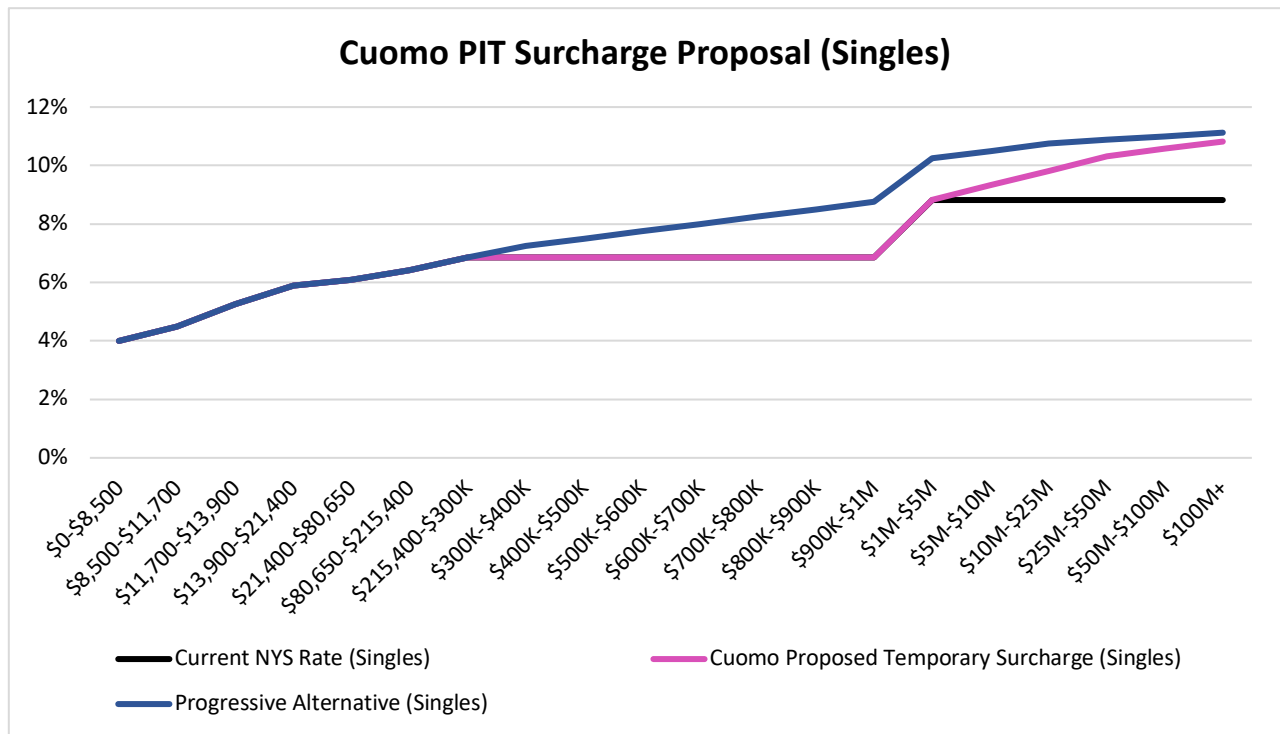
- The Governor has often compared New York’s top rate to California’s during his public press conferences. However, California’s top rate begins at the \$1 million income threshold for *single* and *head of household* filers and the \$2 million income threshold for *joint* filers. Despite this contrast, the Governor oddly has begun his PIT surcharge at the \$5 million threshold.
- By opting to increase taxes only on incomes above \$5 million, the Governor is increasing the PIT burden to roughly 0.15% of tax filers as opposed to the top five percent. Interestingly, the Governor has often talked about how the top one-, two-, and five-percent of filers pay more than half of the PIT share in NY. Why increase taxes to a smaller – as opposed to a broader – portion of that top

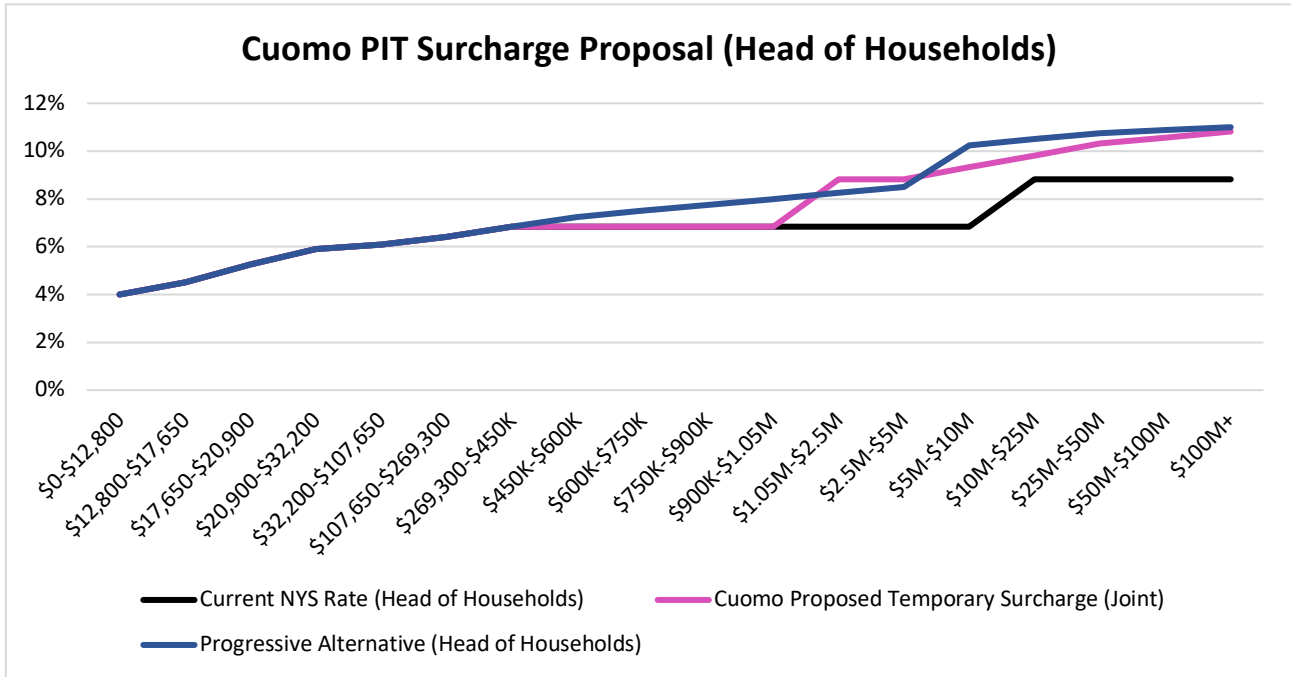
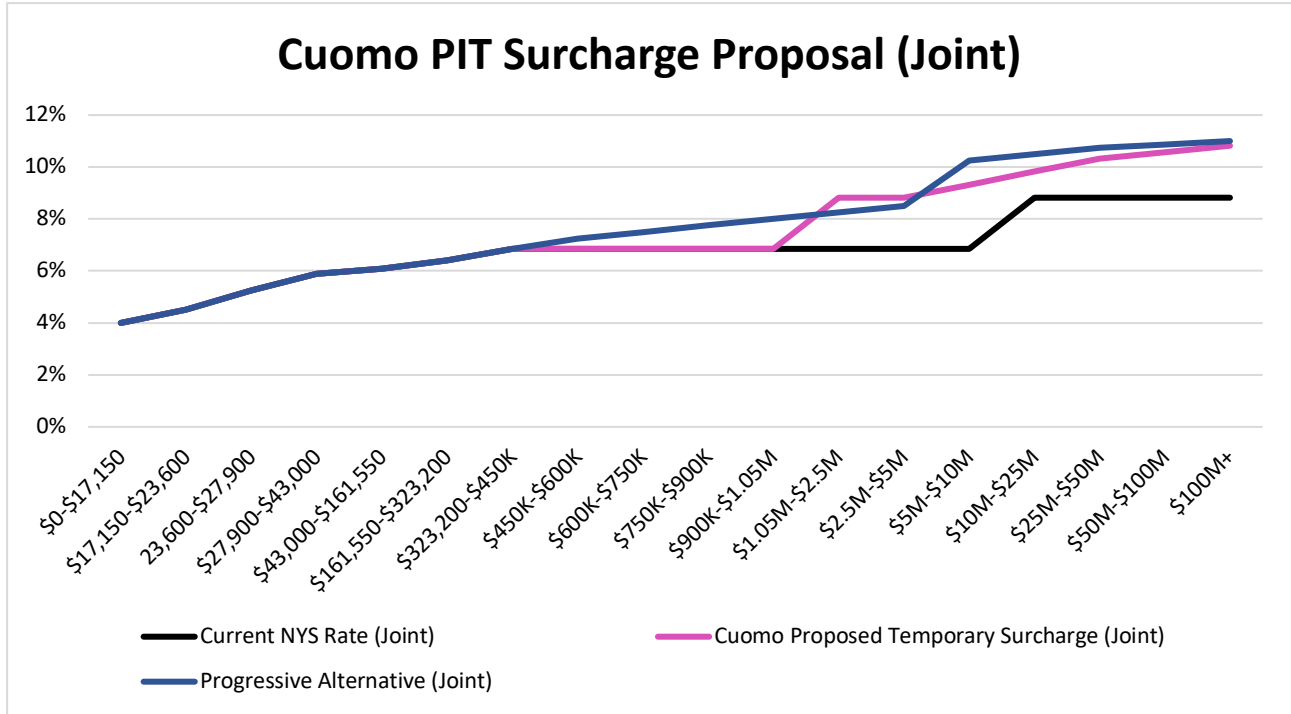
five percent especially if you've been concerned about a small few bearing a greater size of the tax burden?

- The Governor's proposal is also a temporary proposal that allows for deductions in the taxable years of 2024 and 2025. If we are to budget with sustainable or continual revenue, then any progressive PIT proposal should be permanent and also should not allow for a net-zero revenue outcome for the State as the Governor's ultimately proposal does post-2025.

## VI. Conclusion on Reforming PIT

In short, the Governor's PIT surcharge proposal falls short of progressive taxation and will not allow for the redistributive economic justice that our working-class families across New York deserve. The choice is clear for the State in relation to PIT: we can either implement a progressive PIT structure that starts at the top five percent threshold and gradually goes up to a top rate of fifteen percent or implement a PIT proposal such as the Governor's that is temporary and deeply flawed.





**Key point on migration and those that fear PIT increases beginning at the top five percent:**

Currently, the wealthiest taxpayers in the State live in NYC where taxes are higher (City dwellers pay an additional local PIT that varies from 3.078% to 3.876%). They reside in NYC because of its infrastructure and booming economic activities despite taxes being higher. Those fearmongering about migration should bear this in mind. Outside NYC legislators should also bare this in mind considering that any PIT increase would – in its redistributive effort – benefit outside NYC constituents the most.

# The Capital Gains Tax Proposal

## I. Capital Gains at the Federal level

A capital gain is realized when a capital asset (stock, bond, derivative, property, etc.) is sold or exchanged at a price higher than its basis. Basis is an asset’s purchase price, plus commissions and the cost of improvements less depreciation. A capital loss occurs when an asset is sold for less than its basis. Gains and losses (like other forms of capital income and expense) are not adjusted for inflation.

At the federal level, capital gains and losses are classified as long term if the asset was held for more than one year, and short term if held for a year or less. Short-term capital gains are taxed as ordinary income at rates up to 37 percent; long-term gains are taxed at lower rates, up to 20 percent.

Federal Income Tax Rates			
Rate	Singles	Married Filing Jointly	Head of Households
10%	\$0-\$9,950	\$0-\$19,900	\$0-\$14,200
12%	\$9,950-\$40,525	\$19,900-\$81,050	\$14,200-\$54,200
22%	\$40,525-\$86,375	\$81,050-\$172,750	\$54,200-\$86,350
24%	\$86,375-\$164,925	\$172,750-\$329,850	\$86,350-\$164,900
32%	\$164,925-\$209,425	\$329,850-\$418,850	\$164,900-\$209,400
35%	\$209,425-\$523,600	\$418,850-\$628,300	\$209,400-\$523,600
37%	\$523,600+	\$628,300+	\$523,600+

As stated, at the federal level all short-term capital gains are taxed at the same rates as regular income is taxed for the following income brackets. Regular income is considered **earned income** and income from capital gains is considered **unearned income**.

While short term capital gains are taxed at the same rate as regular income at both the federal and state level, at the federal level long term capital gains are not. Long term capital gains have separate tax rates and are therefore treated preferentially at the federal level. In fact, former President Trump’s *Tax Cut and Jobs Act* (TCJA) lowered the long-term capital gains rate from above thirty five percent to twenty percent. Take a look:

**TABLE 1**  
Tax Rate on Long-Term Capital Gains  
2020



	Pre-Tax Cuts and Jobs Act	Tax Cuts and Jobs Act			
		Single	Married Filing Jointly	Head of Household	Married Filing Separately
Zero rate	below the 25 percent bracket	taxable income below 40,000	taxable income below 80,000	taxable income below 53,600	taxable income below 40,000
15 percent rate	between the 25 and 35 percent bracket	taxable income between \$40,000 and 441,450	taxable income between \$80,000 and 496,600	taxable income between 53,600 and 469,050	taxable income between \$40,000 and 248,300
20 percent rate	above the 35 percent bracket	taxable income above \$441,450	taxable income above \$496,600	taxable income above \$496,050	taxable income above \$248,300
3.8 percent NIIT at AGI above \$200,000 (single), \$250,000 (joint).					

AGI = adjusted gross income; NIIT = net investment income tax

*Source: The Tax Policy Center*

As stated by The Fiscal Policy Institute in their latest report *Economic and Fiscal Outlook 2022, New York Recovering and Reimagining*, the TCJA “provided a significant tax cut for the wealthiest taxpayers.

The richest one percent of Americans account for the dominant share of the qualifying dividends and capital gains as they reported 52 percent of qualified dividend and the richest 0.1 percent reported 31 percent of qualified dividends”. Following the passage of the TCJA, New York policymakers have the opportunity to recapture the tax breaks handed to the wealthy through Trump’s expansion of the preferential capital gains rates. Additionally, we believe that all societies must fundamentally tax unearned income (income gained through the selling of capital assets) more than earned income (income gained through salaried or hourly work). What kind of message do we send to both everyday working New Yorkers (many who do not have investment income) and future generations if our tax code imposes more of a burden on wage or salaried earners than on speculative or investment behavior? It is worth noting that the State used to tax unearned income more than earned income (see chart on page 9) from 1978 to 1988.

**II. The Invest in Our NY Coalition’s Proposal [S2522/A3352](#)**

The Invest in Our NY Coalition has proposed to offset the preferential treatment of long-term capital gains at the federal level through a surcharge. Here are the differential points that display the extent to which long-term and short-term capital gains get taxed (the preferential rates were subtracted from the federal income tax rates; both charts displayed in page 20):

<b>Differences Between Long Term Capital Gains and Short-Term Capital Gains Taxes at the Federal Level (Following TCJA)</b>							
<b>Single</b>		<b>Married Filing Jointly</b>		<b>Head of Household</b>		<b>Married Filing Separately</b>	
\$0-\$9,950	-10%	\$0-\$19,900	-10%	\$0-\$14,200	-10%	\$0-\$9,950	-10%
\$9,951-\$40,000	-12%	\$19,901-\$80,000	-12%	\$14,201-\$53,600	-12%	\$9,951-\$40,000	-12%
\$40,001-\$40,525	+3%	\$80,001-\$81,050	+3%	\$53,601-\$54,200	+3%	\$40,001-\$40,525	+3%
\$40,526-\$86,375	-7%	\$81,051-\$172,750	-7%	\$54,201-\$86,350	-7%	\$40,526-\$86,375	-7%
\$86,376-\$164,925	-9%	\$172,751-\$329,850	-9%	\$86,351-\$164,900	-9%	\$86,376-\$164,925	-9%
\$164,926-\$209,425	-17%	\$329,851-\$418,850	-17%	\$164,901-\$209,400	-17%	\$164,926-\$209,425	-17%
\$209,426-\$441,450	-20%	\$418,851-\$496,600	-20%	\$209,401-\$469,050	-20%	\$209,426-\$248,300	-20%
\$441,451-\$523,600	-15%	\$496,601-\$628,300	-15%	\$469,051-\$523,600	-15%	\$248,301-\$523,600	-15%
\$523,601+	-17%	\$628,301+	-17%	\$523,601+	-17%	\$523,601+	-17%

The -% symbol in columns 2 and 3 show the differential in percentage with the short term and long-term capital gains taxes at the federal level with each of the investment income brackets. Those rates would translate into what additionally would be paid in taxes with the capital gains rate bill being proposed by the Invest in Our New York Act. +% symbol means the long-term capital gains are taxed higher than the short-term capital gains.

The IIONY proposal would exempt the following individuals from their capital gains preferential offset proposal:

- (1) A resident married individual filing a joint return, if their taxable income is not more than \$250K
- (2) A resident head of household, if their taxable income is not more than \$200K

(3) A resident unmarried individual, resident married individual filing separate returns if their taxable income is not more than \$150K

Taking into consideration these exemptions, the capital gains surcharge tax would amount to as follows under the IIONY proposal:

Capital Gains Additional Tax Rates Based on <a href="#">S2522/A3352</a>							
Single		Married Filing Jointly		Head of Household		Married Filing Separately	
\$150,000-\$164,925	9%	\$250,000-\$329,850	9%			\$150,000-\$164,925	9%
\$164,926-\$209,425	17%	\$329,851-\$418,850	17%	\$200,000-\$209,400	17%	\$164,926-\$209,425	17%
\$209,426-\$441,450	20%	\$418,851-\$496,600	20%	\$209,401-\$469,050	20%	\$209,426-\$248,300	20%
\$441,451-\$523,600	15%	\$496,601-\$628,300	15%	\$469,051-\$523,600	15%	\$248,301-\$523,600	15%
\$523,601+	17%	\$628,301+	17%	\$523,601+	17%	\$523,601+	17%

Many would say these surcharge rates are extraordinarily high considering that no other state taxes unearned income more than earned income (in fact, [nine states](#) offer preferential rates just like the federal government). These surcharges would go on top of the existing rates that capital gains already get taxed (remember, earned income and unearned income do get taxed at the same rate in the state). Some may add that this is precisely why it is not ideal policy to couple any additional capital gains surcharge tax with federal rates altogether. If we are to pursue an additional surcharge to capital gains, then let's do so relative to our current rate structure. This I ultimately believe to be the best way forward. I want to note that Jay Inslee, the Governor from Washington, has proposed a [nine percent capital gains tax](#) that would apply to long term capital gains earnings above \$25K for individuals and \$50K for joint filers.

### III. Conclusion

The best way moving forward is to enact an unearned income surcharge as it pertains to capital gains. But, how high should the surcharge be? And, to what incomes should it apply to? Because our state tax code does not currently differentiate between earned and unearned incomes, anything done with capital gains also hinges on PIT changes. Moreover, just as was stated in the PIT section of this testimony, these tax policies should affect the top five percent of earners as is intended. Therefore, any surcharge should begin at the top five percent threshold and gradually increase. Ideally, the surcharge should range from one to five percent (see *Other Resources*). Lastly, consideration should be given on making the surcharge applicable to short term capital gains as well; if we are to fundamentally believe that *unearned income* should be taxed more than *earned income* then this is how we hold true to that principle and progressive values.



## The Financial Transactions Tax (FTT)

### I. Equities, Derivatives, and Debt-Securities

Three main forms of securities (securities being a fungible and tradable financial instrument used to raise capital in public and private markets) are traded or transacted upon within the financial services industry. And they are:

- **Equity Securities** – Represents ownership interest held by shareholders in an entity (a company, partnership, or trust). Practically all stocks are equity securities and are traded through exchanges
- **Debt Securities** - A debt security represents borrowed money that must be repaid, with terms that stipulate the size of the loan, interest rate, and maturity renewal date. Another name for it is *bonds*. Bonds or debt securities are mostly traded over-the-counter (OTC), that is not through an exchange but through a broker-dealer firm (more on this to follow).
- **Derivatives** – Are financial securities with a value that is reliant upon or derived from an underlying asset or group of assets. *Futures*, *forwards*, *swaps*, and *options* are all forms of derivatives. *Futures* are an agreement between two parties for the purchase and delivery of an asset at an agreed upon price at a future date. *Forwards* are similar to futures, but do not trade on an exchange, only over the counter. *Swaps* are another common type of derivative, often used to exchange one kind of cash flow with another. An *options contract* is similar to a futures contract in that it is an agreement between two parties to buy or sell an asset at a predetermined future date for a specific price.

### II. The Three Major American Exchanges

The electronic trading systems of the financial services industry fundamentally relies on three exchange operators: the New York Stock Exchange (NYSE), Nasdaq Inc, and Cboe Global Markets Inc. All three exchanges utilize **Secure Financial Transaction Infrastructure** (SFTI), or data centers located in New Jersey (Secaucus), Chicago, and across the country and globe to allow investors or firms to access the exchange and global markets. SFTI network was created in 2002, “to facilitate large quantities of electronic quotes, trades and market data traffic while ensuring reliable access to NYSE Euronext Equities and Derivatives markets and a host of non-NYSE Euronext global execution venues”.



The following shows a picture of an Equinix data center.

## **A. The New York Stock Exchange (NYSE)**

The earliest securities exchanges originate with the forming of the NYSE. On May 17, 1792, twenty-four brokers signed the Buttonwood Agreement, which set a floor commission rate charged to clients and bound the signers to give preference to the other signers in securities sales. Today, the NYSE is the world's largest stock exchange with a market value of a publicly traded company's outstanding shares (otherwise known as market capitalization) of \$30.1 trillion.

### ***Important events related to NYSE:***

**1996** – [The Archipelago Exchange](#), the first ever all-electronic stock exchange in the United States opens and is based in Chicago

**2005** – [NYSE Group, Inc.](#): NYSE merges with the Archipelago Exchange (ArcaEx). Archipelago Exchange changed its name to NYSE Arca through merger. Prior to merging, NSYE launched its [hybrid trading system](#) allowing for electronic trading.

**2007** – [NYSE Euronext](#): NYSE Group Inc. and Euronext, a pan-European exchange, merge and forge agreements to share technology resources and data with stock exchanges in India, Tokyo, Malaysia and Brazil. The move combined the NYSE with the five major European exchanges, including the Paris Bourse, Amsterdam, the London International Financial Futures Exchange, Brussels, and Lisbon. The London International Financial Futures Exchange ([LIFFE](#)), which formed in London in 1982, was acquired by Euronext in 2002. LIFFE was renamed NYSE Liffe following the 2007 merger of Euronext and the NYSE.

**2008** – [The American Stock Exchange \(Amex\)](#) merges with the group of NYSE Euronext exchanges

**2009** – [NYSE Euronext acquires Nasdaq: NYFIX, Inc.](#): NYFix is a provider of financial market technology. The merger occurred through [NYSE Technologies](#), another provider of financial market technology who now operates the Secure Financial Transaction Infrastructure ([SFTI](#))

**2012** – NYSE: ICE: [The Intercontinental Exchange](#), an operator of global exchanges, acquires NYSE Euronext

All trading that occurs through the NYSE is essentially composed of:

1. NYSE Euronext's equities markets, which consists of the New York Stock Exchange (composed of the American Stock Exchange and the Archipelago Exchange) and Euronext (composed of the Paris Bourse, Amsterdam, the London International Financial Futures Exchange, Brussels, and Lisbon). One-third of the world's equities trading is done through NYSE Euronext.
2. [NYSE Bonds](#), an all-electronic exchange that trades bonds

## **B. The Nasdaq**

Nasdaq was founded in 1971, was the world's first electronic stock exchange, and is ranked second on the list of stock exchanges by market capitalization of shares (it has a worth market cap of \$17.2 trillion).

### ***Important events related to the Nasdaq Stock Market:***

**2007** – On October 2, Nasdaq purchased the Boston Stock Exchange and on November 7, Nasdaq agreed to purchase the Philadelphia Stock Exchange

**2008** – [Nasdaq OMX](#): Nasdaq acquires Nordic OMX. By this point, the OMX AB was composed of eight exchanges: the Armenia Securities Exchange, Nasdaq Copenhagen, Nasdaq Helsinki, Nasdaq Iceland, Nasdaq Riga, Nasdaq Stockholm, Nasdaq Tallinn, and Nasdaq Vilnius.

Nasdaq’s stock market activities are categorized into three divisions:

- Nordic Market (Copenhagen, Stockholm, Helsinki, Iceland)
- Baltic Market (Tallinn, Riga, Vilnius)
- First North, an alternative stock exchange for small companies in Europe

**C. Cboe Global Markets Inc.**

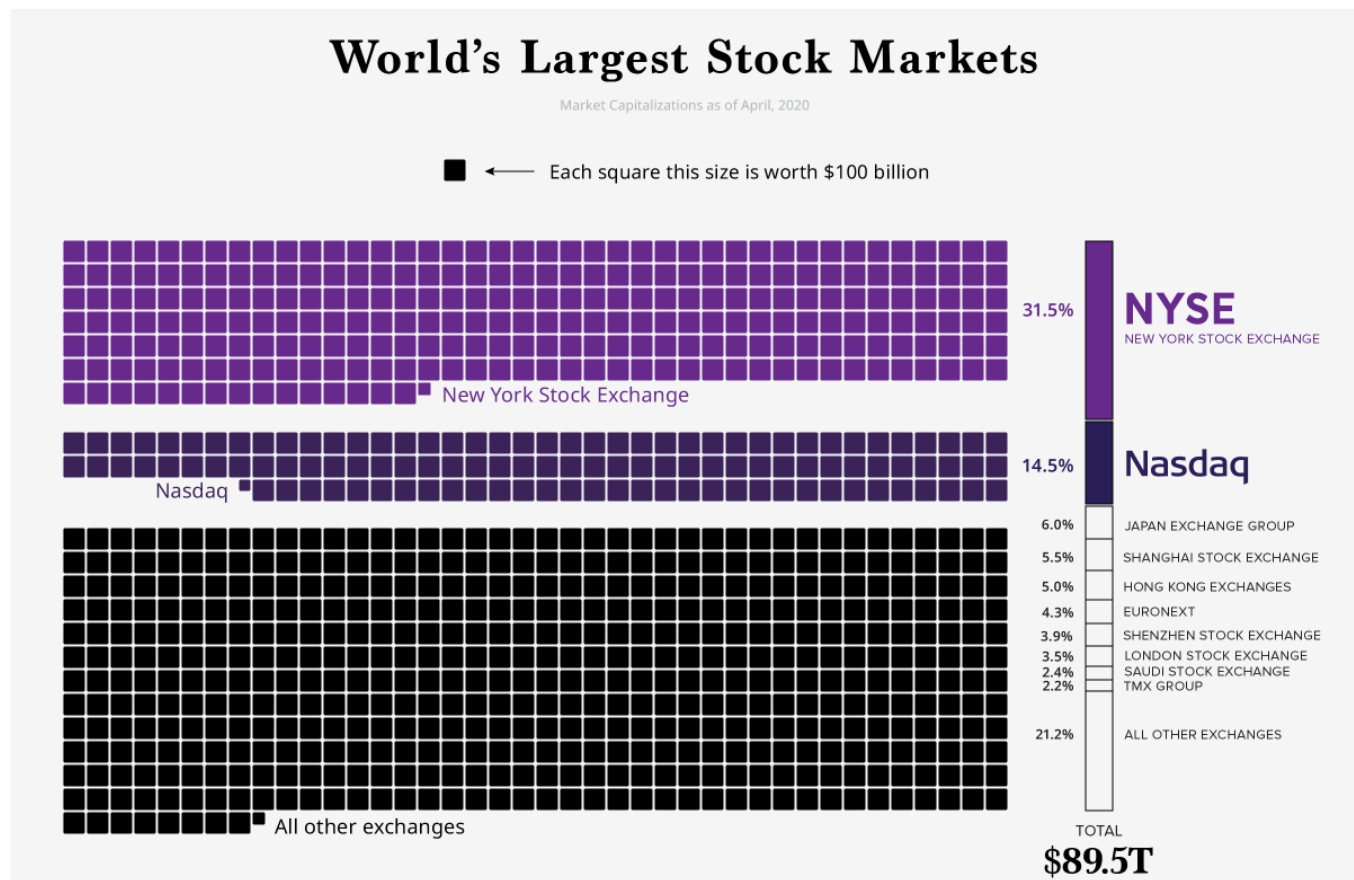
**Cboe Global Markets** is an American company that owns the Chicago Board Options Exchange (CBOE) and the stock exchange operator BATS Global Markets.

**Important events related to Cboe Global Markets Inc.:**

**2011** – BOE Stock Exchange (CBSX) entered into an agreement to acquire the National Stock Exchange. The National Stock Exchange continued to be based in Jersey City.

**2014** – The National Stock Exchange ceased trading operations.

Cboe Global Markets owns and operates four options exchanges: Cboe Options Exchange, Cboe C2 Options Exchange, Cboe BZX Options Exchange, and Cboe EDGX Options Exchange; seven equities exchanges: Cboe BZX Exchange, Cboe BYX Exchange, Cboe EDGX Exchange, Cboe EDGA Exchange, Cboe BXE Exchange, Cboe CXE Exchange, and Cboe DXE Exchange; one futures exchange: Cboe Futures Exchange; and one foreign exchange marketplace: Cboe FX



Source: [Visual Capitalist](#)

### III. The Electronic Trading Platforms for the Exchanges

**NYSE's Universal Trading Platform:** NYSE investors and traders use an electronic trading system called the Universal Trading Platform to be able to trade across global markets. According to Markets Wiki, The Universal Trading Platform is composed of 4 main components:

- The SFTI network enables clients to access all NYSE Euronext services through a single connectivity set.
- The Common Customer Gateway (CCG) is physically located in NYSE Euronext data centers, providing clients with multi-format order entry and multi-trading platform access.
- The Universal Trading Platform trading engine supports the trading functionalities of all the different markets. It is a flexible platform, with the ability to switch enable various technical features, depending on the market. It is supported by a technology providing ultra-low latency and resiliency.
- The Market Data Dissemination system (formerly called the Wombat Exchange Platform (WEP) is multicast and provided through NYSE Technologies.

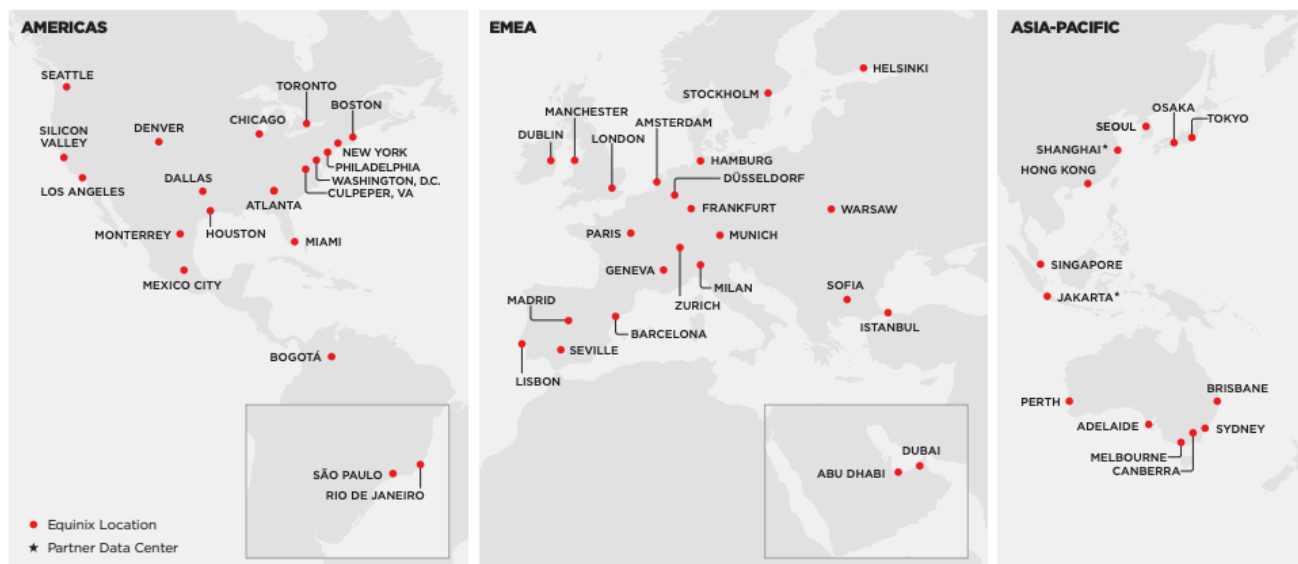
**Electronic Communications Networks (ECNs):** Rather than joining the exchange and trading from the floor, Nasdaq investors, broker-dealers and market makers can trade directly via an Electronic Communications Network or ECN which automatically matches buy and sell orders at specified prices. ECNs register with the U.S. Securities and Exchange Commissions (SEC) as broker-dealers.

### IV. Data Centers

The three major exchanges allow investors to participate in electronic trading because of their exchange operators. These operators are responsible for allowing investors to maintain high-quality connectivity and they do it through their data center sites. The major exchanges geographically located in the United States are Equinix, Digital Realty, and Coresite.

Below you can find the geographical location of Equinix's global data centers:

## EQUINIX IBX® AND xSCALE™ DATA CENTERS WORLD MAP



Exchange operators like Equinix offer colocation services which is where equipment, space, and bandwidth are available for rental to retail customers. Colocation facilities provide space, power, cooling, and physical security for the server, storage, and networking equipment of other firms and also connect them to a variety of telecommunications and network service providers with a minimum of cost and complexity. Below are some of the data center colocation sites operated by NYSE: ICE and Equinix.

### NYSE: ICE High Availability Access Centers:

High Availability Access Centers				
Address	Ring	City	State	Zip
32 Avenue of the Americas	Blue	New York	NY	10013
111 8th Ave	Blue	New York	NY	10011
111 N Canal St	Red	Chicago	IL	60661
165 Halsey St	Red	Newark	NJ	07102
300 Boulevard E	Blue/Red	Weehawken	NJ	07086
350 E Cermak Rd	Blue/Red	Chicago	IL	60616
360 Hamilton Ave	Red	White Plains	NY	10601
800 Secaucus Road	Red	Secaucus	NJ	07094
1400 Federal Blvd	Red	Carteret	NJ	07008
1700 MacArthur Blvd	Blue/Red	Mahwah	NJ	07430

*Five of these ten locations are main colocation data center sites for Equinix.*

NYSE: ICE’s high Availability network is, [according](#) to them, “Comprised of two diverse, logical networks that connect 10 US and 14 European Access Centers to all ICE & NYSE markets and Data Centers. This provides customers in the financial services industry with distinct geographical locations to which they can meet the High Availability edge routers”.

### ICE Colocation Data Center Sites:

Basildon, Essex, UK – ICE is the service provider (see operating guidelines [here](#))  
350 E Cermak Rd, Chicago, Illinois 60616 – ICE utilizes the SFTI of Equinix, Inc here  
1700, MacArthur Blvd, Mahwah, New Jersey 07430 – ICE is the service provider [here](#)

*Equinix has 72 Data Centers throughout 14 different geographical locations in the US:*

### **3 Data Center Sites in Illinois**

[CH1/2/4](#) – 350 E Cermak Rd, Chicago, Illinois 60616  
[CH3](#) – 1905 Lunt Avenue, Elk Grove, Illinois 60007  
[CH7](#) – 111 Plaza Drive Westmont, Illinois 60599

### **2 Data Center Sites in Boston**

[BO1](#) – 74 West St, Waltman MA 2451  
[BO2](#) – 41 Alexander Road, Billerica, Massachusetts 1821

### **10 Data Center Sites in New York and New Jersey**

[NY1](#) – 165 Halsey St., Newark, NJ 7102  
[NY2](#) – 275 Hartz Way, Secaucus, NJ 07094  
[NY4](#) – 755 Secaucus Rd, Secaucus, NJ 07094  
[NY5](#) – 800 Secaucus Rd, Secaucus, NJ 07094  
[NY6](#) – 105 Enterprise Ave S, Secaucus, NJ 07094  
[NY7](#) – 5851 West Side Ave., N Bergen, NJ 07047  
[NY8](#) – 60 Hudson St, New York, NY 10013  
[NY9](#) – 118 8<sup>th</sup> Avenue, New York, NY 10011  
[NY11](#) – 1400 Federal Boulevard, Carteret, NJ 07008  
[NY13](#) – 401 Fieldcrest Drive, Elmsford, NY 10523

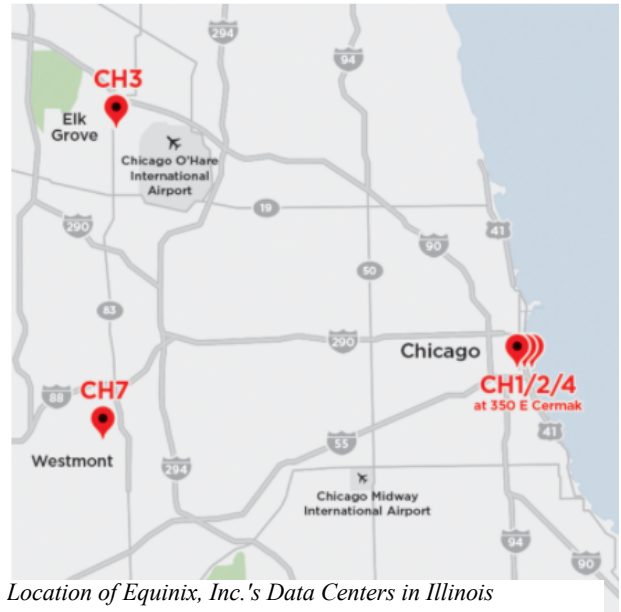
NYSE Technologies now has SFTI Access Centers inside Equinix’s NY1 and NY5 data centers.

### **1 Data Center Site in Pennsylvania**

[PH1](#) – 401 North Broad St, Philadelphia PA 19108

### **14 Data Center Sites in Washington D.C.**

[DC1](#) – 21711 Filigree Ct., Ashburn VA 20147  
[DC2](#) – 21715 Filigree Ct., Ashburn VA 20147  
[DC3](#) – 44470 Chilum Place, Ashburn VA 20147  
[DC4](#) – 21691 Filigree Ct., Ashburn VA 20147  
[DC5](#) – 21701 Filigree Ct., Ashburn VA 20147  
[DC6](#) – 21721 Filigree Ct., Ashburn VA 20147  
[DC7](#) – 7990 Quantum Drive, Vienna VA 22182  
[DC10](#) – 21551 Beaumeade Crcl, Ashburn VA 20147  
[DC11](#) – 21721 Filigree Ct., Ashburn VA 20147  
[DC12](#) – 44790 Performance Circle, Ashburn VA 20147



*Location of Equinix, Inc.'s Data Centers in Illinois*



*Location of Equinix, Inc.'s Data Centers in New York and New Jersey*

- [DC13](#) – 21830 Uunet Way, Ashburn VA 20147
- [DC14](#) – 7400 Infantry Ridge Road, Manassas VA 20109
- [DC15](#) – 44780 Performance Circle, Ashburn VA 20147
- [DC21](#) – 22175 Beaumeade Circle, Ashburn VA 20147

#### **4 Data Center Sites in Culpeper, Virginia**

- [CU1/CU2/CU3/CU4](#) – 18155 Technology Drive, Culpeper, VA 22701
- \*they are separately located in Buildings A, B, C, and D*

#### **5 Data Center Sites in Atlanta**

- [ATL1](#) – 180 Peachtree, Atlanta GA 30303
- [ATL2](#) – 56 Marietta Street NW, Atlanta GA 30305
- [ATL3](#) – 56 Marietta Street NW, Atlanta GA 30305
- [ATL4](#) – 450 Interstate North Parkway, Atlanta GA 30339
- [ATL5](#) – 2836 Peterson Place NW, Norcross GA 30071

#### **4 Data Center Sites in Miami**

- [MI1](#) – 50 NE 9<sup>th</sup> St (50 NE 8<sup>th</sup> St), Miami FL 33132
- [MI2](#) – 36 NE Second St, Miami FL 33132
- [MI3](#) – 4680 Conference Way, Boca Raton FL 33431
- [MI6](#) – 1525 NW 98<sup>th</sup> Court Doral FL 33172

#### **3 Data Centers in Seattle**

- [SE2](#) – 2001 Sixth Ave, Seattle WA 98121
- [SE3](#) – 2020 Fifth Ave, Seattle WA 98121
- [SE4](#) – 6906 South 204<sup>th</sup> St, Kent, WA 98032

#### **13 Data Centers in Silicon Valley, California**

- [SV1](#) – 11 Great Oaks Blvd., San Jose CA 95119
- [SV2](#) – 1350 Duane Ave., Santa Clara CA 95054
- [SV3](#) – 1735 Lundy Ave., San Jose CA 95131
- [SV4](#) – 255 Caspian Drive, Sunnyvale CA 94089
- [SV5](#) – 9 Great Oaks Blvd., San Jose CA 95119
- [SV6](#) – 444 Toyama Drive, Sunnyvale CA 94089
- [SV8](#) – 529 Bryant St. Palo Alto CA 94301
- [SV10](#) – 7 Great Oaks Boulevard, San Jose CA 95119
- [SV13](#) – 2030 Fortune Drive, San Jose CA 95131
- [SV14](#) – 2960 Corvin Drive, Santa Clara CA 95051
- [SV15](#) – 2970 Corvin Drive, Santa Clara CA 95051
- [SV16](#) – 3000 Corvin Drive (Pod B), Santa Clara CA 95051
- [SV17](#) – 3000 Corvin Drive (Pod A), Santa Clara CA 95051

#### **5 Data Centers in Los Angeles, California**

- [LA1](#) – 600 West 7<sup>th</sup> St, Los Angeles CA 90017
- [LA2](#) – 818 West 7<sup>th</sup> St, Los Angeles CA 90017
- [LA3](#) – 1920 East Maple Ave., El Segundo CA 90245

[LA4](#) – 445 North Douglas Street, El Segundo CA 90245

[LA7](#) – 1501 Francisco Street, Torrance CA 90501

## **9 Data Centers in Dallas, Texas**

[DA1/DA2/DA3/DA6/DA11](#) – 1950 North Stemmons Freeway, Dallas TX 75207

[DA4](#) – 2323 Bryan Street, Dallas TX 75201

[DA7](#) – 6653 Pinecrest Drive, Plano TX 75024

[DA9](#) – 2222 East Grauwyler Road, Irving TX 75061

[DA10](#) – 1232 Alma Road, Richardson TX 75081

## **1 Data Center Site in Houston, Texas**

[HO1](#) – 1515 Aldine Meadows Road, Houston, TX, 77032

## **2 Data Centers in Denver, Colorado**

[DE1](#) – 9706 East Easter Ave, Englewood CO 80112

[DE2](#) – 335 Inverness Drive South, Englewood, CO 80112

*Equinix also has roughly 140 more data centers in 24 other countries*

## **V. New Jersey and their Financial Transaction Tax Proposal [A4402/S2902](#)**

On July 16, 2020, Assembly Member John F. McKeon, representative of Essex and Morris in New Jersey, introduced a financial transaction tax (FTT). The tax would impose a, “\$0.0025 [tax] for each financial transaction processed **through electronic infrastructure located in this State**. [The tax] is imposed on a person or entity that processes 10,000 or more financial transactions through electronic infrastructure”. Knowing what we know about how the financial services industry works – that investors or traders electronically trade from the exchange which is operated through data centers – we know that this bill was tailored in such a fashion to be easily evaded.

Given that the FTT New Jersey bill crafted was specifically designed to tax the data servers or processors that are utilized for trades, the easy recourse for the exchanges to avoid this tax would be to move those same servers out of New Jersey. And that is precisely what NYSE and Nasdaq [threatened to do](#) and did so by simulating a trading day using its backup data center in Chicago. Additionally, Nasdaq began talks with Texas Governor Greg Abbott about relocating trading systems to the Dallas-Fort Worth area. Several other unnamed states are also said to be talking to Nasdaq.

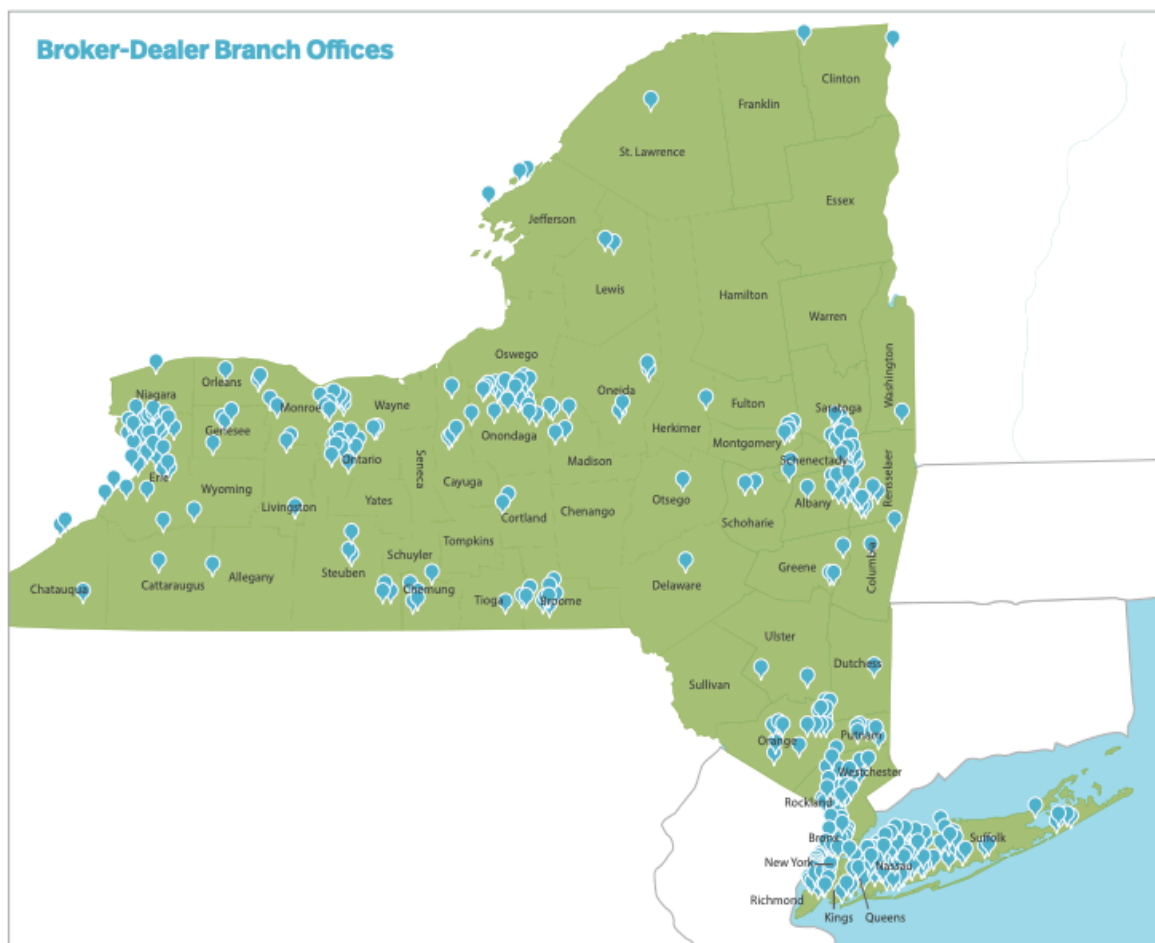
## **VI. Broker-Dealer Firms**

In New York, there are a total of just over a thousand broker dealers with nearly nine thousand branch offices employing roughly 114K representatives in the state. A cumulative of two hundred thousand jobs are based on the securities industry. This is all according to the *Securities Industry and Financial Markets Association*, “the leading trade association for broker-dealers, investment banks and asset managers operating in the US and global capital markets”. A broker-dealer (B-D) is a person or firm in the business of buying and selling securities for its own account or on behalf of its customers. In other words, Broker dealers are trading agents when it executes orders on behalf of its clients and are dealers or principals when it trades for its own account. There are two types of broker-dealers:



1. a wirehouse, or a firm that sells its own products to customers (The four largest and most well-known wirehouse full-service brokerage firms today are Morgan Stanley, Bank of America's Merrill Lynch, UBS, and Wells Fargo); and
2. an independent broker-dealer, or a firm that sells products from outside sources.

Broker dealers in essence are able to make trades electronically through the major exchanges both with their own account and for their clients and also offer over-the-counter (OTC) services. That is, they can sell or trade securities beyond that which exists on the exchanges. Bonds or debt-securities are mostly traded OTC as opposed to most equity-securities which are traded over the exchange. It is important to note that the Securities and Exchange Commission mandates a nominal fee on the sale of exchange-listed equities. The fee is 1% of one eight-hundredth of the dollar value of the equities sold and most of the SEC fees are shouldered by broker-dealers, who, in turn, may pass the costs along to investors. In other words, there currently is a financial transactions tax imposed by the SEC (via the [Securities Exchange Act](#)).



Source: Financial Industry Regulatory Authority, Discovery Data

Secondary Source: [Sifma: The Street, The City and the State Report](#)

*The Financial Industry Regulatory Authority (FINRA): Existing reporting and compliance*

All firms dealing in securities that are not regulated by another self-regulatory organization such as FINRA are required to be member firms of the FINRA. FINRA is supposed to be overseen by the SEC, nonetheless

they are a self-regulatory organization which regulates member brokerage firms and exchange markets. As of [December, 2019](#), FINRA oversaw 3,517 brokerage firms, 153,907 branch offices and approximately 624,674 registered securities representatives. Much of the reporting and compliance that broker-dealers are mandated to do to pay the current SEC mandated fee on equities or to meet any general SEC regulations is done so through FINRA. This is critical to point out because it means that there is compliance and reporting done from the financial services industry that New York could potentially take advantage of to impose any form of a financial transactions tax.

## VIII. The Invest in Our New York Coalition Proposal [S3980/A5215](#)

The financial transactions tax (FTT) proposed by IIONY would levy a 0.50% tax on share of stocks and partnership or beneficial ownership interest, a 0.10% tax on bonds, and a 0.005% tax on derivatives. The FTT proposal is comprehensive in that it would impose a tax on all financial instruments traded both on exchanges and OTC. The rates were modeled after Senator Bernie Sanders' [Inclusive Prosperity Act of 2019](#). Small rates were designed in order to mostly discourage high frequency trading (or trading that occurs in bulk and is highly speculative because computerized algorithms are used to make quick profits as opposed to do more long-term investing).

### *Retirement Accounts and Pension Funds*

Some may argue, especially the financial services industry, that an FTT would adversely affect retirement accounts and pension funds which rely on investment trading to yield benefits for some working class or “middle class” Americans. The empirical truth is that this is fearmongering at best. A [2019 report](#) from *Public Citizen* estimates the average retirement-related cost increase for households at different incomes. For instance, the authors of the report estimate that among the middle 20% of households, only 53% have retirement savings and for those households, the average cost increase would be \$13 in a single year. The Public Citizen report also provides alternative methodology using data from the Investment Company Institute (who oppose an FTT). Using this data, the report concludes that the average impact for households in the middle 20 percent with retirement savings would be between \$13 and \$35 in a year.

As stated by Dean Baker in a 2020 *Center for Economic and Policy Research* [paper](#):

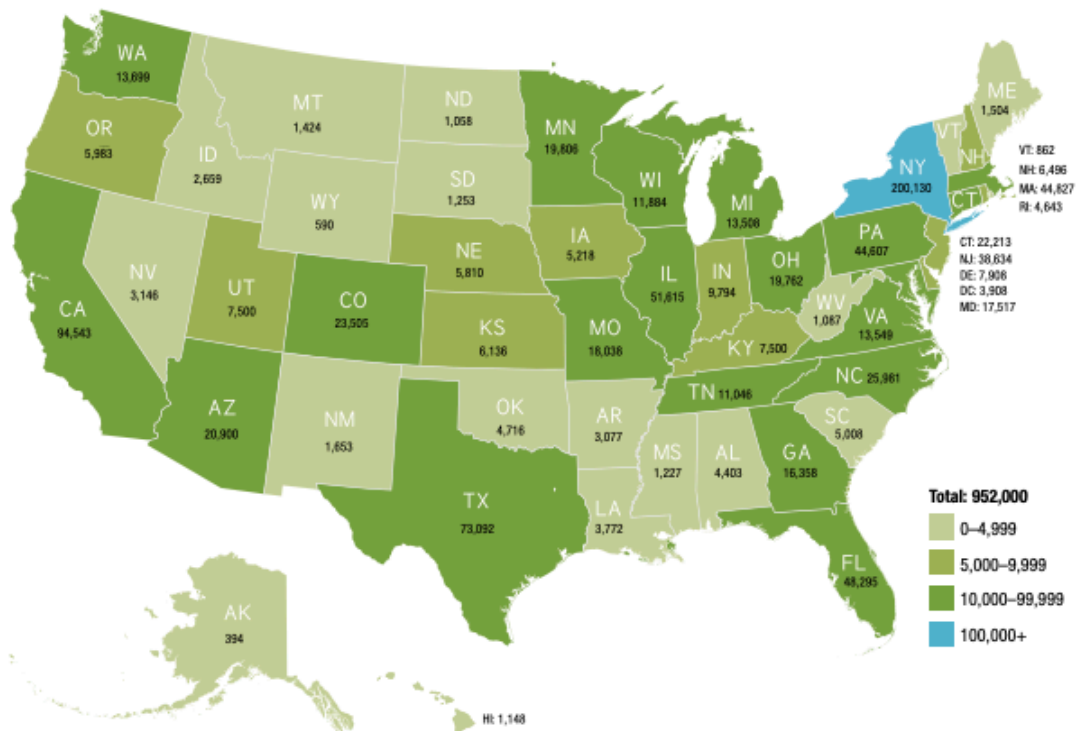
At the most basic level, it is difficult to see how an FTT at the proposed 0.1 percent level could have a major impact on pension fund returns. The arithmetic is straightforward. Suppose we have a 0.1 percent tax, and a pension turns over 30 percent of its portfolio each year. This would mean that the direct cost of the tax is 0.03 percent of the pension fund's assets. This assumes that the pension fund is buying new shares each time it sells existing shares and that it effectively pays half of the tax (0.05 percent) each time.

But even this 0.03 percent cost figure overstates the true cost of the tax. It would be expected that pension funds would respond to the imposition of an FTT by reducing their trading volume. The basic story is that an FTT would make it more expensive to trade; therefore, pension funds would trade less.

## On Migration

Opponents of an FTT also argue that any form of an FTT would cause outward migration from the financial services industry. We know for one that the New Jersey scenario (what occurred once they proposed an FTT) is completely different because of how their proposal was shaped. The IIONY FTT proposal would require the Commissioner of the Department of Taxation and Finance to issue relevant guidance in order to impose this tax. Additionally, it allows for **either** the exchange, broker-dealer, or individual investor or broker-dealer client to be taxed based on their location within the state. Ultimately, no matter how the Commissioner decides to directly impose this tax (potentially and ideally to the broker-dealer located in the state), it is clear that the tax will ultimately fall on individual investors. As is business logic, if an added cost is passed down to a business then they will see to it to recoup those losses by passing it down to the consumer (in this case the individual traders and investors). However, any opponent arguing that the entire financial services industry would pick up and leave in New York is purely dramatizing any consequences whether intended or not. That would essentially mean nine thousand broker-dealer branch offices along with two hundred thousand employees (as stated earlier); and beware, our state has 2.7 times more employees in this sector than the state with the second greatest (Texas), and has grown five thousand jobs from the years of 2019 to 2017. The costs for having an entire ecosystem leave is also massive and would deter all of the actors.

## SECURITIES INDUSTRY EMPLOYMENT BY STATE – 2019



*Source: Sifma, 2021 The Street, the City, and the State Report*

## VIII. The Stock Transfer Tax Proposal [S1406/A3353](#)

Another proposal in New York has been put forward to levy a stock transfer tax. This proposal would repeal [§280-a](#) of the tax code which is what effectively fully rebates the current stocks on equities or stocks that the state once imposed since the early 1900s until 1981. By doing this, the STT bill allows for [Section 271-a](#), [Section 271](#), and [Section 270](#) to serve as the main legal basis for administering the STT. Unfortunately, those sections are based on an antiquated understanding of how trading once occurred; whereas prior to the 21<sup>st</sup> century trading occurred mostly on the floor of the stock exchanges, today it is mostly electronic as has been explained. Any proposal to simply repeal the rebate to reinstitute the STT would have to also amend the administrative portions that mandated traders pay the STT by purchasing stamps.

Previously, traders paid the stock transfer tax [by purchasing stamps](#) from a fiscal agent (“a corporation organized under the banking law of New York or under the national bank act of the US”) and affixing those stamps on stock certificates (literally a piece of paper that represents the shares or stocks owned in a company of which exchanges have done away with or are phasing out due to the shift in electronic trading). Traders also had the ability to pay the stock transfer tax by utilizing a tax meter set up by the fiscal agent. This cannot serve as the current model to issue an STT given the technological changes to the financial services market. Additionally, comprehensive policy makes for best public policy and policymakers therefore should account for all financial instruments traded when levying any form of an FTT.

<u>Selling Price</u>	<u>Tax Rate per 100</u>
\$20.00 and over	\$5.00
\$10.00 - \$19.99	\$3.75
\$ 5.00 - \$ 9.99	\$2.50
Under \$5.00	\$1.25
Maximum Tax on Sale	\$350.00
No sale Transactions	\$2.50

## X. Conclusion

Enacting an FTT in New York is possible and it is progressive policy. We will need the political will of not just lawmakers but also bureaucrats and specifically the cooperation of the *Division of Budget* (DOB) and the *Department of Taxation and Finance* (DTF). For we know, based on the industry’s letter to the Governor and Legislative Leadership, that they oppose “any form of an FTT”. This will ultimately be about whether we as policy and law makers fundamentally or conceptually agree in doing this because we will not get the utmost cooperation from the industry. This is complex given how the financial services industry works as laid out. However, we can take advantage of reporting done already from brokerage firms to initiate an FTT but we will ultimately need buy-in from DTF and DOB in order to efficiently and effectively levy this tax given the complexity of the industry.

### Location of Exchanges:

\*NYSE Trading Floor – 11 Wall Street, New York, NY 10005

\*Nasdaq OMX Corporate Headquarters and RBC Capital Markets’ trading floors – 1 Liberty Street, New York, NY 10006

## The Corporate Tax

### I. Corporate Taxes in New York

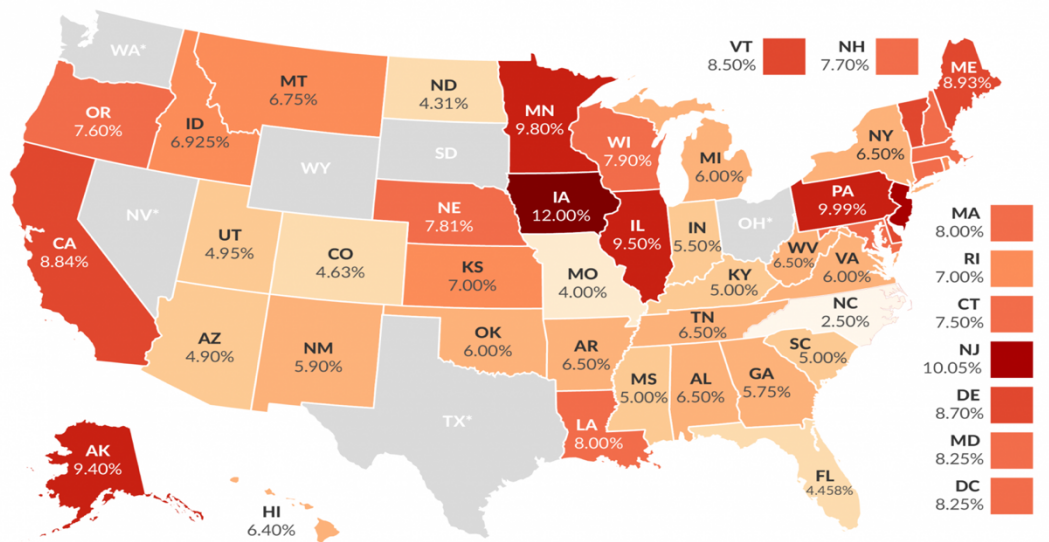
A corporate tax is a tax on the profits of a corporation. The taxes are paid on a company's taxable income, which includes revenue minus cost of goods sold (COGS), general and administrative (G&A) expenses, selling and marketing, research and development, depreciation, and other operating costs. Almost all (if not all) businesses that pay corporate taxes are large businesses that have registered as an S-corporation with the state. S corporations are business corporations that elect to pass corporate income, losses, deductions, and credits through to their shareholders for federal tax purposes.

On March 31, New York Governor Andrew Cuomo (D) signed into law the FY 2014-2015 state budget, which includes major reforms to the state's corporate income tax system (as well as the estate tax system). Essentially, the corporate net income tax rate was reduced from 7.1 percent to 6.5 percent, the lowest level since 1968. Additionally, the federal TCJA of 2017 reduced the corporate income tax rate from 35% to 21%.

### II. How High are Corporate Income Tax Rates in Your State?

Top Marginal Corporate Income Tax Rates as of January 1, 2020

The



Note: (\*) Nevada, Ohio, Texas, and Washington do not have a corporate income tax but do have a gross receipts tax with rates not strictly comparable to corporate income tax rates. Delaware and Oregon have gross receipts taxes in addition to corporate income taxes, as do several states like Pennsylvania, Virginia, and West Virginia, which permit gross receipts taxes at the local (but not state) level. Florida's corporate income tax rate will return to 5.5% for tax years beginning on or after Jan. 1, 2022. Georgia's corporate income tax rate will revert to 6% on January 1, 2026. The state could see a drop to 5.5% in 2020, pending legislative approval. Illinois' rate includes two separate corporate income taxes, one at a 7% rate and one at a 2.5% rate. Indiana's rate will change to 5.25% on July 1, 2020. The rate is scheduled to decrease to 4.9% by 2022. Mississippi continues to phase out the 3 percent bracket by increasing the exemption by \$1,000 a year. This year, the exemption is \$3,000. By the start of 2022, the 3 percent bracket will be fully eliminated. New Hampshire's rate is 7.9% for tax periods ending before Dec. 31, 2019. In New Jersey, the rates indicated apply to a corporation's entire net income rather than just income over the threshold. A temporary surcharge is in effect, bringing the rate to 10.5 percent for businesses with income over \$1 million. In addition to regular income taxes, many states impose other taxes on corporations such as gross receipts taxes and franchise taxes. Some states also impose an alternative minimum tax and special rates on financial institutions.

Sources: Tax Foundation; state tax statutes, forms, and instructions; Bloomberg Tax



TAX FOUNDATION

@TaxFoundation

### IIONY Proposal [S2833/A4595](#)

The IIONY corporate tax proposal would more than triple the corporate tax rate in the State of New York. By offsetting the corporate tax cuts of the TCJA, the IIONY proposal intends to add an additional fourteen percent (the difference between the 35% and 21% decrease made by the TCJA) surcharge onto the current

corporate tax rate which would equate to a corporate tax rate of 20.50%. That is 8.50% more than Iowa, the state with the top-most corporate tax rate. Many would consider this to be an ultra-aggressive rate that could help to foster migration. Although critics might have a reasonable point with this regard of the IIONY proposal, the fact does not change that there remains ample space to increase taxes on corporations especially given the last decade of history that has exemplified a tax break giveaway to corporations at both the federal and state level.

### **III. Conclusion**

What would make for progressive rates for corporations? Well, President Biden intends on [undoing half of the corporate tax cuts](#) made by Trump. In short, he wants to increase the corporate tax rate to twenty eight percent from its current twenty one percent level. It would behoove New York to at least live up to fully undoing the TCJA corporate tax break and that means ideally raising our corporate taxes **at least another** seven percent. By doing so, our corporate rate would reach 13.30%, only one and a half percent greater than Iowa's. By having Biden fight for a successful undoing of half of Trump's corporate tax cuts, we in New York could fight for the other half and exemplify progressive leadership in this nation specifically in the realm of corporate taxes.

**Resources (on the alternatives):**

The following are rates that were used to outline the *progressive alternative* to Cuomo’s proposal as well as another alternative to the IIONY PIT proposal.

Income Range	Current NYS Rate (Singles)	Cuomo Proposed Temporary Surcharge (Singles)	Progressive Alternative (Singles)
\$0-\$8,500	4%	4%	4%
\$8,500-\$11,700	4.50%	4.50%	4.50%
\$11,700-\$13,900	5.25%	5.25%	5.25%
\$13,900-\$21,400	5.90%	5.90%	5.90%
\$21,400-\$80,650	6.09%	6.09%	6.09%
\$80,650-\$215,400	6.41%	6.41%	6.41%
\$215,400-\$300K	6.85%	6.85%	6.85%
\$300K-\$400K	6.85%	6.85%	7.25%
\$400K-\$500K	6.85%	6.85%	7.50%
\$500K-\$600K	6.85%	6.85%	7.75%
\$600K-\$700K	6.85%	6.85%	8%
\$700K-\$800K	6.85%	6.85%	8.25%
\$800K-\$900K	6.85%	6.85%	8.50%
\$900K-\$1M	6.85%	6.85%	8.75%
\$1M-\$5M	8.82%	8.82%	10.25%
\$5M-\$10M	8.82%	9.32%	10.50%
\$10M-\$25M	8.82%	9.82%	10.75%
\$25M-\$50M	8.82%	10.32%	10.88%
\$50M-\$100M	8.82%	10.57%	11.00%
\$100M+	8.82%	10.82%	11.13%

Income Range	Current NYS Rate (Joint)	Cuomo Proposed Temporary Surcharge (Joint)	Progressive Alternative (Joint)
\$0-\$17,150	4%	4%	4%
\$17,150-\$23,600	4.50%	4.50%	4.50%
23,600-\$27,900	5.25%	5.25%	5.25%
\$27,900-\$43,000	5.90%	5.90%	5.90%
\$43,000-\$161,550	6.09%	6.09%	6.09%
\$161,550-\$323,200	6.41%	6.41%	6.41%
\$323,200-\$450K	6.85%	6.85%	6.85%
\$450K-\$600K	6.85%	6.85%	7.25%

\$600K-\$750K	6.85%	6.85%	7.50%
\$750K-\$900K	6.85%	6.85%	7.75%
\$900K-\$1.05M	6.85%	6.85%	8%
\$1.05M-\$2.5M	6.85%	8.82%	8.25%
\$2.5M-\$5M	6.85%	8.82%	8.50%
\$5M-\$10M	6.85%	9.32%	10.25%
\$10M-\$25M	8.82%	9.82%	10.50%
\$25M-\$50M	8.82%	10.32%	10.75%
\$50M-\$100M	8.82%	10.57%	10.88%
\$100M+	8.82%	10.82%	11.00%

Income Range	Current NYS Rate (Head of Households)	Cuomo Proposed Temporary Surcharge (Joint)	Progressive Alternative (Head of Households)
\$0-\$12,800	4%	4%	4%
\$12,800-\$17,650	4.50%	4.50%	4.50%
\$17,650-\$20,900	5.25%	5.25%	5.25%
\$20,900-\$32,200	5.90%	5.90%	5.90%
\$32,200-\$107,650	6.09%	6.09%	6.09%
\$107,650-\$269,300	6.41%	6.41%	6.41%
\$269,300-\$450K	6.85%	6.85%	6.85%
\$450K-\$600K	6.85%	6.85%	7.25%
\$600K-\$750K	6.85%	6.85%	7.50%
\$750K-\$900K	6.85%	6.85%	7.75%
\$900K-\$1.05M	6.85%	6.85%	8%
\$1.05M-\$2.5M	6.85%	8.82%	8.25%
\$2.5M-\$5M	6.85%	8.82%	8.50%
\$5M-\$10M	6.85%	9.32%	10.25%
\$10M-\$25M	8.82%	9.82%	10.50%
\$25M-\$50M	8.82%	10.32%	10.75%
\$50M-\$100M	8.82%	10.57%	10.88%
\$100M+	8.82%	10.82%	11.00%

The following are recommended unearned income surcharge rates (or capital gains rates) that follow the principles and recommendations (starting the surcharge at the top five percent threshold as well as ranging the surcharge from one to five percent) outlined in the *Capital Gains Tax* portion of this testimony. As stated, any unearned income surcharge imposed will have to be closely tied to any PIT structural changes imposed, and we therefore tied these rates to the PIT rates proposed above (the *progressive alternative* PIT rates proposed).



Income Range	Current NYS Rate (Singles)	Earned Income Progressive Alternative (Singles)	Unearned Income Progressive Alternative (Singles)	Surcharge
\$0-\$8,500	4%	4%	4%	-
\$8,500-\$11,700	4.50%	4.50%	4.50%	-
\$11,700-\$13,900	5.25%	5.25%	5.25%	-
\$13,900-\$21,400	5.90%	5.90%	5.90%	-
\$21,400-\$80,650	6.09%	6.09%	6.09%	-
\$80,650-\$215,400	6.41%	6.41%	6.41%	-
\$215,400-\$300K	6.85%	6.85%	6.85%	-
\$300K-\$400K	6.85%	7.25%	7.50%	0.25%
\$400K-\$500K	6.85%	7.50%	8%	0.50%
\$500K-\$600K	6.85%	7.75%	8.50%	0.75%
\$600K-\$700K	6.85%	8%	9%	1%
\$700K-\$800K	6.85%	8.25%	9.50%	1.25%
\$800K-\$900K	6.85%	8.50%	10%	1.50%
\$900K-\$1M	6.85%	8.75%	10.50%	1.75%
\$1M-\$5M	8.82%	10.25%	13.25%	3%
\$5M-\$10M	8.82%	10.50%	14%	3.5%
\$10M-\$25M	8.82%	10.75%	14.75%	4%
\$25M-\$50M	8.82%	10.875%	15.375%	4.5%
\$50M-\$100M	8.82%	11.00%	15.75%	4.75%
\$100M+	8.82%	11.125%	16.125%	5%

Note: For NYC taxpayers, the additional capital gains surcharge will have to be combined with the NYC PIT top rate of 3.876% to determine the total tax NYC & NYS tax liability for the top five percent of NYC taxpayers that have unearned income. The top rate for unearned income for filers over \$100 million would amount to a combined NYS and NYC rate of 20%. For joint filers and head of households, the proposed top rate would be 21% (see charts below).

Income Range	Current NYS Rate (Joint)	Earned Income Progressive Alternative (Joint)	Unearned Income Progressive Alternative (Joint)	Surcharge
\$0-\$17,150	4%	4%	-	-
\$12,800-\$17,650	4.50%	4.50%	-	-
\$17,650-\$20,900	5.25%	5.25%	-	-
\$20,900-\$32,200	5.90%	5.90%	-	-
\$32,200-\$107,650	6.09%	6.09%	-	-
\$107,650-\$269,300	6.41%	6.41%	-	-
\$269,300-\$450K	6.85%	6.85%	-	-
\$450K-\$600K	6.85%	7.25%	7.75%	0.50%
\$600K-\$750K	6.85%	7.50%	8.25%	0.75%

\$750K-\$900K	6.85%	7.75%	8.75%	1%
\$900K-\$1.05M	6.85%	8%	9.50%	1.50%
\$1.05M-\$2.5M	6.85%	8.25%	10.25%	2%
\$2.5M-\$5M	6.85%	8.50%	11%	2.50%
\$5M-\$10M	6.85%	10.25%	13%	2.75%
\$10M-\$25M	8.82%	10.50%	13.50%	3%
\$25M-\$50M	8.82%	10.75%	14.25%	3.50%
\$50M-\$100M	8.82%	10.875%	14.875%	4%
\$100M+	8.82%	11.00%	16%	5%

Income Range	Current NYS Rate (Head of Household)	Earned Income Progressive Alternative (HOH)	Unearned Income Progressive Alternative (HOH)	Surcharge
\$0-\$12,800	4%	4%	-	-
\$12,800-\$17,650	4.50%	4.50%	-	-
\$17,650-\$20,900	5.25%	5.25%	-	-
\$20,900-\$32,200	5.90%	5.90%	-	-
\$32,200-\$107,650	6.09%	6.09%	-	-
\$107,650-\$269,300	6.41%	6.41%	-	-
\$269,300-\$450K	6.85%	6.85%	-	-
\$450K-\$600K	6.85%	7.25%	7.75%	0.50%
\$600K-\$750K	6.85%	7.50%	8.25%	0.75%
\$750K-\$900K	6.85%	7.75%	8.75%	1%
\$900K-\$1.05M	6.85%	8%	9.50%	1.50%
\$1.05M-\$2.5M	6.85%	8.25%	10.25%	2%
\$2.5M-\$5M	6.85%	8.50%	11%	2.50%
\$5M-\$10M	6.85%	10.25%	13%	2.75%
\$10M-\$25M	8.82%	10.50%	13.50%	3%
\$25M-\$50M	8.82%	10.75%	14.25%	3.50%
\$50M-\$100M	8.82%	10.875%	14.875%	4%
\$100M+	8.82%	11.00%	16%	5%