Testimony of Reinvent Albany for the Joint Legislative Hearing On Taxation

February 14, 2024

Thank you for the opportunity to provide testimony on tax policy budget issues. Reinvent Albany advocates for open, accountable New York government and fact-based policy making, including fair tax policy.

Today, we are asking the Legislature to do eight things to create a fairer, more rational tax system:

1. **Support the NYS Department of Finance's participation in the IRS Free File Alliance for working class taxpayers.**
2. **Stop pretending tax breaks are free money or justified by objective analysis, do a "but-for" study.**
3. **End New York's $424 million a year Opportunity Zone (OZ) tax break – stop subsidizing out-of-state and in-state luxury housing.**
4. **Support S89 (Ryan) / A351 (Bronson) – prevents IDAs from abating tax revenue otherwise going to schools.**
5. **Properly classify reimbursable tax credits as on-budget expenses.**
6. **Phase out the $700 million year Film/TV tax credit and other entertainment subsidy boondoggles.**
7. **End $330 million a year in state subsidies to the oil and gas industry by passing S7438 (Krueger) / A8483 (Cahill).**
8. **Eliminate some horse racing subsidies by passing S7260 (Salazar) / A7745 (Rosenthal).**

1. Support the NYS Department of Finance's participation in the IRS Free File Alliance for working class taxpayers.

Online tax preparation is dominated by a handful of very large vendors and until now, NYS taxpayers have not had easy access to credible, national, certified free options. Generally, NYS has struggled to offer high-quality online services and often been locked in by vendors. We hope the Legislature will continue to support civic technology efforts like Free File, which give the public more options and reduce the ability of a handful of vendors to prevent public options and private competition.

2. Stop pretending tax breaks are free money or justified by objective analysis, do a "but-for" study.

In New York State, the political debate over taxes is centered on the marginal tax rate for the wealthy and issues of social equity. Unfortunately, during hearings like these, the Legislature generally downplays some of the most regressive, irrational, and discredited aspects of New York's tax code: billions in corporate tax subsidies.

We find it jarring to hear some of the same legislators who are calling for raising personal income taxes on the wealthy vote for billions of tax breaks to corporations owned by the super-rich. Whether you justify it by calling it job creation or economic development, corporate subsidies are trickle-down economics.

Independent researchers and budget experts across the country and political spectrum resoundingly agree that corporate handouts do not work. We understand that may not be what the Legislature normally hears. The corporations and labor management coalitions getting massive taxpayer subsidies spend enormous amounts on lobbying campaign contributions.

To help you, we compiled and published 25 of the most important studies on corporate tax breaks in our 2023 *Debunked* report. These 25 studies show that corporate tax breaks have little effect on the number of new firm establishments, job growth, firm location decisions, and overall economic growth. In fact, corporate tax breaks have the opposite effect: They contribute to inequality and poor fiscal health.

Corporate tax breaks are in the news again because of a recent study done for the State Department of Tax and Finance by the PFM Group at the behest of the Legislature. That new report essentially validates past criticisms. In 2013, the Governor's Commission on Tax Fairness authorized a study by independent fiscal experts Marilyn Rubin and Donald Boyd that found:

> *"There is … no conclusive evidence from research studies conducted since the mid-1950s to show that business tax incentives have an impact on net economic gains to the states above and beyond the level that would have been attained absent the incentives." Further, there is no evidence that state and local taxes have an impact on business location and expansion decisions.*

Fast forward to the recent PFM Group report that shows New York's $700 million a year Film and TV tax credit and other entertainment tax breaks are costing billions more in state tax dollars than they are generating in state tax receipts. According to PFM, Film/TV tax credit generates 30 cents in tax dollars from total direct and induced economic activity for every dollar of taxpayer subsidy. By the way, PFM reached this conclusion despite using inflated job creation and retention figures (the best research suggests at best subsidies affect one in four business location decisions, and probably a lot less – PFM used industry numbers that assume all jobs are the result of subsidies). Point is, even with rose-colored glasses favoring the entertainment industry, PFM still found New York's Film/TV tax breaks are a terrible deal for taxpayers.

The PFM report produced an enormous amount of valuable data. However, it did not answer a key question. Reinvent Albany recommends the Legislature commission a report solely dedicated to answering the "but-for" test and determining what portion of the job creation and economic activity in subsidized industries can be attributed to New York taxpayer subsidies instead of normal market activity.

3. End New York's $424 million a year Opportunity Zone (OZ) tax break – stop subsidizing out-of-state and in-state luxury housing.
We urge the Senate and Assembly to put S543-A (Gianaris) / A2170-A (Dinowitz) into your one-house budgets, which would end the State's Opportunity Zone (OZ) tax break.

In the federal 2017 Tax Cuts and Jobs Act, the Trump administration established Opportunity Zones, which give capital gains tax breaks to some investments in areas with low household incomes. Though supposedly intended to help disadvantaged people, there is overwhelming evidence that the biggest beneficiaries are the very wealthy and high-end real estate. Importantly, New-York-based investors can receive state and city capital gains tax breaks for investing in an Opportunity Zone anywhere in the USA. This means New York tax dollars are potentially underwriting everything from gun distributors in Florida and oil rigs in Texas to luxury developments in North Carolina.

The Citizens Budget Commission estimates New York's Opportunity Zone tax-break will cost up to $424 million in abated tax revenue annually starting in 2029 ($284 million from NYS, $140 million from NYC). One study's sample found more than half of OZ investments going to real estate, and a second study found that OZ investors "primarily targeted the high end real estate market." It follows that under OZs, a staggering amount of NY tax dollars could go to luxury apartments in other states rather than to NY's schools, clean water, and public transit.

4. Support S89 (Ryan) / A351 (Bronson) – prevents IDAs from abating tax revenue otherwise going to schools.
It's time for the State to prohibit IDAs from abating tax revenue that costs NY students over a billion dollars every year by passing S89 (Ryan) / A351 (Bronson) in the budget.

NY schools lose a staggering amount of money to IDA tax abatements – up to $1.8 billion annually, according to Good Jobs First. As they note, many of these abatements disproportionately affect the underprivileged and students of color.

In New York State, unelected and undemocratic Industrial Development Agencies (IDAs) and Local Development Corporations (LDCs) have the superpower of deciding which businesses have to pay taxes and which can free-ride on taxes paid by others. Broadly, Reinvent Albany believes that the number of IDAs and LDCs should be greatly reduced. We believe IDAs and LDCs are often poorly governed, waste taxpayer money, and are a corruption risk.

In Fiscal Year 2021, the State's 107 IDAs handed out a total of $1.9 billion worth of business subsidies in the form of tax exemptions to private businesses ($1.1 billion if you subtract PILOTs). Unfortunately, information about who is getting subsidies and how much they are getting is not transparent. The State and its localities do not collect data on which businesses are getting subsidies, how much they are getting, and how many jobs they promise and do actually create. This is because IDA deals are not included in the state's Database of Economic Incentives.

What we do know is that IDA and LDC subsidies do not grow economies, nor do they contribute to the State's overall job growth. We know this because independent scholars have, time and time again, shown that business subsidies do not work. Further, business subsidies are unfair, leaving some businesses to pick up the slack from those who do not pay taxes, and contribute to inequality.

5. Properly classify reimbursable tax credits as on-budget expenses.
New York State calls them "reimbursable tax credits," but entertainment industries like the Film/TV production credits have nothing to do with taxes. They are direct state reimbursements of eligible expenses submitted by individuals or businesses producing a film, TV show, Broadway show, or computer game. For example, a business or person submits a reimbursement request for up to 30% of a TV show's production cost and the State writes them a check. It is highly misleading to the public and fiscally dishonest to have these direct expenses camouflaged in the tax code and thus not included in the budget. (Tax credits are theoretically subtracted from consensus revenue estimates, but that accounting is not publicly available and may not be accurate.)

6. Phase out the $700 million year Film/TV tax credit and other entertainment subsidy boondoggles.
Last year, you passed a budget authorizing the State to provide $700m a year in reimbursements to Film/TV productions for eleven years totaling $7.7 billion dollars. We believe this was a huge mistake and ask all of you to thoroughly review the PFM

Group's Economic Impact of Tax Incentive Programs report for the Department of Taxation and Finance. Despite using inflated job creation and retention figures that assume all jobs at subsidized businesses are due to state subsidies, PFM still concluded that the Film/TV tax credit generates only 30 cents in tax dollars from total direct and induced economic activity for every dollar of taxpayer subsidy.

PFM's assessment is incredibly damning since the best national research shows that only 2% to 25% of jobs are due to subsidies. Point is, even with rose-colored glasses favoring the entertainment industry, PFM still found New York's Film/TV tax breaks are a terrible deal for taxpayers as are the Broadway Theater tax credit and video gaming tax credit.

7. End $330 million a year in state subsidies to the oil and gas industry by passing S7438 (Krueger) / A8483 (Cahill).

We again urge the Legislature to include in the budget the Fossil Fuel Subsidy Elimination Act, which will end $336 million in oil and gas subsidies that benefit corporations. Eliminating these tax breaks will help New York meet its goals under the Climate Leadership and Community Protection Act (CLCPA). It makes no sense for NY to subsidize fossil fuels while simultaneously trying to reduce emissions.

8. Eliminate some horse racing subsidies by passing S7260 (Salazar) / A7745 (Rosenthal).

Despite creating few if any jobs, the horse racing industry continues to receive substantial subsidies from NYS government. Many of these subsidies come directly from the General Fund, meaning that they would otherwise go to programs such as education.