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Honorable George Pataki & Honorable H. Carl McCall, Co-Chair
Tax Relief Commission
c/o Mr. Robert Megna
Division of the Budget
State Capitol, Room 113
Albany, New York 12224

Dear Governor Pataki and Comptroller McCall:

The Tax Relief Commission you co-chair will reportedly release its recommendations in the next few weeks and local property tax relief is a high priority in the Commission's deliberations. The CBC respectfully offers the following observations and recommendations for your consideration.

First, the Commission's work should be focused on repurposing and improving the significant sums already directed to local tax relief, not on spending for sizeable new programs. Talk of a "surplus" in the State's financial plan that would allow it to ramp up its recurring commitments is hypothetical and premature. While spending controls adopted in recent years have contributed to improved fiscal conditions for New York State, spending is projected to continue to outpace revenue growth over the next few years leading to out-year budget gaps that grow from $2 to $3 billion by fiscal year 2016-17. These gaps are projected despite current state financial plan assumptions that tax receipts will grow 14 percent over the next three years in a macroeconomic climate that contains many risks, including considerable uncertainty about the direction and policies of the federal government.[i] On the spending side, constraining spending to a growth rate of 2 percent will become increasingly difficult; the self-imposed growth cap on school aid has already been exceeded, and the cap on Medicaid spending will be difficult to maintain if the state's waiver application for new funding from the federal government is not approved.

Even if these pitfalls are avoided, temporary and dubious measures will fund fully $4 billion in next year's budget and another $2.5 billion the following year. These measures include: 1) revenue from the "temporary" extension of the top personal income tax rate through 2017; 2) the deferral of $2.5 billion in required pension contributions that has artificially and temporarily lowered fringe benefit expenses; and 3) the use of $1.5 billion in one-shot resources over the financial plan from the liquidation of the workers' compensation reserve fund, done with an accounting change last year.

Instead of designing tax relief programs to distribute funds that may well not be available, the Commission should re-examine and reform the local tax relief programs on which the State already spends $4 billion annually. Each of these programs is discussed below.

STAR. School Tax Relief, or STAR, is New York's largest tax relief program, at a cost of $3.4 billion in fiscal year 2014. The current structure of the program does not effectively target relief to those most burdened by high property taxes and steers excessive benefits to wealthier households. It provides a flat property value exemption from school property taxes, and because relief is not tied to income, two households with similarly priced homes, but divergent incomes receive the same benefit even though one household is more burdened than the other. In addition, by increasing the level of the flat property value exemption in counties where home sales prices exceed the state median, STAR allocates more relief to the state's wealthier counties. The program applies to all homeowners with incomes below $500,000 but excludes all renters outside of New York City, even though these residents pay property taxes indirectly through the taxes on their buildings and are generally lower-income than homeowners.[ii] In New York State 31 percent of renters make less than $20,000 per year, compared to only 9 percent of owners, and more than half of renters spend at least 30 percent of their income on housing costs.[iii]

Moreover, STAR payments to school districts operate as a distortionary form of state education aid. Among the wealthiest/least-needy 10 percent of districts, STAR provides an average of $1,533 per pupil, versus an average of only $991 per pupil among the least-wealthy/neediest 10 percent of districts.[iv] Consequently, STAR aid nearly doubles state school aid to the wealthiest districts while increasing aid to the poorest districts by less than 10 percent.

Family Tax Relief Rebate. During the final week of last year's budget negotiations, the legislature authorized Family Tax Relief rebates, which will provide a flat $350 to households with children under age 17 and income between $40,000 and $300,000. Annual funding of $410 million has been allocated for these rebates, which are scheduled to be mailed in October 2014.[v] While the income eligibility maximum for this rebate is lower than for STAR, it is still relatively high, and the flat rebate amount bears no relationship to income or local tax burden. While renters are included in this program, households without children and low-income taxpayers are excluded.

Real Property Tax Credit. A small "circuit breaker" tax credit targets relief based on income. The "circuit breaker" is tripped if property taxes exceed a certain percentage of household income. While this approach is better targeted than STAR or the Family Tax Relief rebates and includes renters as well as homeowners, the benefits are quite limited. To be eligible, taxpayers must earn less than $18,000, with rent less than $450 a month or property valued under $85,000. The maximum credit is limited to $375 for persons 65 years of age or older and $75 for all others. In 2010, this circuit breaker credit provided $20.2 million to 209,691 households, less than 4 percent of the State's taxpayers.[vi]

The Tax Relief Commission could achieve its objective by better targeting STAR aid and the Family Tax Relief rebate and by expanding the Real Property Tax Credit so that all three of these programs provide deeper relief for low and moderate income households with the greatest burden.[vii]

Finally, while it is true local taxes in New York State are high, it should be remembered that the combined state and local tax burden is the problem. Shifting costs to the State without lowering them will not alter the combined burden; it changes who pays, redistributing the burden from a narrow base of local taxpayers to a broad statewide base. Although it may be appropriate to shift financing for programs such as Medicaid to a statewide base because they constitute a public good with larger societal rather than local benefits, this is not the case for many of the functions New York's local governments fulfill. Other ways to reduce the combined tax burden include further reductions in the personal income tax rates for middle income households and the expansion of recent efforts by the State to take over more of the local funding mandate for the Medicaid program. The State regulates the Medicaid program and would be better prepared to pursue cost containment measures if given financial responsibility for the entire program.

In light of the tenuous nature of the State's fiscal condition, it is hoped that the Tax Relief Commission will devote its considerable intellectual resources and influence to improving the use of the substantial funds currently devoted to poorly designed, poorly targeted local tax relief rather than creating additional costly programs. Permanent relief from high property taxes can only be provided through a comprehensive revision of current measures, and a reexamination of local government costs and the underlying division of state and local responsibilities.

Sincerely,

Carol Kellermann
President

cc: Hon. Andrew Cuomo

Dall Forsythe, former New York State Budget Director

Jim Wetzler, Director, Deloitte Tax LLP

Heather Briccetti, President & CEO of New York State Business Council

Bill Rudin, CEO and Vice Chairman of Rudin Management Company and Chairman of the Association for a Better New York

Jack Quinn, President of Erie Community College

Denis M. Hughes, Senior Advisor at Brown & Weinraub, PLLC

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[i] New York State Division of Budget, *FY 2014 Financial Plan Mid-Year Update,* November 2013. Available from http://www.budget.ny.gov/budgetFP/FY2014MidYearUpdate.pdf.

[ii] In New York City homeowners and renters who report less than $500,000 in income receive a 5.87 percent city personal income tax rate reduction. All New York City residents also receive a flat refundable personal income tax credit worth $125 for joint tax filers and $62.50 for single filers.

[iii] U.S. Census, *American Community Survey,* 2012.

[iv] CBC analysis of New York State Education Department, Fiscal Analysis and Research Unit, *Masterfile for 2011-12.* Available from http://www.oms.nysed.gov/faru/Profiles/profiles_cover.html.

[v] New York State Division of Budget, *Enacted Budget Financial Plan for Fiscal Year 2013-14,* May 2013. Available from http://publications.budget.ny.gov/budgetFP/2013-14EnactedBudget.pdf.

[vi] New York State Department of Taxation and Finance, *Real Property Circuit Breaker Tax Credit,* 2010. Available from http://www.tax.ny.gov/research/stats/stat_pit/real_property_circuit_breaker/real_property_circuit_breaker_tax_credit_2010_credit_use_by_county.htm.

[vii] When designing eligibility limits, the Commission should bear in mind only 7 percent of New York households make more than $200,000 and only 26 percent earn more than $100,000. U.S. Census, *American Community Survey,* 2012.