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In New York, Shifting Tax Burden Favors Business

Corporate income tax shrinks as a percentage of state revenue

By Robert Downen

October 9, 2016

Gov. Andrew Cuomo says New York is open for business.

It added 127,000 private sector jobs last year and consumer optimism hit a 10-year high last week.

Unemployment has dropped to 5 percent after more than 85 straight months of economic expansion.

Increasingly, though, business-friendly reforms in New York and the nation have come at the expense of state and local coffers — with personal rather than corporate taxpayers shouldering the greater burden.

In 1950, the share of New York's revenue derived from corporate taxes was 12.4 percent and the share from personal income taxes was 18 percent, according to the U.S. Census Bureau. By 2014, corporate income taxes had fallen to 2.3 percent of state revenue, while the share from personal income taxes climbed to 21.3 percent.

That gap has only widened with changes to the tax code. In 1994, nine tax credits were available to New York businesses. They cost the state $200 million, according to a 2013 report from the state Tax Reform and Fairness Commission, a panel created by Cuomo. By 2005, 33 credit programs existed at a cost of $673 million.

In 2013, that number had jumped to 50, with an estimated $1.7 billion loss in annual state revenue.

The commission found that "New York's two largest tax credits — brownfield credits and film production credits — disproportionately benefit economic activity in New York City" and other downstate regions.

The report said there's been "no conclusive evidence" from studies conducted since the mid-1950s showing business tax incentives have an impact on net economic gains to the states beyond what would they could have gotten without the incentives. "In addition," the report says, "business tax incentives violate principles of good tax policy and tenets of good budgeting."

There's no conclusive evidence that state and local taxes, in general, have affected business location and expansion decisions, the commission wrote.

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Officials disagree.

"Over the last five years, Empire State Development's performance-based programs have helped to create and retain tens of thousands of jobs throughout New York State," Jason Conwall, spokesman for Empire State Development, wrote in an email. "Today, New York has nearly 8 million private sector jobs — 843,000 of which were created under this administration ... The significant progress we've seen throughout New York State doesn't happen all by itself — it's because of this administration's multi-pronged economic development strategy."

Ken Pokalsky, vice president of the Business Council of New York State, said the commission's claim was "demonstrably false." Critics need to "fully look at the value of the investment or the activity that produced the (business) credit in the first place," he said, and assess development initiatives based on long-term and residual benefits.

But for taxpayers, quantifying the return on investment "is complicated," said Dave Friedfel of the Citizens Budget Commission. "For many of these programs, specifically the grants to private corporations, it's not clear what that return is."

One month after the Tax Reform and Fairness Commission released its report, in December 2013, Cuomo announced he'd accept the final report from a second commission, the State Tax Relief Commission, that he'd launched two months prior.

Recommendations from the commission, chaired by former Gov. George Pataki and former Comptroller H. Carl McCall, focused on property tax relief and rollbacks in the corporate tax code.

In March 2014, the state Legislature passed reforms that simplified and modernized the state corporate tax code, cut manufacturing taxes to zero and decreased the corporate income tax rate from 7.1 percent to 6.5 percent, the lowest since 1968.

The changes largely reflect the recommendations outlined by the Tax Relief Commission.

"We're very proud to have improved New York's competitiveness by lowering the corporate net income tax rate," said state Budget Division spokesman Morris Peters in an email.

"Equally important, though, are the provisions to reduce business tax complexity. ... The businesses community certainly values the rate reduction, but they tell us that the reforms that improved and streamlined the tax code might be even more helpful," he added.

Those reforms were reflected in an analysis of tax climates released by the Tax Foundation, a fiscally conservative think tank, at the end of September, in which New York ranked seventh-best in the corporate tax category, but 49th in personal income taxes.

The rankings are "a reminder of both what New York can achieve when we get bipartisan consensus on pro-business legislation, and how much further we have to go," said Heather Briccetti, president of the Business Council, in a statement.

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Officials believe they'll soon move the needle elsewhere, too. Through 2011 tax breaks (with another round due in 2018), middle-class New Yorkers are set to save about $26.3 billion in personal income taxes by the end of the governor's second term in 2018, Peters said.

He also noted a package of family tax credits, as well as property tax relief changes that will create "$1.3 billion of property tax relief."

The income tax cuts, passed by the Republican-led state Senate, would be offset by continual growth in the state economy and conservative spending limits, the Budget Commission said. (Pew Charitable Trust gave New York high marks in its most recent report on state financial reserves. The Brookings Institution's Tax Policy Center in June rated New York's income tax system as the most progressive.)

But others have concerns: "It's a reduction in revenue that will need to be countered by a decrease in spending, or finding revenue elsewhere," Friedfel said.

Business interests

Companies still face a patchwork of other financial hurdles, including workers compensation policies that "are completely out of the norm compared to other states," said Zack Hutchins, spokesman for the Business Council.

Hutchins also cited energy costs and property taxes as especially onerous.

"People don't always associate property taxes with businesses, but it's the largest tax that businesses pay," he said. In 2014, New York businesses paid $27.6 billion in property taxes, according to the Council on State Taxation.

Still, good government groups say the growing list of rollbacks in New York and nationally — especially those to the corporate tax code — have created an economy that overwhelmingly favors business interests while offering little oversight. They cite a lack of quantifiable results from businesses getting tax incentives.

Nationally, corporations recorded historic profits in 2013 yet "continually lobby states for tax breaks and other giveaways under the false premise that they need tax breaks to create jobs or remain economically competitive," said Matt Gardner, executive director of the Institute for Taxation and Economic Policy, told Politico in 2014.

New York, meanwhile, increased state and local economic development spending from $8.2 billion to $8.6 billion between 2014 and 2016, according to the Citizens Budget Commission.

"We've seen a big change in the last 20 or so years," said Ron Deutsch of the progressive Fiscal Policy Institute. " ... The reality is that we've seen the proliferation of big tax credits and economic development grants and abatements for businesses across New York, and those numbers have been growing at an alarming rate."

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Greg LeRoy of Good Jobs First, a watchdog group that tracks corporate subsidies, pointed to deals like the $1.4 billion given to GlobalFoundries' Fab 8 factory in Saratoga County. That facility employs roughly 3,000 people, but on a per-job cost analysis "taxpayers can never break even on that deal," LeRoy said.

In the Capital Region, industrial development agencies dole out the most exemptions in the state, a 2014 Times Union analysis found, despite one-third of companies failing to meet job projections.

LeRoy said officials must think beyond subsidies and tax breaks. State and local taxes account for about 2 percent of business cost structures, he said. Efficient economic development, then, requires investments in other non-traditional capital like vocational training, K-12 education and cost-efficient infrastructure.

Officials "should spend 98 percent of (the) time focusing on those issues, not on the tax breaks," he said.