

Tax Highlights of FY 2022 New York Enacted Budget

On Wednesday, April 7, 2021, the New York State legislature passed a \$212 billion budget bill for the 2022 fiscal year. The enacted budget legislation (the “budget”) includes the following tax increases for both businesses and high-income individuals:

- Increases the business income tax rate from 6.5% to 7.25% for tax years starting on or after January 1, 2021 for three years, for taxpayers with a business income base greater than \$5 million. This rate increase does not include qualified manufacturers or qualified emerging technology companies.
- Increases the capital base tax for businesses from the 0.025% rate in effect last year to 0.1875% for tax years starting on or after January 1, 2021 for three years. The scheduled phase-out of the capital base tax for businesses is delayed until 2024. The capital base tax extension does not apply to qualified manufacturers, qualified emerging technology companies and cooperative housing corporations.
- Increases the highest personal income tax rate for individuals with income over \$1.1 million and joint filers with income over \$2.2 million (up to \$5 million) from 8.82% to 9.65%. It also creates two new tax brackets: one for taxpayers with income over \$5 million up to \$25 million, taxed at 10.3%; and another for taxpayers with income over \$25 million taxed at 10.9% for all classes of taxpayers.
- Creates a pass-through entity income tax whereby partnerships and S-Corps can annually elect to pay taxes at the entity level at rates ranging from 6.85% to 10.9%, in exchange for an offsetting personal income tax credit for partners, members or shareholders of electing entities. The optional pass-through entity tax serves as a work-around for the federal cap on the state and local tax deduction.

Additionally, the budget continues to lower personal income tax rates for middle-class New Yorkers. In 2021, the fourth year of the multi-year tax cuts enacted in 2016, income tax rates have been lowered from 6.09% to 5.97% for taxpayers filing jointly in the \$43,000-\$161,550 income bracket, and from 6.41% to 6.33% in the \$161,550-\$323,200 income bracket.

The legislation also provides a personal income tax credit for NY resident homeowners with incomes up to \$250,000 if their total property tax exceeds a fixed percentage of their income. This framework will target New York families with the highest property-tax-to-income burden. The calculation of this credit is capped at \$350 per STAR-eligible household, while also utilizing a \$250 credit minimum to further target homeowners impacted the most by high property taxes.

Further, the budget also provides for \$1 billion in relief and recovery assistance for small businesses, arts, entertainment and restaurants to help these entities and organizations recover from the effects of the pandemic as follows:

- **COVID-19 Pandemic Small Business Recovery Grant Program:** \$800 million in grant funding for small businesses, as well as for-profit arts and cultural institutions.
- **NY Restaurant Resiliency Grant Program:** \$25 million in grant funding to support restaurants that provide meals to distressed and under-represented communities.
- **Restaurant Return-to-Work Tax Credit:** \$35 million in tax credits to support restaurants hard hit by the pandemic.
- **Arts and Cultural Organization Recovery Grant Program:** \$40 million to provide grants through the NYS Council on the Arts to eligible arts and cultural nonprofit organizations to assist in their recovery.
- **NYC Musical and Theatrical Production Tax Credit:** \$100 million in tax credits to jumpstart musical and theatrical production and support tourism activity in NYC. The budget also extends the **Musical and Theatrical Production Credit** for productions that occur outside NYC for four years and increases it by \$4 million to \$8 million.

The budget also enhances the Excelsior Jobs Program, to help employers provide child care to their employees. The Excelsior Jobs Program will now allow for an expanded Investment Tax Credit component of up to 5% and a credit up to 6% of ongoing net child care expenditures provided by the credit recipient.

The Employer-Provided Child Care Credit is also enriched by doubling the current credit percentages to 50% of qualified child care expenditures and 20% of qualified child care resource and referral expenditures, while increasing the per-taxpayer cap from \$150,000 to \$500,000.

The legislation extends and revises various other tax credits as well.

The budget also legalizes mobile sports wagering, from which the State expects to raise hundreds of millions of dollars of revenue annually, on top of the legislation passed last month legalizing and taxing adult-use of cannabis.

More highlights of the enacted FY2022 budget legislation can be found here:

<https://www.governor.ny.gov/news/governor-cuomo-announces-highlights-fy-2022-budget-reimagine-rebuild-and-renew-new-york>

The tax professionals at Tronconi Segarra & Associates will continue reviewing this new budget and will be providing updates and guidance on key tax provisions included in this legislation that affect businesses and individuals, as additional information is released by the State and the Department of Taxation and Finance.