NYC Department of Finance

New York City Corporate Tax Reform

Presented by

David Ho, Senior Director, Research & Analysis/Business Income Taxes
Karen Schlain, Associate Commissioner, Division of Tax Policy

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New York City Corporate Tax Reform

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Introduction

- New York State enacted corporate tax reform on March 31, 2014, as part of the 2014-15 budget, effective January 1, 2015.
- New York City's tax reform legislation was signed by the governor on April 13, 2015, retroactive to January 1, 2015.
    - Merges treatment of banks and other C corporations and modernizes City taxes to reflect the current financial regulatory landscape.
    - Conforms to State provisions in the most important areas of tax computation.
    - Provides tax relief to the City's small businesses and local manufacturers.

Introduction

- Reform impacts C corporations only — does not affect pass-through entities.

Entity Type	Tax	Taxpayers	Percent	Tax ($ millions)	Percent
C-Corporations		**171,999**	**49%**	**$3,416.7**	**54%**
	General Corporation Tax	171,527	49%	$1,905.6	30%
	Banking Corporation Tax	472	0%	$1,511.0	24%
Flow-Through Entities		**179,942**	**51%**	**$2,961.0**	**46%**
S-Corporations	General Corp. Tax / Banking Corp. Tax	151,461	43%	$1,006.8	16%
Partnerships and LLCs	Unincorporated Business Tax	12,911	4%	$1,776.5	28%
Proprietorships	Unincorporated Business Tax	15,570	4%	$177.7	3%
TOTAL		**351,941**	**100%**	**$6,377.7**	**100%**

Tax year 2014

Key Components of New York City Corporate Tax Reform

- Broadens the net income base by eliminating certain special deductions and exemptions and expanding the definition of business income.
- Attributes net income to New York City based upon single sales factor and market-state sourcing.
- Eliminates the concept of subsidiary capital.
- Retains the alternative base on capital.
    - Raises the cap on this base from $1M to $10M.
    - Allows a $10K exclusion.

Key Components of New York City Corporate Tax Reform

- Eliminates income plus compensation base.
- Adopts unitary combined reporting rules where economically-related entities that are commonly-owned must file as a single taxpayer.
  - This prevents the shifting of income and expenses among related entities in a manner that reduces taxes inappropriately.
- Applies a 9 percent tax rate to major financial corporations with assets in excess of $100B (basic rate remains at 8.85 percent).
- Removes NOL limitation tied to Federal deduction.
- Increases the minimum tax from a maximum charge of $5K to a maximum charge of $200K for corporations with City receipts exceeding $1B.

Key Components of New York City Corporate Tax Reform

- Provides tax relief to small businesses and local manufacturers.
  - Excludes the first $10K of capital tax base.
    - Eliminates the base for more than 90 percent of current capital base payers.
  - Reduces the net income tax rate.

Sector	Allocated Net Income	Tax Rate
Manufacturers	Less than $10M	4.425 percent
	$10M - $20M	4.425 - 8.85 percent
	More than $20M	8.85 percent
Non-Manufacturers	Less than $1M	6.5 percent
	$1M - $1.5M	6.5 - 8.85 percent
	More than $1.5M	8.85 percent

Key Components of New York City Corporate Tax Reform

- Areas where City and State law diverge
  - State lowered its standard ENI rate from 7.1 to 6.5 percent, while City did not change its general rate.
  - State eliminated its capital base (phased out over six years), while City retained and modified its capital base.
  - State imposed economic nexus for firms with at least $1M in gross receipts. City did not enact an economic nexus provision.
  - City allows subtraction for loans secured by affordable housing projects.

Projected Revenue Impact

- NYC tax reform is designed to be approximately revenue-neutral.
  - The estimated $300 million cost of conformity with state provisions is offset by revenue-raising NYC modifications.
- An estimated 64,000 taxpayers, approximately 44 percent of all NYC C corporations, are affected by tax reform.
  - Most of the C corporations not impacted are current minimum tax payers; they have no investment income and do not allocate.
- Estimated the impact by using a microsimulation model that required multiple assumptions.

Projected Revenue Impact

	Banking Corp Tax (Banks)	General Corp Tax (C-Corps)	Total
Net fiscal impact of conforming to NYS and NYC modifications (millions)	**($162.9)**	**$136.3**	**($26.6)**
Total number of taxpayers	441	145,067	145,508
Total tax before reform (millions)	$1,116.4	$1,216.0	$2,332.4
Number of taxpayers impacted	441	63,999	64,440
Average tax change per affected taxpayer	($353,245)	$2,130	($413)
Percent of total taxpayers impacted	100%	44%	44%

Average of tax years 2010 and 2011.

Projected Revenue Impact by Provision

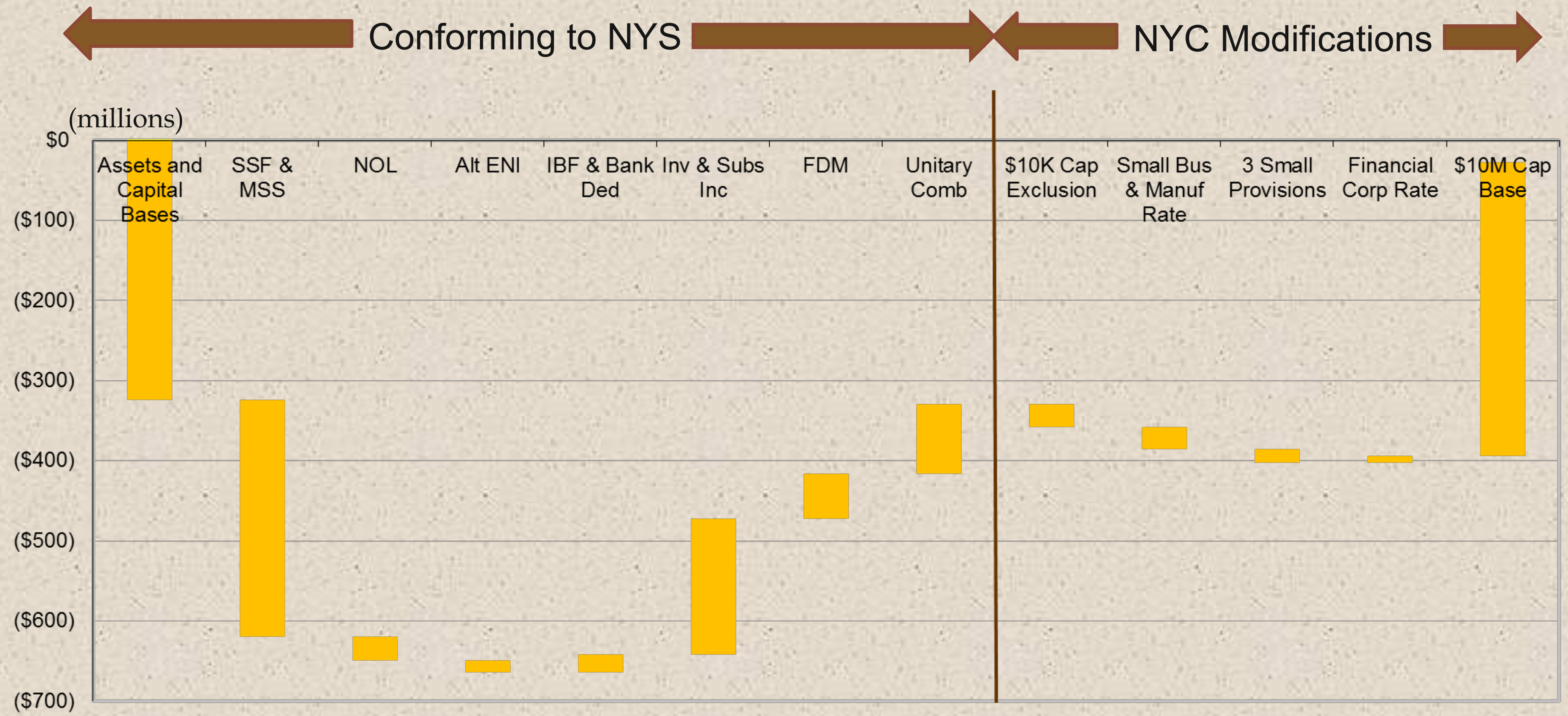
(millions)

Provision	Banking Corp Tax (Banks)	General Corp Tax (C-Corps)	Total
Key Components of Conforming to NYS			
Net fiscal impact of conforming to NYS	**($313.2)**	**($15.2)**	**($328.4)**
Eliminate tax on bank tax assets base and c-corporation capital tax base	($218.1)	($106.2)	($324.3)
Adopt single sales factor and market state sourcing rules	($176.0)	($119.5)	($295.5)
No longer limit NYC net operating loss to Federal net operating loss	($18.7)	($11.5)	($30.3)
Eliminate alternative net income and income plus compensation tax bases	($0.2)	($14.7)	($14.9)
Eliminate deduction of interest from government obligations and subsidiaries	$7.0	$0.0	$7.0
Eliminate international banking facilities	$16.0	$0.0	$16.0
Narrow definition of investment income	($43.7)	$75.1	$31.3
Increase fixed dollar minimum tax to $200K	$38.5	$17.2	$55.7
Unitary combination	$34.4	$53.0	$87.4
Eliminate the concept of subsidiary income	$8.6	$129.4	$138.0
NYC Modifications			
Net fiscal impact of NYC modifications	**$150.3**	**$151.5**	**$301.8**
Establish $10K capital tax base exclusion	($1.8)	($26.4)	($28.3)
Establish overall small business relief: 6.5% rate for non-manufacturers with allocated net income up to $1M, 8.85% rate phase-in at $1.5M	($0.5)	($23.7)	($24.2)
Exempt income from loans secured by residential real property used for affordable housing or located in a low-income community	($7.0)	$0.0	($7.0)
Modify insurance and utility companies capital tax rate to 0.075%	$0.0	($6.1)	($6.1)
Establish small business relief for manufacturers: 4.425% rate for manufacturers	$0.0	($4.2)	($4.2)
Allow small businesses with less than $50M in allocated receipts to elect a one-time three-factor business allocation formula - 93% sales, 3.5% property and 3.5% payroll, in 2017	$0.0	($3.8)	($3.8)
Establish financial corporation tax rate of 9%	$7.6	$1.6	$9.2
Establish a $10M cap on capital tax base	$152.0	$214.1	$366.1

Average of tax years 2010 and 2011.

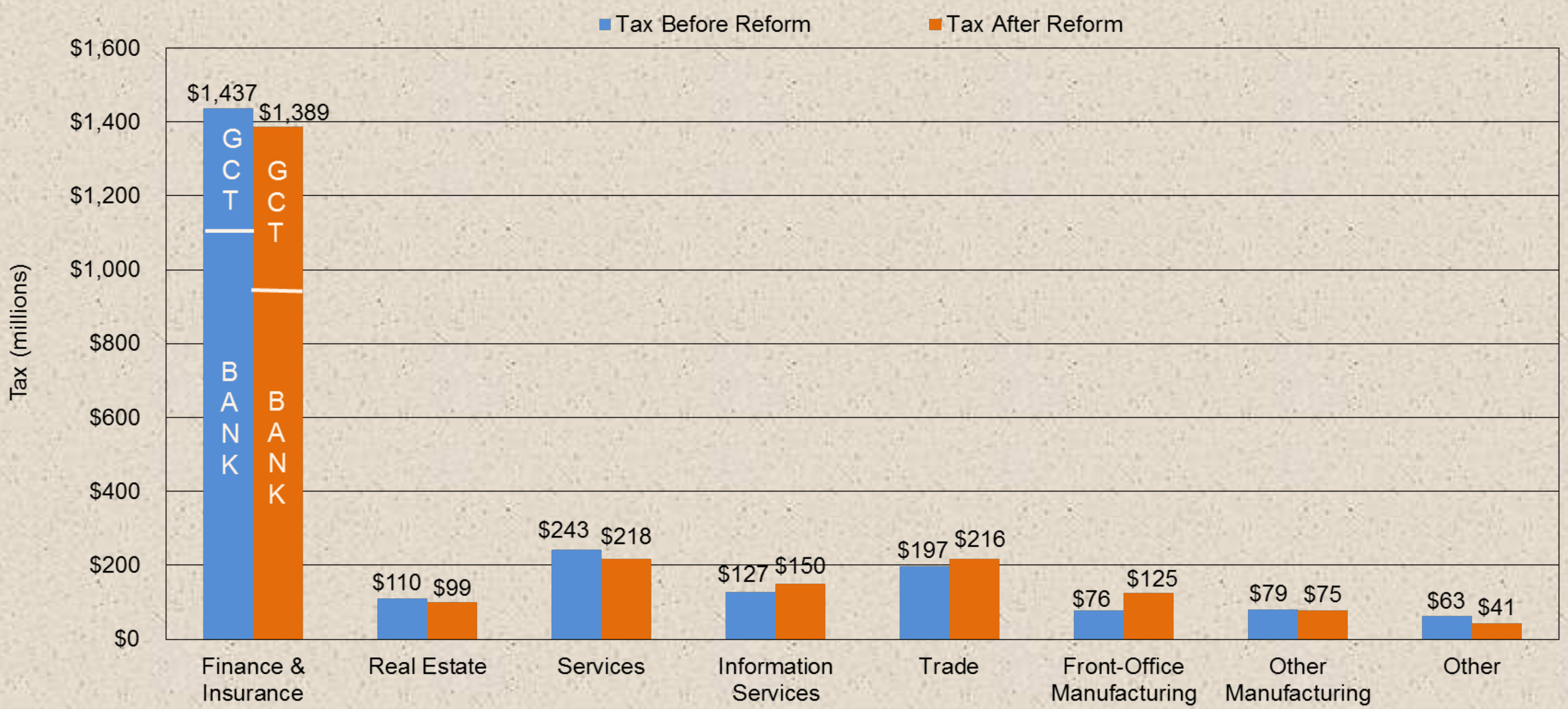
Baseline includes full single-sales factor GCT treatment, which is effective TY 2018. Numbers do not sum due to the interactive effect of provisions.

Projected Revenue Impact by Provision



Average of tax years 2010 and 2011.

Projected Revenue Impact by Sector



Note: Front-office manufacturers manage business and financial operations but are not predominantly manufacturing in NYC.
Average of tax years 2010 and 2011.

Projected Revenue Impact on Small Businesses

Provision	Number of Affected Taxpayers: Manufacturing	Number of Affected Taxpayers: Other Sectors	Total Benefit (millions)	Average Benefit
$10K exclusion from capital base	380	13,916	($28)	($1,978)
Provide small business relief for non-manufacturers	-	30,594	($24)	($793)
Provide small business relief for manufacturers	793	-	($4)	($5,264)
Total	**1,173**	**44,510**	**($57)**	**($1,241)**

Average of tax years 2010 and 2011.

Administrative/Operational Challenges

- Legislation provided a grace period for declarations and payments of estimated tax due on or prior to June 15, 2015.
  - In addition to the statutory grace period, no penalty was imposed for *any* underpayment of estimated tax due for the 2015 tax year under the business corporation tax.
- Complexity of receipts factor

Administrative/Operational Challenges

- Some taxpayers are computing net operating losses (NOLs) incorrectly.
  - NOLs carried over from the 2014 general corporation and banking corporation taxes are before allocation and must be claimed on form 2.3 (prior NOL conversion).
    - Form 2.3 converts pre-2015 NOLs into a prior NOL pool in order to stabilize their value for financial accounting purposes.
  - NOLs from the business corporation tax (which are after allocation) should be reported on form 2.4 and should not be claimed for 2015.
- Federal due date changes for 2016

Questions?