FISCAL POLICY INSTITUTE
1 LEAR JET LANE, LATHAM, NEW YORK 12110
(518) 786-3156 • www.fiscalpolicy.org

Testimony of
Ron Deutsch, Executive Director
Fiscal Policy Institute

Before the

Senate Finance and Assembly Ways and Means Committees

Joint Public Hearing on Taxes

February 7, 2017

Thank you for inviting me to testify today on the tax proposals in the FY 2018 Executive Budget and Financial Plan. My name is Ron Deutsch and I am the Executive Director of the Fiscal Policy Institute.

The millionaires' tax is New York's fiscal Swiss Army knife, a tool that addresses many different needs. It helps fund important priorities, balance the New York State budget, respond to heightened income inequality, and lessen the overall regressive state and local tax structure. And it is very much needed in New York today.

The proposed extension of the millionaires' tax will help New York continue to support statewide priorities from education to health care. It will restore some of the revenues lost from tax cuts enacted between FY 2013-15 and from the middle class tax cuts enacted in 2016. The income gap, which is greater in New York State than in any other state, will narrow. The tax will help offset the regressive nature of New York's overall state and local tax burden, particularly when paired with enhanced low-income tax credits and additional high-end tax brackets.

Since 2013, wage growth for the average worker in New York has started to pick up after languishing in the early recovery years. Total wages increased 6.4 percent in 2014 and 4.4 percent in 2015.[1] Low-wage workers are benefiting from the state's minimum wage increases; two increases for workers at fast-food chain restaurants have lifted the hourly wage floor from $9.00 to

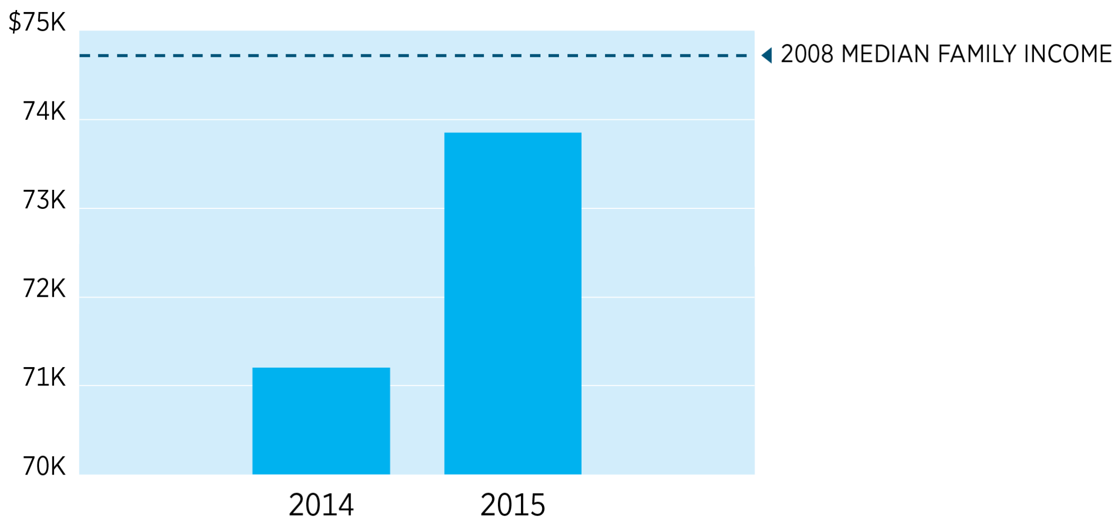
---

[1] Growth in total wages for workers in all industries from the NYS Department of Labor's Quarterly Census of Employment and Wage series (2015 is the latest full year of wage data).

$10.75 ($12.00 in New York City), and the first increase on the way to $15 for all workers statewide took effect December 31, 2016. When the $15 minimum wage is fully phased in, more than a third of all New York workers will see wage gains.

Several years of recovery and declining unemployment finally generated a solid increase in family incomes in 2015. Inflation-adjusted median family incomes rose in New York by 3.7 percent in 2015. However, this increase still does not make up for the erosion that took place after 2008.

Fig 1. NYS median family income rose 3.7 percent in 2015 but still lagged the 2008 level



Source: American Community Survey data, 2008, 2014 and 2015. Incomes expressed in 2015 constant dollars.

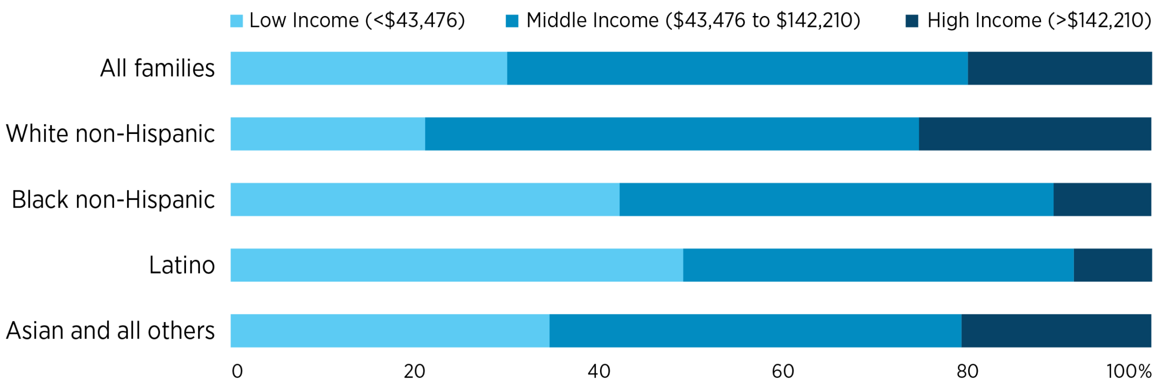
Census Bureau data show greater income inequality in New York than in any of the fifty states, as well as a statistically significant increase since Governor Cuomo was first elected in 2010.[2] Income gains recorded since the recovery began in 2009 have been highly concentrated at the top of the income distribution. Nearly half (48 percent) of the total increase in incomes in New York from 2009 to 2015 accrued to the wealthiest 1 percent.[3]

There is also a significant racial dimension to income inequality in New York. The average income for white, non-Hispanic families in New York State was $122,200 during the 2014-15 period, 77 percent greater than the average family income for blacks ($69,100), 93 percent greater than the average for Latino families ($63,500), and 19 percent greater than for Asian families.[4]

[2] As measured by the Gini index, a widely-used measure of income inequality. U.S. Census Bureau, American Community Survey data, 2010 and 2015.
[3] Fiscal Policy Institute estimates.
[4] Fiscal Policy Institute analysis of American Community Survey data for 2014 and 2015. Race/ethnicity for families based on the race/ethnicity of the "householder."

Families with a black head of household were twice as likely as a family headed by a white person to be low-income, according to data from the American Community Survey.[5] For Latino-headed families, the likelihood of being low-income was nearly two-and-a-half times that for a family headed by a white person. At the other end of the income spectrum, families headed by a white person were two-and-a-half to three times as likely to have incomes in the top 20 percent as black- or Latino-headed families. See the following chart.

Fig 2. New York's Black and Latino Families Much More Likely To Have Low Incomes



Source: FPI analysis of 2014-2015 American Community Survey microdata. Income analysis done using 2015 constant dollars.

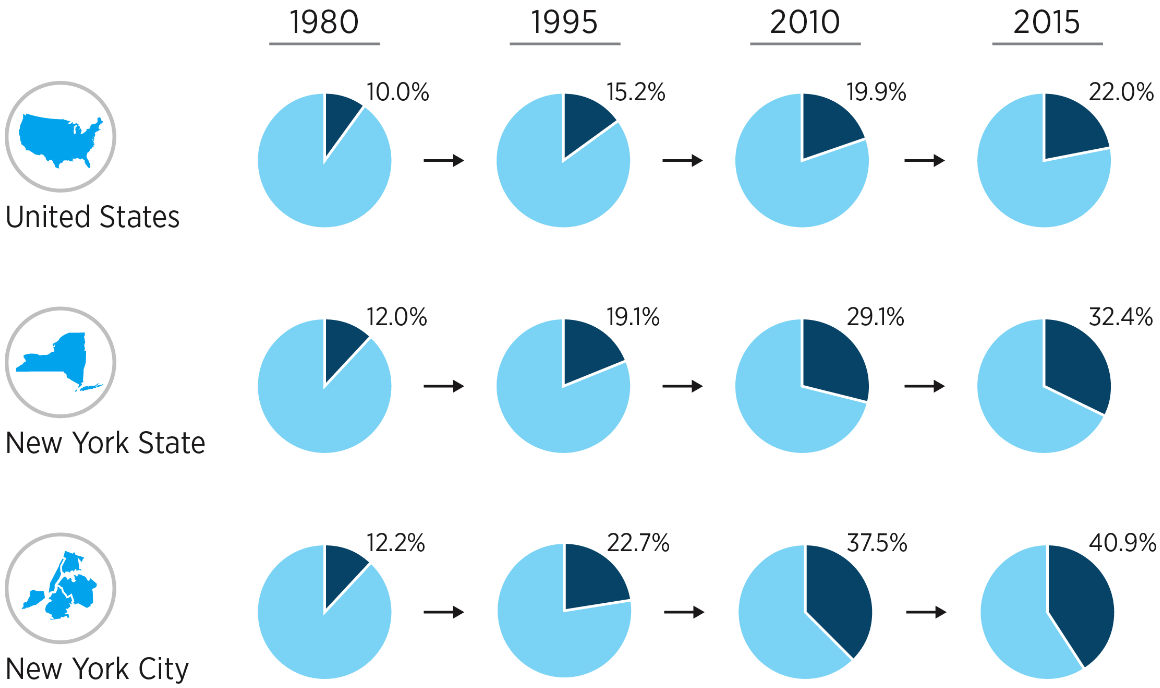
Income inequality, as indicated by the richest 1 percent's share of total income, has grown substantially since 1980 in New York as well as nationally. As the chart below demonstrates, in the United States overall, the richest 1 percent claimed 22 percent of all income in 2015, more than twice the 10 percent share received in 1980. In New York State, the top 1 percent received 32 percent of all income, up from 29 percent in 2010, and 12 percent in 1980. And, in New York City, the top share was nearly 41 percent in 2015. As the chart below shows, income concentration at the very top has grown much faster since 1980 in New York State and City than in the country as a whole.[6]

---

[5] According to American Community Survey data for 2014 and 2015, the family income threshold for the lowest income 30 percent of New York families was $43,476.

[6] Emmanuel Saez, U.S. data updated June 2016; Estelle Sommeiller, Mark Price, and Ellis Waezeter, Income inequality in the U.S. by state, metropolitan area, and county, Economic Policy Institute, June 16, 2016, New York state data; Independent Budget Office data for New York City; and FPI estimates based on IRS 2014 data for New York State.

Fig 3. A Bigger Slice of the Pie: The Growing Share of All Income Going to the Top 1%

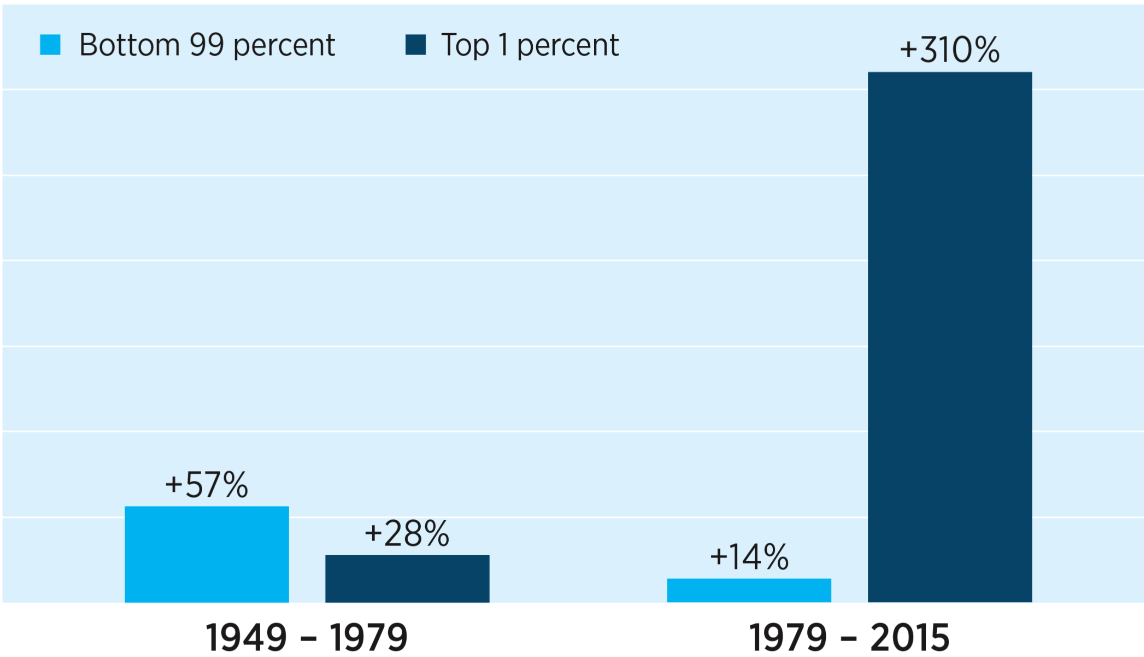


Source: Emmanuel Saez, U.S. data updated June 2016; Estelle Sommeiller, Mark Price, and Ellis Waezeter, Income inequality in the U.S. by state, metropolitan area, and county, Economic Policy Institute, June 16, 2016, New York state data; Independent Budget Office data for New York City; and FPI estimates based on IRS 2014 data for state.

The tremendous growth in income inequality since 1979 represents a sharp reversal of the patterns of income growth that prevailed for more than three decades following World War II. From 1949 to 1979, incomes rose across the board, with the middle class expanding dramatically in number and experiencing fairly steady income gains. For the past 35 years, however, most income gains have flowed to the very top.

Fig 12. A Sharp Reversal: Shared Prosperity vs. Income Polarization in New York State

INCOME GROWTH IN NEW YORK STATE



Source: Sommeiller and Price, and FPI estimates.

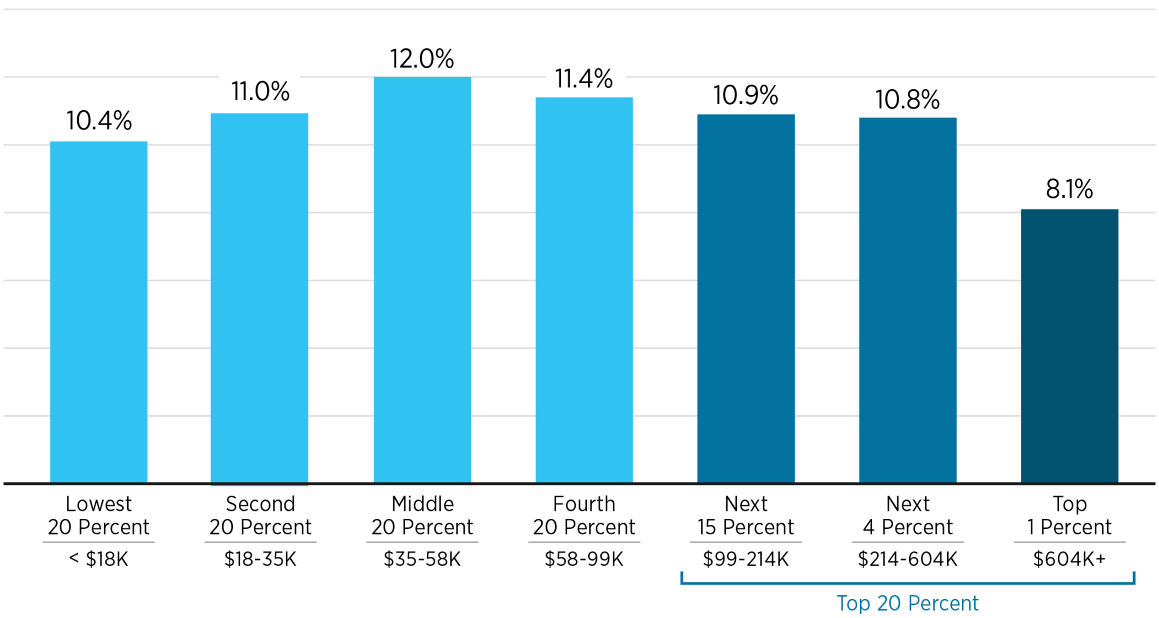
New York's Tax Structure Further Benefits the Wealthy

Those in the wealthiest 1 percent are taking home the lion's share of income gains, yet they pay a smaller share of their income in combined state and local taxes than lower and middle-income families—even with the millionaires' tax in effect. New York households with incomes under $100,000 pay higher effective state and local tax rates (ranging from 10.4 percent to 12 percent) than the wealthiest 1 percent of households (who pay 8.1 percent).

One reason the combined impact of state and local taxes is regressive is that most low- and middle-income families in New York pay a greater percentage of their income in sales and property taxes than they do in income taxes. New York State's income tax is mildly progressive, but not progressive enough to offset the effects of highly regressive sales and local property taxes.

Fig 13. New York State's Regressive State and Local Tax System

PERCENT OF STATE AND LOCAL TAX BURDEN BY INCOME GROUP



Note: Shares of family income for non-elderly taxpayers.
Source: Institute on Taxation and Economic Policy, January 2015.

Extending the Millionaires' Tax and Other Revenue Proposals in the Executive Budget

Millionaires' Tax Extension

As noted earlier in the Financial Plan section, the extension of the millionaires' tax is needed to make up for the various tax cuts enacted over the past four years that will reduce FY 2020 tax receipts by nearly $4 billion. The governor appropriately links last-year's enactment of substantial middle class tax cuts to the extension of the millionaires' tax. Middle class tax rate reductions—though it is a bit of a misnomer to refer to families with incomes up to $320,000 as "middle class"—beginning in 2012 were part of an earlier extension of the millionaires' tax. The fully-phased in value of the greater reductions passed in 2016 is quite substantial at $4.2 billion, roughly the equivalent of revenue generated by the millionaires' tax. Corporate, bank and estate tax cuts, enacted in 2014, are likely costing nearly $2 billion in lost revenue annually, considering the continued growth in corporate profits and in the number of large estates.

While the governor did not propose to make the extension of the millionaires' tax permanent—as he should have—his Executive Budget does make permanent the existing charitable contribution deduction limit of 25 percent for state and New York City taxpayers with adjusted gross incomes over $10 million. The limit on deductions translates into $140 million per year in revenue. The Executive Budget notes the limitation has not had a noticeable impact on charitable giving.

Closing tax loopholes

In response to continued growth in online sales through marketplace providers like Amazon and eBay, the governor again this year proposes that such providers be required to collect New York State sales tax when they facilitate a sale between an out-of-state seller and a New York consumer. This measure would help level the playing field for New York's brick-and-mortar retailers, and would generate $136 million annually on a full-year basis. Reforms that would yield $30 million annually include closing loopholes associated with nonresident activities related to co-ops, asset sales, and business purchases. Measures related to taxing cigars, vapor products and other tobacco products would also generate $30 million annually.

Other Revenue Proposals

- In the fee category of receipts, the Executive Budget proposes an increase in motor vehicle title fees that would raise $81 million annually, and a surcharge on the sale of prepaid cell phones that would generate $26 million annually. Legislation enacting the prepaid cell phone surcharge also authorizes local governments to levy a reduced rate surcharge.
- The revenue component of an Article VII bill authorizing companies like Uber and Lyft to provide personal transportation services using digital networks to connect riders to drivers upstate is problematic. The proposal calls for a 5.5 percent tax on such prearranged trips, with 4 percent going to the state's General Fund, and 1.5 percent to support local transit systems. The 5.5 percent tax is in lieu of the combined state and local sales tax, which ranges from 7 to 8.75 percent upstate. The legislation provides that municipalities may not prohibit or tax the operation of such transportation companies. The reduced 5.5 percent assessment unfairly favors such companies over existing transportation service providers, such as livery and black car companies whose services are subject to the combined state and local sales tax, and its form as something other than a sales tax deprives local governments of much-needed revenue. It is also of great concern that the proposed law does not require that the assessment be stated separately, as in the case with sales tax. Drivers say that this opens the door for companies to deduct the assessment fee from driver pay.[7]
- Although the state's film tax credits do not expire until January 1, 2020, the Executive Budget proposes to extend the credits for another three years. The credits equal 30 percent of qualifying film and television production costs, and are fully refundable, so the state is not only forgoing tax revenue it might otherwise collect but in fact is paying cash to companies that may have no tax liability. The credits are authorized up to $420 million annually and far exceed the profits or tax liability of the entire industry. That makes the credits among the costliest subsidies the state provides to any sector, according to an analysis by economists Marilyn Rubin and Don

[7] Such a practice has been challenged in driver lawsuits against Uber regarding the current sales tax on black car rides. See, New York Taxi Workers Alliance et.al., v. Uber Technologies et.al., 16-cv-4098 (S.D. N.Y.) Labor advocates also raise concerns that the legislation does not make explicit that drivers working for transportation network companies are employees rather than independent contractors. Recently, the State Labor Department has determined that Uber drivers are employees and eligible for unemployment benefits. Noam Scheiber, "Uber Drivers Ruled Eligible for Jobless Payments in New York State, The New York Times, Oct. 12, 2016.

Boyd. The Rubin-Boyd analysis also calls into question consultants' studies that claim the credits "pay for themselves."[8]

Enhancing the Child and Dependent Care Tax Credit for Middle Class Families

New York allows households that qualify for the Federal Child and Dependent Care Credit to claim a percentage of the federal credit on their state income taxes. The credit is refundable for residents. The Executive Budget increases the benefit by an average of 123 percent for middle income tax filers with New York adjusted gross income between $50,000 and $150,000. The average increase under this proposal, which is effective with the 2018 tax year, would be $208, benefiting an estimated 200,000 households. The credit enhancement would provide a total of $42 million in additional benefits.

The child and dependent care tax credit is long overdue for enhancement. The state last adjusted the credit percentages in FY 2000, and the maximum benefit in 2003, even though child and dependent care costs have soared over the past decade and a half. Today, child care is often the largest component of household expenses, greater than housing or food costs.

Among families with children, in 88 percent of cases, all parents in the household are working and the family must rely on outside caregivers. Even though child care teachers and aides are woefully underpaid, the cost of licensed and accredited child care for an infant and a preschooler averaged $1,755 per month in 2014, or over $21,000 annually, according to the state's Office of Children and Family Services. This amount can represent 25 percent or more of a typical bare-bones family budget.[9]

The median hourly pay for child care workers in New York State was $12.63 in 2015, according to Bureau of Labor Statistics data. Since almost all child care aides and more than half of preschool teachers in child care centers are paid less than $15 an hour, the phased-in statewide $15 minimum wage will very likely lead to higher child care costs over the next few years.

New York's low- and moderate-income families with incomes under $50,000 should also receive enhanced child and dependent care benefits. The Executive Budget proposes increasing the average credit for middle income families by 123 percent, but provides no adjustment for families with incomes below $50,000. Doubling the credits (a 100 percent increase) would benefit nearly 200,000 struggling families with incomes below $50,000 at a cost of approximately $142 million. Such an adjustment would disproportionately benefit black and Latino households who are heavily concentrated among the state's low-income families, as noted earlier in this chapter. The child and dependent care tax benefit enhancements should be effective this tax year (2017) to begin providing immediate relief to New York's working families.

New York should also raise its Earned Income Tax Credit (EITC) from 30 percent to 40 percent of the federal benefit. The EITC is widely seen as an essential means of improving the well-being of

---

[8] Marilyn M. Rubin and Donald J. Boyd, *New York State Business Tax Credits: Analysis and Evaluation*, A Report Prepared for the New York State Tax Reform and Fairness Commission, H. Carl McCall and Peter J. Solomon, co-chairpersons, November 2013.

[9] United Way of New York State, ALICE, Asset Limited, Income Constrained, Employed; Study of Financial Hardship, Fall 2016.

children and low-income families working yet struggling to make ends meet. More than 1.6 million New York families benefit from the EITC. Raising the credit to 40 percent of the federal benefit would cost roughly $300 million, with almost all the benefit accruing to families with incomes under $32,000. State EITC benefits should also be expanded and increased to aid workers not raising children in the home, and include those workers ages 21-24 and 65-66.

1% Plan for New York Tax Fairness—Extending and Enhancing the Millionaires' Tax

The best response to the regressive nature of New York's overall state and local tax system is to make the personal income tax more progressive. To do that, New York should build on the governor's proposed extension of the millionaires' tax, currently set to expire at the end of 2017. The state should increase the number of brackets from eight to 12 and make the new structure permanent. This proposal, outlined in the chart below, would retain the phased-in middle class tax rates enacted last year, and increase tax rates slightly for the richest 1% of New York's taxpayers (i.e., roughly those with incomes over $665,000). FPI labels this the "1% Plan for New York Tax Fairness."

The Fiscal Policy Institute estimates that the 1% plan would raise income tax revenues by approximately $6.2 billion. FPI's plan would raise about $2.5 billion more than the governor's proposed extension of the millionaires' tax—under the governor's proposal personal income tax receipts are forecast at $56 billion for FY 2020. Approximately half of the taxpayers affected by the millionaires' tax are non-residents, mainly from incomes earned in New York City's finance and other highly-compensated businesses. Of New York State resident taxpayers subject to the millionaire's tax, 97 percent reside downstate (NYC, Long Island, Westchester, Orange, and Rockland) and only 3 percent hail from upstate.

Fig 14. 1% Plan: Increase Personal Income Tax Rates Incrementally for Top 1%

Taxable Income Range	Exec. Budget proposal for 2018 rates*	2018 rates w/o Millionaires' Tax renewal	The 1% Plan	The 1% Plan vs. Executive Budget	The 1% Plan vs. 2018 rates w/o Millionaires' Tax
Up to $17,150	4.00%				
$17,150 - $23,600	4.50%				
$23,600 - $27,900	5.25%				
$27,900 - $43,000	5.90%			No change	
$43,000 - $161,550	6.33%				
$161,550 - $323,200	6.57%				
$323,200 - $665,000	6.85%				
$665,000 - $1,000,000	6.85%		7.65%	+0.80%	+0.80%
$1,000,000 - $2,155,350	6.85%		8.82%	+1.97%	+1.97%
$2,155,350 - $10,000,000	8.82%	6.85%	9.35%	+0.53%	+2.50%
$10,000,000 - $100,000,000	8.82%	6.85%	9.85%	+1.03%	+3.00%
Above $100,000,000	8.82%	6.85%	9.99%	+1.17%	+3.14%

**Same as 2017 rates*

Note: Brackets shown are for those married, filing jointly, and are different for singles and head of household filing statuses.

The assembly recently proposed three additional top tax brackets to increase the progressivity of the personal income tax. Under the assembly proposal, taxpayers with incomes from $1-$5 million would pay the 8.82 percent rate, $5-$10 million a 9.32 percent rate, 9.82 percent for incomes $10-$100 million, and a 10.32 percent rate for incomes over $100 million. The assembly indicates its proposal would generate $5.6 billion more than the current tax law.

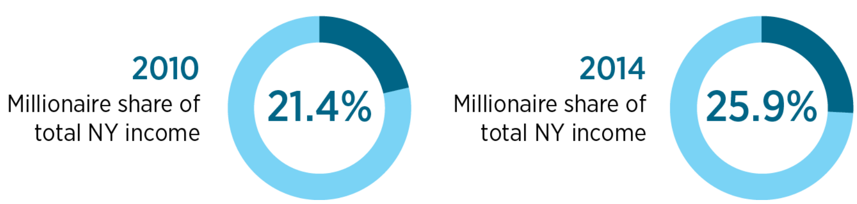
Contrary to the conservative insistence that progressive taxation will drive away the wealthiest taxpayers, recent research on "millionaire taxes" by Cristobal Young of Stanford University and colleagues shows the rich are generally so tied to local economic and social networks that they have largely not moved out of the states that have imposed higher income taxes.[10]

Former state tax commissioner James W. Wetzler, in an article on the millionaires' tax for *State Tax Notes*, concluded, "There is little evidence to discourage New York from extending its millionaires' tax." From his examination of unpublished state tax data for 2006- 2013, Wetzler found "the impact of the millionaires' tax appears to have been limited to out-migration of a few super-rich residents shortly after its enactment."[11]

Since the tax's 2009 enactment, the number of millionaires in New York has climbed and their incomes have grown much faster than that of non-millionaires. The number of resident millionaire returns grew by one third from 2010 to 2014—11 times the three percent growth in the number of non-millionaire returns. The total income on millionaire returns grew by 45 percent, more than three times faster than all other New York tax returns.

Fig 15. Number of Millionaire Tax Returns Increased by One-Third from 2010 to 2014

	2010	2014	% Change
Number of millionaire tax returns	35,802	47,440	⬆33%
Total income on millionaire returns	$134.5 billion	$195.4 billion	⬆45%
Number of non-millionaire tax returns	9,236,260	9,476,400	⬆3%
Total income on non-millionaire returns	$493.9 billion	$559.5 billion	⬆13%
All NYS tax returns	9,272,062	9,523,840	⬆3%
Total income on all returns	$628.4 billion	$754.9 billion	⬆20%



Source: Internal Revenue Service, Statistics of Income data.

---

[10] Cristobal Young, Charles Varner, Ithai Z. Lurie, and Richard Prisinzano, "Millionaire Migration and Taxation of the Elite: Evidence from Administrative Data," *American Sociological Review*, 2016, vol. 81(3), pp. 421-446.
[11] James W. Wetzler, "Taxation of Millionaires in New York," *State Tax Notes*, October 10, 2016.