BRIEF LOOK

The Billionaire Mark-to-Market Tax: $5.5 Billion or More for the NYS Budget

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THE NEW YORK STATE ECONOMY GENERATES TREMENDOUS WEALTH. As a result, even in the midst of a historic economic crisis, we can raise enough tax revenue to avoid catastrophic budget cuts—to education, health care, and other crucial services—and also add new programs to combat the coronavirus recession by helping those most in need.

The Billionaire Mark-to-Market Tax (MtM) is a new proposal, introduced this year by Senator Jessica Ramos and Assemblymember Carmen De La Rosa, that could raise $5.5 billion in the first year, or potentially more under other scenarios, yet would affect only those at the very pinnacle of the state economy. If you have some money saved for retirement or a rainy day, this is not a tax that will affect you. The tax would apply only to New Yorkers with assets of over one billion dollars. It's a solid proposal that should be added to other tax reforms required to meet the state's needs.

Mark-to-Market Tax: $5.5 Billion of State Revenue in Year 1 and $66.6 Billion over 10 Years

Top Tax Rate	8.82%
Total Revenue, Year 1	$5.5 Billion
Total Revenue Over 10 Years	$66.6 Billion

FIG. 1 Fiscal Policy Institute estimate. This assumes the current top tax rate. See Methodology section for details.

Today, people pay taxes on stocks, bonds, and other assets only when they sell them. They do not pay annual taxes on the increased value of these assets, even as they may double or triple over time, and even if they borrow against those assets to spend on their consumption. The Mark-to-Market Tax would change that, and would tax the *increase in value* of these holdings at the same rate as other income—for billionaires, that would be 8.82 percent.

When considering the Mark-to-Market tax it is important to remember that it is:

Affordable. Stock and bond holders will pay it only when they see an increase in the value of their assets, as is currently likely since the stock market continues to rise even in the face of a historically deep recession. The Mark-to-Market tax is paid on the true economic income, and therefore can be thought of as the perfect income tax.[1]

Easy to administer. The value of publicly traded stocks, bonds, and other securities can be "marked to market" by looking at the price they are selling for. Valuations of less liquid assets are done routinely for estate tax purposes. The Mark-to-Market tax builds on the existing systems and practices.

Fair. The increase in value is currently not treated as income because it is "unrealized." Yet, a common practice among residents with assets of this size is to set up a virtually costless line of credit that is secured by these funds. Thus, they are essentially using the assets—by borrowing against them—for their expenses. The Mark-to-Market tax addresses the discrepancy and recognizes the true economic income of all taxpayers and ensures the same rules are applied to everyone.

Constitutional. A Mark-to-Market tax is not a wealth—or "ad valorem" tax. It is an income tax on economic income. Under the Mark-to-Market tax, a billionaire pays tax only if their assets increase in value. In contrast, a wealth or ad valorem tax is imposed even if assets decrease in value. The Mark-to-Market tax is aimed at investment gains that can be instantly converted into usable funds by using modern finance.

Billionaires are rooted in New York. Many billionaires make their wealth in New York, and many others come to New York because is a place to live and work. There is a reason billionaires spend enormous sums for homes in places like New York City or the Hamptons, and they stay despite the income and property taxes they already pay. Concern about billionaires moving for tax reasons is a valid one, but it can also be overstated. New York has a vibrant economy and is an appealing place for wealthy people from around the globe to live and work. If the tax is used to keep the state an attractive place to be—with good schools and colleges, an infrastructure that is not crumbling, vibrant cultural institutions—then billionaires will be getting their money's worth. Billionaires benefit more than anyone from the energy and economic strength of New York. Adding a tax on the *increase in value* of their assets is a reasonable price for them to pay.

The Mark-to-Market tax, as proposed, could generate $5.5 billion or more in the first year, and would continue to raise billions each subsequent year. The Ramos/De La Rosa bill proposes to use some of that money to create an unemployment compensation fund for the people who are excluded from the current state unemployment insurance benefits—such as people who are undocumented, who have been recently released from incarceration, or some people working in the cash economy. An excluded workers fund would cost $3.1 billion assuming an average of 15 percent of undocumented workers and an even higher share of people who are leaving incarceration are unemployed and receive the funds over a nine-month period.[2] Assuming this $3.1 billion cost, the MtM revenues would still leave over $2 billion to pay for education, health care, and other state priorities.

In addition to the existing (baseline) scenario with the top tax rate of 8.82 percent, it is worth considering a variety of corresponding revenue estimates under the proposed Ultra-Millionaire Tax bills (UMT) that specify different top tax rates. While establishing revenue estimates of these proposals is outside the scope of this note, it is clear that changing the top tax rate would result in the overall revenue both separately and together with the UMT. To illustrate the revenue variations, we choose three out of several such bills as optional scenarios.

1. May/Simotas: at the top rate of 10.32 percent we project to obtain $6.4 billion in total from the Mark-to-Market tax ($3.4 billion in new current revenue and $2.9 billion for each of 10-years for historical gains in the first year). This follows the bill sponsored by Senator Rachel May and Assemblymember Aravella Simotas, S. 8164 / A. 10364.

2. Mayer/Glick: at the top rate of 10.9 percent we project to obtain $6.8 billion in total ($3.7 billion in new current revenue and $3.1 billion for each of 10-years for historical gains in the first year). This follows the bill sponsored by Senator Shelley Mayer and Assemblymember Deborah Glick, S. 8329 / A. 10450.

3. Jackson/Rosenthal: at the top rate of 11.82 percent we project to obtain $7.4 billion in total ($4.0 billion in new current revenue and $3.1 billion for each of 10-years for historical gains in the first year). This follows the bill sponsored by Senator Robert Jackson and Assemblymember Linda Rosenthal S. 7378 / A. 10363.

This is a significant potential source of new revenue for the state. Under the condition that the tax increases last over the ten-year period, the maximal projected total revenue over ten years due to MtM ranges from $66.6 billion to $89.2 billion. It is a significant potential source of new revenue for the state.

The Mark-to-Market has been gaining traction in Albany because it makes a lot of sense. Some New Yorkers are economically doing very well throughout this crisis. At the same time, the state faces a crisis-level need to avoid deep cuts to education, health care, transportation, and other spending, as well as a need to provide economic compensation to unemployed workers who have been left out of federal or existing state aid. The tax would

With Different Top Tax Rates, MtM Tax Could Raise Up to $7.4 Billion in Year 1

		Ultramillionaires Tax Proposals		
State Revenues in Billions	Baseline	May/Simotas	Mayer/Glick	Jackson/Rosenthal
Top Tax Rate	8.82%	10.32%	10.90%	11.82%
Total Revenue, Year 1	$5.5	$6.4	$6.8	$7.4
Annual Revenue, Year 1	$3.0	$3.5	$3.7	$4.0
Prior Gains: 1st Year of 10-Year Installment Plan	$2.5	$2.9	$3.1	$3.3
Prior Gains: If Fully Paid in Year 1	$23.1	$27.0	$28.5	$30.9
Total Revenue Over 10 Years	$66.6	$77.9	$82.3	$89.2

FIG. 2 Fiscal Policy Institute estimate. See Methodology section for details.

impact only the very wealthy, and would only be levied on their gains, not on their underlying wealth. While no tax is painless, this is a small price for billionaires to pay to help New York recover and grow stronger than before.

Methodology

In order to estimate the tax revenue due to the Mark-to-Market tax, a Forbes list of New York billionaires was used. It specified wealth estimates at pre-pandemic levels. (According to the latest estimates billionaires' wealth has increased by 20 percent since the start of the pandemic.[3] This makes our estimate highly conservative.) The revenue estimate includes the two parts of the proposed Mark-to-Market tax: 1) *annual increases* in asset values that capture the taxpayers' economic income and taxed at the appropriate top tax rate, currently 8.82 percent, and 2) *historical accumulation* that, in the year that the tax is first implemented, taxes the prior gains, measuring the the previously untaxed economic income in the present holdings of a billionaire taxpayer. The bill provides the option to pay down the historical accumulation tax in ten annual payments, subject to a surcharge of 7.5 percent; this estimate assumes billionaire taxpayers avail themselves of that opportunity.

The revenue calculation is based on the the sum of total asset value in the NYS billionaire sample of $489 billion as of the beginning of 2020. This approach avoids extraordinary gains and volatitily observed during the two quarters of 2020 as the value of assets held by the state's billionaires increased. Assuming a seven-percent historical long-term annual growth, consistent with the observation of the net worth doubling over the past ten years, we are able to project for next year a total net worth of $524 billion, a $34 billion increase. This increase, if the current top marginal income tax rate of 8.82 percent is applied to it, yields $3 billion in new revenue. Additionally, taxing historical gains is approximated, for simplicity, by a the post-Great Recession period when the billionaires' net worth roughly doubled (and the average growth rate of seven percent is assumed for future growth in asset values). That is for each of the ten years, a one tenth of the total gains (half of the current net worth in the sample) is taxed at the current top rate of 8.82 percent to obtain $2.3 billion, and after adding the 7.5 percent annual surcharge of $173 million the total lookback annual (for 10 years) payment is around $2.5 billion. Adding the historical and the new asset value growth related parts yields $5.5 billion for first year as a new revenue projection, and $2.5 billion per year for each of 10 years.

If, on the other hand, billionaire taxpayers do not make use of the payment plan, the historical accumulation of the prior gains portion of the tax would yield $23.1 billion in the first year bringing to total first-year revenue to $26.1 billion. Overall, whether or not billionaires use the payment plan, the 10-year revenue total is the same, $66.6 billion. This modeling uses a static baseline scenario and does not consider likely adjustment in taxpayer behavior or changing domestic economic conditions.

The calculation reveals the maximal potential new revenue from the measure, which is significant, but it remains the task for policy makers to design and integrate the incentive structure that would align maximally the interests of the state and its wealthy taxpayers with respect to ensuring and enhancing their continued full fiscal participation in New York's budget. An example of a probable issue is a fiscal cliff at $1 billion in total assets. Dealing with this potential discontinuity and improper incentives where those at just over $1 billion in total wealth may considerably shrink their liability by removing a small portion of their wealth may take several forms. One of them is introducing a moderate phase-in scenario where the phase-in cap—the maximum amount excluded from 100 percent of the tax—of 25 percent of a billionaire's net assets over $1 billion favorably moderates the application of tax in instances where taxpayers' wealth is not far above the qualifying threshold of $1 billion. Such an incentive smoothing phase-in structure would reduce the potential tax revenue by anywhere between $14 and $50 million annually, depending on the specificity of annual asset prices movements. The projected revenue variations presented in Figure 1 omit the phase-in for simplicity.

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End Notes

[1] Robert M. Haig, *The Concept of Income—Economic and Legal Aspects in The Federal Income Tax* (New York: Columbia University Press, 1921) pp. 1-28; Henry Simons, *Personal Income Taxation: the Definition of Income as a Problem of Fiscal Policy,* (Chicago: University of Chicago Press, 1938) p. 49.

[2] David Dyssegaard Kallick, Cyierra Roldan, and Jonas J.N. Shaende Ph.D., Unemployment Compensation for Excluded Workers: Helping New Yorkers, Boosting the Local Economy, Fiscal Policy Institute, July 30, 2020.

[3] Chuck Collins, "U.S. Billionaire Wealth Surges to $584 Billion, or 20 Percent, Since the Beginning of the Pandemic," Institute for Policy Studies, June 18, 2020.