FPI
Fiscal Policy Institute

1 Lear Jet Lane
Latham, NY 12110
Tel: 917-565-0715
press@fiscalpolicy.org

Fact vs Fiction: The Truth About New York's Corporate Tax

Most businesses do not pay the corporate tax.

- Only corporations pay the corporate tax, and approximately 95% of businesses are not corporations.[1]

- Most businesses are partnerships, LLCs, S-corporations, or sole proprietorships, none of which pay the corporate tax.

The biggest corporations pay most of the tax.

- More than 80% of corporations in New York pay less than $1,000 in tax.[2]

- Around 75% of all New York corporate tax revenue comes from the 500 most profitable corporations.[3]

Corporations are taxed on where they do business, not where they are located.

- Corporations doing business in New York pay tax based on their sales in New York — not their location. A corporation can move its headquarters into or out of the state without affecting its New York State corporate tax liability.

- The corporate tax was redesigned in 2015 so that a corporation's sales in New York would be the only basis for taxing corporate profits.[4] As the Department of Tax and Finance explains, these reforms "eliminate impediments to locating or expanding a business in New York State."[5]

- Only the most profitable corporations – those with over $5 million in profits – are required to pay the slightly higher 7.25 percent corporate tax rate. This includes multi-national businesses like Amazon, Walmart, and Bank of America that do business in New York but are not headquartered here.

---

[1] IRS SOI for 2015. https://www.irs.gov/statistics/soi-tax-stats-integrated-business-data
[2] New York Department of Tax & Finance, Tax Facts, at: https://www.tax.ny.gov/data/stats/tax-facts.htm#expanded-content-menu3
[3] *Id.*
[4] This is called single sales factor apportionment. Corporations doing business in the U.S. must "apportion" their profits among the different states where they do business. E.g., if a corporation makes $1 million in profit doing business in New Jersey and New York, each state cannot tax the fully $1 million. Instead, each state chooses some formula for determining how much profit that state can fairly tax. New York uses a formula based solely on where corporations have sales. In this example, if 50 percent of the corporation's sales were in New York, New York would be able to tax 50 percent of the $1 million of profit, or $500,000.
[5] https://www.tax.ny.gov/bus/ct/corp_tax_reform.htm

New York can tax multinational profit-shifting through "GILTI".

- "GILTI" – global intangible low-taxed income – is a provision of federal tax law designed to tax multinational corporations on the profits that they shift to foreign tax havens. It only impacts the largest multinationals that use international tax avoidance schemes.

- The GILTI rules impose an additional tax on foreign subsidiaries that earn profits in excess of 10 percent of the value of their tangible assets. The premise is that foreign subsidiaries with very high rates of profit relative to their tangible assets are likely engaged in profit-shifting schemes.

- Like the corporate tax, corporations would pay GILTI based on whether they sell goods and services in New York, not based on where they are located or headquartered.

New York can raise additional business tax revenue from large partnerships and LLCs, such as big law firms and hedge funds.

- High-income owners of partnerships, LLCs, and S-corporations receive a substantial tax benefit from the Pass-Through Entity Tax (the PTET), 100% of which is rebated against the owners' personal income tax liability.

- New York could rebate only 90% of the PTET – just like Massachusetts and Connecticut, which only rebate 90 percent and 87.5 percent (respectively) of their own versions of the PTET.

- Around 70 percent of income from partnerships, LLCs, and S-corporations is earned by the top 1 percent.[6]

- The PTET allows the owners of pass-through businesses to recover the federal deduction for state and local taxes, which was limited to $10,000 by the 2017 Tax Cuts and Jobs Act. Nearly all (96 percent) of this benefit goes to the top 20 percent, and 57 percent of the benefit goes to the top 1 percent.[7]

---

[6] Cooper, M. et al (2016). https://eml.berkeley.edu/~yagan/BusinessOwnersTaxes.pdf

[7] C. Pulliam and R. Reeves, "The SALT tax deduction is a handout to the rich." (Sept. 4, 2020) https://www.brookings.edu/blog/up-front/2020/09/04/the-salt-tax-deduction-is-a-handout-to-the-rich-it-should-be-eliminated-not-expanded/