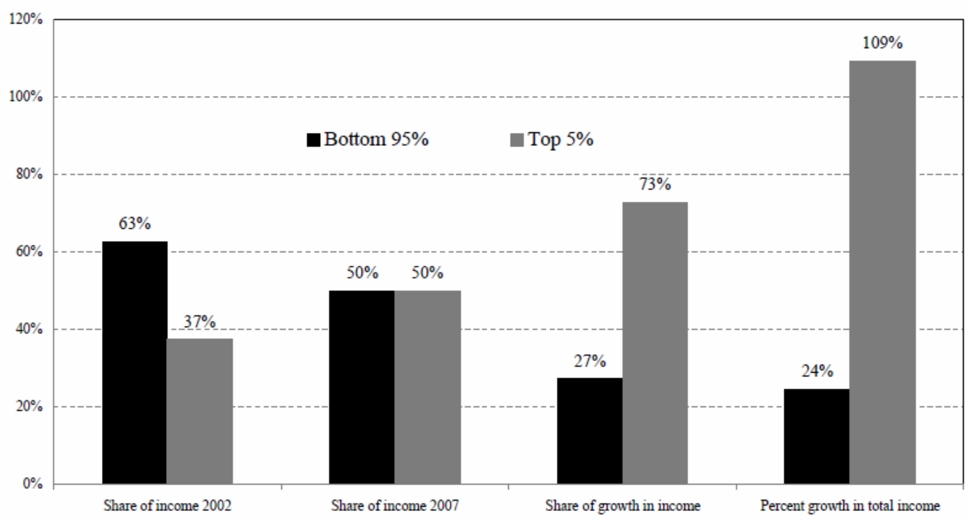
Establishing a Fair, Adequate and Economically Sensible State-Local Tax System

Frank Mauro, Executive Director, Fiscal Policy Institute, April 7, 2010

A failure on the part of state policymakers to invest in the state's future will exact a heavy price in terms of the state's human and physical infrastructure. To avoid the proposed budget cuts that are most likely to have negative effects on the state's economy, state policymakers should consider steps that would make the tax system fairer while raising the revenue necessary to balance the budget in an economically sensible manner.

The most important steps in this direction would be for New York to reform its personal and corporate income tax structures. In regard to the personal income tax, New York should consider approaches that will ensure that the wealthiest New Yorkers pay their fair share in state and local taxes, and which will allow the state to reduce the pressure that it is currently placing on the local property tax and sales tax bases.

Nearly three-quarters of income growth in New York between 2002 and 2007 went to a small number of families at the top, The total income of the top 5 percent grew more than four times as fast as total income of the other 95 percent.



New York State should balance its budget during the current economic downturn in ways that will not make economic conditions worse. The Governor and members of the State Legislature should carefully analyze the budget balancing strategies of 2003 and 2009 which did not have the negative impact of the strategies used in the early 1990s, and they should make policy choices that will take the least amount of demand possible out of the state economy.

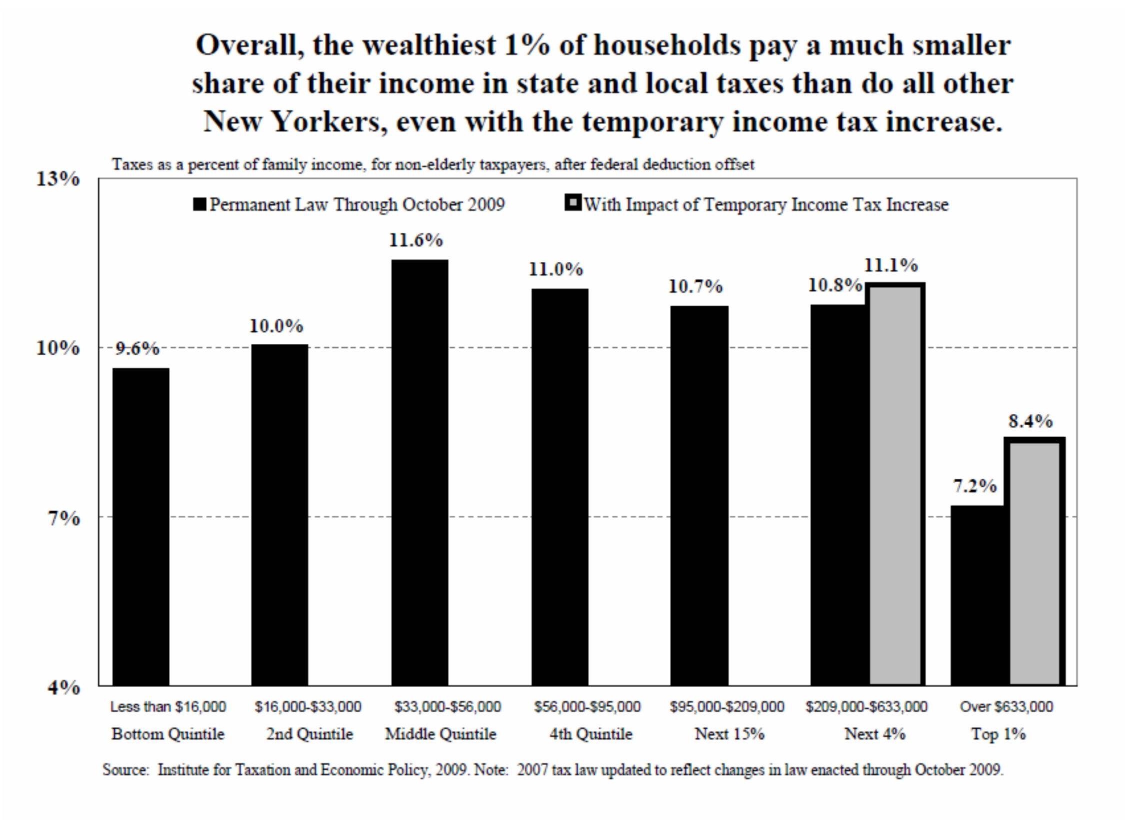
1. Rather than cutting essential services, the Legislature should consider additional revenue-raising options such as the following.

a. Closing some of the litany of corporate tax loopholes spelled out in the state's annual Tax Expenditure Report (http://publications.budget.state.ny.us/eBudget1011/fy1011ter/TaxExpenditure10-11.pdf).

b. Adopting one or more of the following temporary measures designed to have those Wall Street firms that are now realizing unprecedented levels of profit (despite the economic challenges facing families and other businesses) help Main Street get through the current economic downturn:

i. a temporary and modest reduction in the stock transfer tax rebates,
ii. a temporary tax on bonuses over some reasonable level,
iii. an excess profits tax, on firms with profit margins above some reasonable level, or
iv. a temporary suspension of the ability of large firms to reduce their current net income levels through the carryover of losses incurred in the past. This is referred to as the "carry forward" of Net Operating Losses (NOLs) and is akin to "income averaging," a benefit that was taken away from individual taxpayers many years ago.

c. Adopting a temporary increase in the top income tax rate on taxpayers with incomes above $1 million (Note: in 2009, the Legislature and the Governor adopted a temporary rate of 8.97 percent on taxpayers with taxable incomes above $500,000).



2*. New York's government, labor, business and civic leaders should work with their counterparts in other states and at the national level to secure a much needed extension of the state fiscal relief parts of the American Recovery and Reinvestment Act (ARRA): the temporary increase in the federal share of state Medicaid costs; the State Fiscal Stabilization Fund; and the TANF Emergency Contingency Fund.*

3. New York leaders should work for the repeal of the federal law (P.L. 86-272) that prohibits the states from taxing the income of corporations that have sales but no property or employees in a state. As more states, including New York, move to apportioning income solely on the basis of the portion of a firm's sales in the state (i.e., the Single Sales Factor proposal which was adopted by New York in 2005 and whose implementation was accelerated in 2007), P.L. 86-272 (an outdated 1959 law which was supposed to be temporary) has the affect of making an increasing portion of the U.S. income of multi-state and multi-national firms not subject to taxation by any state. At the present time, many of the same corporations that have lobbied for the Single Sales Factor at the state level are working to expand P.L. 86-272 to make even less corporate income subject to taxation by the states.

4. Until P.L. 86-272 is repealed or substantially reformed, New York State should adopt a "throwback rule" (http://www.cbpp.org/archiveSite/4-9-02sfp.pdf) ***to stop the loss of corporate income tax revenues due to the interaction of Single Sales Factor apportionment and this outdated federal law.***