

Corporate Tax - USA

Proposed New York tax changes would affect large and small businesses

Contributed by **Caplin & Drysdale, Chartered**

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Proposed changes Comment

A proposal by the mayor of New York City to change the city's corporate tax structure would, for the first time, tax certain businesses that have no physical presence in New York City, but that do business in the city or with city residents. If adopted, the changes would take effect retroactively as of January 1 2015.

Proposed changes

Under the proposal, some companies with \$1 million in receipts from sales to New York City customers will be deemed to have an 'economic nexus' with the city and will be subject to New York City business income taxes for the first time. This approach will allow the city to tax a business even if it has no physical presence. Similar taxing power was adopted by New York State last year, but there remain questions as to whether such taxation is permissible under the US Constitution.

Further, the proposal will make some New York City corporate tax provisions conform with changes enacted last year to the New York State Corporate Tax Code, which may ease the compliance burden on businesses. Significantly, the proposal adopts the New York State approach requiring combined reporting for certain related entities, which may eliminate tax-planning strategies resulting from some intercompany transactions. The proposal also includes a number of special rate reductions for certain small businesses (with less than \$1 million in income) and small manufacturers (with less than \$20 million in income).

The proposal must be approved by the state legislature and signed by the governor.

Comment

Businesses of all sizes should be aware of these potential retroactive changes, and should consult with tax professionals regarding the potential benefits of the plan and reconsider any tax-planning strategies that may be undermined by the proposal.

For further information on this topic please contact [Mark D Allison](#), [Rachel L Partain](#) or [Clinton G Wallace](#) at Caplin & Drysdale's New York office by telephone (+1 212 379 6000), fax (+1 212 379 6001) or email (mallison@capdale.com, rpartain@capdale.com or cwallace@capdale.com). The Caplin & Drysdale, Chartered website can be accessed at www.caplindrysdale.com.

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