



MEMORANDUM IN OPPOSITION

March 25, 2021

A.3009B Part XX (Assembly Ways & Means Committee)

S.2509B Part RR (Senate Finance Committee)

This memorandum in opposition is written on behalf of the New York Bankers Association (NYBA). NYBA is comprised of the smaller community, mid-size regional, and large banks across every region of New York State. Together NYBA members employ nearly 200,000 New Yorkers, safeguard \$2 trillion in deposits, and extend nearly \$70 billion in home and small business loans.

NYBA appreciates the opportunity to comment on certain estate tax related proposals, under consideration and put forth in legislative budget resolutions, in order to generate revenue for New York State. New York continues to face challenges in recovering from the COVID-19 pandemic, and widespread, inclusive and accessible economic recovery remains vital. NYBA supports efforts to rebuild and revitalize our communities across the State. However, the proposals to increase estate taxes in New York State would further destroy this once vibrant trust and estate industry in New York and would actually further encourage New Yorkers to move their residency outside of the State. Recent estimates show that more than 125,000 New Yorkers migrated out of the State last year, with data indicating New York has lost the most residents of any State in the country over the course of the last year. As more residents consider their future plans, it is clearly imperative that we look at all avenues to encourage our State citizens to continue to live, work and retire in New York. With these goals in mind, NYBA respectfully urges that any increases to the estate tax rate be reconsidered.

In a 2004 report by Appleseed, a New York City-based economic development consulting firm, commissioned by the Lower Manhattan Development Corporation – which still has great relevance today – it is noted that the difference in fiduciary tax liability between New York and other states can be extremely substantial. In fact, bankers and attorneys who were interviewed for the report- now nearly twenty years old- were unanimous in stating that they are obliged to advise their New York clients of the tax advantages to be gained in establishing their estate plans out of New York. Proving the future result here, this report predicted that as a result of further tax increases in New York, businesses, thousands of jobs and tax revenues continue to leave our State annually. This has already occurred under the current estate tax and regulatory regime in New York; further increases will only make it worse.

NYBA opposes proposed increases in several tax rates, but particularly those in the trust and estate realm. Once a thriving industry in New York, the trust and estate business here has been on the decline for years due to punitive measures such as those proposed here, including measures to increase the top estate tax rate from 16% to as much as 20%. If the top estate tax rate increase found in either of the budget resolutions is enacted, New York would have the highest estate tax rate in the country, putting it at a tremendous disadvantage for the industry. We believe that these measures will further damage New York's already greatly reduced competitive status as a place to live and retire in, as currently New York is one of only a handful of states along with Washington, D.C. with an estate tax. Following the enactment of this type of estate tax rate increase, more residents will look to leave the State to avoid a death tax that takes a punitive bite out of the hard-earned legacies, such as family farms, businesses and retirees. While these changes may provide some additional tax revenues to New York State in the short term, the State will ultimately lose significant tax revenue in the upcoming years in the form of income tax, real property taxes, and sales taxes paid by those New Yorkers who leave the State as they age or acquire wealth, ultimately leaving New York well before any estate may be taxed.

For these reasons, the New York Bankers Association opposes this legislation and urges that it be held.