

**Written Statement of
The Clearing House Association L.L.C.**

New York State
Senate Select Committee on Budget and Tax Reform
May 21, 2009

Thank you for convening this hearing and for giving The Clearing House Association L.L.C. an opportunity to submit this written statement. The Clearing House is an association of ten leading commercial banks, all with significant operations in New York.¹

The Clearing House would support an undertaking to modernize and reform the New York State Corporate Franchise Tax (Article 9-A) and Bank Tax (Article 32); and we hereby offer our assistance. The New York State (and New York City) tax rules have significant impact on our institutions and thus we have a meaningful stake in any reform effort. Our experience with the current rules, from the taxpayer side of the tax system, would, we believe, enable us to contribute to what we expect would be a thoughtful and deliberative process.

With that in mind, we believe that any reform effort should be informed by the following guiding principles and considerations.

1. New York City is the world's pre-eminent financial center and having it remain so is important to New York State, New York City and their residents. The 2007 report commissioned by Mayor Bloomberg and Senator Schumer (the "2007 Report") found that the financial services industry represents 15 percent of the City's gross city product, that the industry's tax payments account for over a third of the City's business income tax revenues, and that one in every nine jobs in the City is in the financial services industry. The report also noted that another recent study by the New York State Comptroller had reported that every securities job accounts for two jobs in other industries.²

¹ The members of The Clearing House are ABN AMRO Bank N.V.; Bank of America, National Association; The Bank of New York Mellon; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, National Association; JPMorgan Chase Bank, National Association; UBS AG; U.S. Bank National Association; and Wells Fargo Bank, National Association.

² Mayor Bloomberg and Senator Schumer, Sustaining New York's and the US' Global Financial Services Leadership, at p. 10.

2. Currently, the combined New York State and City tax rates are so high that New York City is an uncompetitive location from a tax perspective. Businesses, particularly financial businesses, are more mobile now than ever before. Changes in bank regulatory laws, advancements in electronic and telephonic communications, the increasing international scope of financial institutions, and changes in business models mean that financial institutions no longer need to have significant physical operations in New York City. Each time a financial institution reduces the size of its New York presence, there are negative impacts on tax revenues, on the businesses that remain, and on New York residents. The State and City tax laws are an increasingly important factor impacting whether New York City retains its central position in the world economy. Any change to the New York tax laws should reflect a clear commitment to that goal.
3. We believe the tax rules should be considered in their entirety and that any changes should be in the form of coordinated rules based upon a consistent set of policies that work together in a manner that is fair, administrable, and predictable.
4. Any changes to the current tax rules must be made through a thoughtful, deliberative and comprehensive process. Over the past few years, there have been piecemeal changes to the New York tax laws. The enactment of new rules each year has created significant and troubling uncertainty for business taxpayers. Businesses need a stable tax environment in order to thrive.
5. The tax rules should be designed with the intent of encouraging job retention and job creation in the State. The rules must not provide incentives for financial businesses to move jobs out of the State or the City.
6. Similarly situated taxpayers should be treated the same.
7. When Article 32 was overhauled in 1985, the rules were designed around certain fundamental principles. Any particular provision, looked at in isolation, may seem anachronistic or unusual, but as a whole Article 32 made sense and worked. While we recognize that the rules are out of date in certain respects, and we oppose many of the changes that have been made to Article 32 over the years since 1985, we think that it should be replaced only if we can devise something that better achieves the overall goals discussed above and in the 2007 Report.
8. Simplicity and ease of administration are always important and we, of course, support those principles. If necessary, however, simplicity should take a back seat to achieving other important goals; especially the goal of designing and implementing incentives for the financial sector to retain and increase jobs in New York.

9. We believe that a reform commission or task force should be convened, and this commission or task force should be asked to provide a progress report to the Legislature by the beginning of the next session.
10. It should be clear that the commission or task force is not required to recommend changes to the existing tax rules but rather is being asked to consider the existing rules in light of the current business realities and to seek a consensus between the government and affected industries on new rules or the continuation of the old rule (with or without modifications). If consensus cannot be reached, the existing rules should be retained.

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The Clearing House appreciates your consideration of these comments. If you have any questions or The Clearing House can assist you in any way, please contact Norman R. Nelson, General Counsel, The Clearing House, at 212-612-9205.