Proposed Tax Breaks for New York Manufacturers: Less than meets the eye

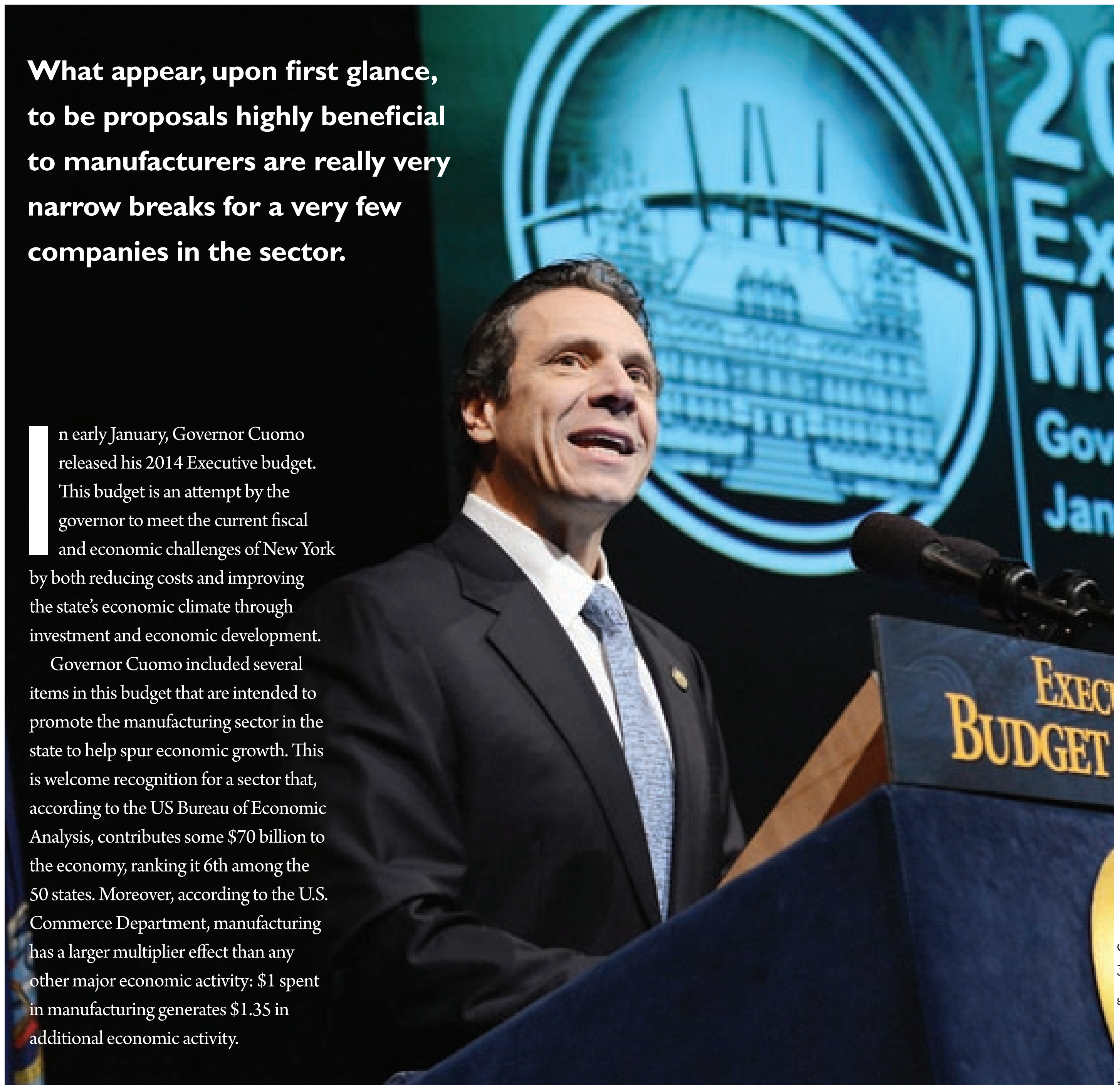

Photo courtesy office of the Governor

What appear, upon first glance, to be proposals highly beneficial to manufacturers are really very narrow breaks for a very few companies in the sector.

In early January, Governor Cuomo released his 2014 Executive budget. This budget is an attempt by the governor to meet the current fiscal and economic challenges of New York by both reducing costs and improving the state's economic climate through investment and economic development.

Governor Cuomo included several items in this budget that are intended to promote the manufacturing sector in the state to help spur economic growth. This is welcome recognition for a sector that, according to the US Bureau of Economic Analysis, contributes some $70 billion to the economy, ranking it 6th among the 50 states. Moreover, according to the U.S. Commerce Department, manufacturing has a larger multiplier effect than any other major economic activity: $1 spent in manufacturing generates $1.35 in additional economic activity.

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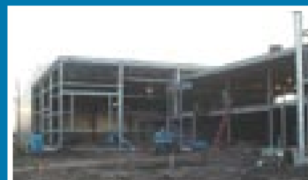

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The Devil is in the Details

Specifically, the Governor's budget proposes:

• defining "manufacturer" as a taxpayer or combined group with more than 50% of gross receipts from the sale of goods produced by manufacturing; excludes power generation and distribution, natural gas extraction and distribution, co-generated steam, film/TV/commercial production and fuel blending.

• defining "qualified New York manufacturer" as a taxpayer or combined group that is a manufacturer and with either at least $10 million or 100% of its manufacturing property in NYS; or a taxpayer with 2,500 manufacturing employees and $100 million in manufacturing property in-state.

• limiting the Article 9-A investment tax credit to "qualified NY manufacturers" and to qualified agri- and mining business;" defines qualified agri-business and mining as taxpayer/combined group with at least 50% of gross receipts from such in-state activity; eliminates the ITC for air and water pollution control equipment, security broker/dealers, investment advisory services, and film production; prohibits the ITC for property that had already served as the basis for the ITC or EZ-ITC.

• creating a new refundable credit under Articles 9A and 22 equal to 20% of real property taxes paid by a qualified NY manufacturer; excludes PILOT payments, any RPTs deducted from ENI or federal AGI calculations, or RPTs used to calculate another tax credit. Recaptures credits if RPTs are subsequently lowered after legal challenge or other actions.

• reducing the Article 9-A entire net income tax rate to zero, effective 1/1/14, for a qualified NY manufacturer with a MTCD surcharge apportionment factor of zero (the bill also proposes the adoption of single sales factor apportionment for purposes of the MTCD surcharge.)

Given these facts, investing in the State's manufacturing sector is a good strategy for sparking the economy and broad based tax relief for the sector has been seen by the Manufacturing Alliance of New York (MANY) as the best way to grow the sector. Indeed, it has been one of the group's top priorities since its founding in 2008. "The devil," the saying goes, "is in the details" and deep within the budget proposal are several details—itemized above—that call into question the real value of the proposals to the sector.

What appear, upon first glance, to be proposals highly beneficial to manufacturers— including corporate franchise tax reductions, 18A eliminations and property tax cuts (all measures that the Manufacturers Alliance have advocated for years)—are really very narrow breaks for a very few companies in the sector.

One large example can be found in the geographic barriers that are included within the Governor's proposal, specifically surrounding the MTA region. As a proponent of increasing commerce and business, MANY has always found it counterproductive to make geographic

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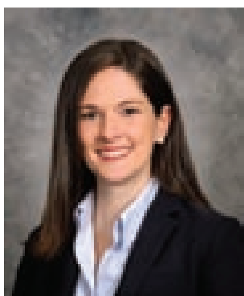
barriers for policy and tax break incentives.

The MTA Region exemption is challenging on two fronts. First, excluding all the manufacturing firms in Long Island, New York City and the Hudson Valley immediately excludes many of the State's manufacturers. In fact, according to the Alliances Manufacturing Research Institute Study done in 2010, New York City alone is the single largest center of manufacturing in the State, with more than 81,000 jobs and $4.2 billion dollars in payroll from 2009 alone. To make this definition to exclude anyone within the MTA region is going to impact a large portion of our State's manufacturers, all of whom deal with the same high taxes and challenging business climate as their sector partners in the rest of the State.

Second, to put a restriction on tax exemption for business located outside of the MTA region that conducts business there is another example of counter productivity. The State should never be in the business of discouraging their manufacturers from conducting any sort of business that generates revenue, especially within their own State. With that, MANY highly recommends a serious analysis and reconsideration of the geographic barriers being proposed in the MTA region, both for businesses located there and upstate manufacturers who conduct business there.

The Manufacturers Alliance continues to work with the Administration, Senate and Assembly on moving forward a pro-manufacturing agenda. In addition to the State's budget, we work throughout the year on business friendly legislation that will help create a better business climate for our critical sector.



By KARYN BURNS
Council of Industry Director of Government Affairs and Executive Director of the Manufacturers Alliance of New York.

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