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The Week That Was

01-19-18

1. A-Listers

Our Spin:

In preparation for the selection of a jury in the upcoming trial of Joe Percoco, former Executive Deputy Secretary to Governor Cuomo, the potential witnesses were released reading like a who's who in the upper echelon of Albany's political world. The A-Listers may be making a trip to Manhattan in the coming weeks to shed light on how murky the world of procurements in New York State might be.

The Story:

In a Manhattan federal court, jurors will start hearing testimony next week on charges of bribery and corruption against a former top aide to the governor, Joe Percoco. He is facing trial with three other defendants - Peter Galbraith Kelly, Jr., former energy industry executive, and Steven Aiello and Joseph Gerardi, both from a Syracuse-area development firm. The three business executives are accused of bribing Percoco in exchange for government favors. All have pleaded not guilty.

This week prospective jurors were asked to note any potential conflicts with dozens of individuals whose names or testimony may be part of the corruption case. A questionnaire distributed recently to potential jurors contains a long list of current and former members of state government, Cuomo's administration, state higher education institutions, and also people connected to development and business firms across the state. The jurors are asked to disclose whether they, their family members or

any close friends "know or ... have had dealings with" the individuals listed in the document.

Witness lists are generally not made public in court filings, but the questionnaire almost certainly includes people who will be called to testify as well as others who could be mentioned during the course of the proceedings. Some of the notable individuals are:

- Kenneth Adams: Named by Cuomo to lead Empire State Development Corp. in 2011. Nominated as state tax commissioner in 2015, Adams instead departed for the private sector.
- Seth Agata: A former Cuomo administration attorney chosen in March 2016 as the third executive director of the state Joint Commission on Public Ethics. His two predecessors at JCOPE also came from the Executive Chamber. Agata has refused to answer reporters' questions about whether he offered advice to Percoco about his private clients or financial disclosures.
- Jim Malatras: Cuomo's former director of state operations who previously served as a top policy advisor to Cuomo and as chief of staff to former SUNY Chancellor Nancy Zimpher. Currently president of SUNY's Rockefeller Institute of Government.
- Joseph Martens: Cuomo's former commissioner of the Department of Environmental Conservation.
- Chuck Mathis: Unknown. Could be a transposition of the names of Chuck Harple and Mike Mathis, principals in the Washington, D.C.-based Mathis Harple Group lobbying firm.
- Michael Mathis: Managing partner of the Mathis-Harple Group, a lobbying firm based in Washington, D.C.

- Sean McGarvey: President of North America's Building Trades Unions.

[Times Union](#)

2. False Alarm or Real Deal?

Our Spin:

Governor Cuomo likened the Federal tax reform to a missile directed at the State of New York and implied “this is not a drill.” The State of the State and Executive Budget proposed several anti-missile defense systems including an employer compensation tax (known commonly as a payroll tax) and charitable contributions in lieu of property tax. The situation looks dire but for you optimists there was a similar missile alert in Hawaii and they all seem to still be surfing in the sunshine.

The Story:

The Cuomo administration on Wednesday released the “New York State Taxpayer Protection Act.” Included in the “Act,” are several proposals that could allow some higher-income, middle-class New Yorkers avoid paying more federal taxes under the new tax cut law passed in Washington last month.

One proposal released by Cuomo’s tax department would create one or more state-operated charitable funds to receive taxpayers’ contributions for healthcare and public schools. Taxpayers would receive a tax credit to lower their state income tax liability and also would be able to deduct the amount from their federal taxes. Local governments also could be authorized to trade tax credits for charitable donations as a substitute for some local property tax payments.

The tax department also proposed creating a new a payroll tax. The proposal would shift some or all of the state income tax liability of employees for whom federal deductibility of state and local taxes is capped to a payroll tax. An employee and an employer would have to agree to lower an employee’s annual wage by the amount that employee would normally pay in state income tax. Take-home pay would stay the same. Employees would benefit by paying less federal tax because they would drop to a lower tax bracket. Employers would get a state tax credit to match the payroll tax and would be able to deduct the tax from their federal returns.

Variations of the payroll tax could include restricting it to certain higher-income earners or limiting it to only “supplemental income,” such as the big bonuses paid on Wall Street.

[Bloomberg
Newsday](#)

3. Net Gain or Loss?

Our Spin:

On Thursday New York City made the short list for the siting of a second headquarters for online retailer Amazon. Earlier in the week Governor Cuomo proposed the imposition of an Internet Fairness Conformity Tax and Attorney General Schneiderman joined 22 other AG’s to block the FIC’s rollback of net neutrality. However, the tax revenues gained from the Governor’s proposal and the restoration of net neutrality may result in the lost opportunity for a new corporate headquarters in NYS.

The Story:

Governor Cuomo's budget plan released Tuesday counts on \$586 million in new tax and fee revenue as the state deals with an anticipated \$4 billion deficit for the fiscal year beginning April 1. Cuomo, who has publicly prided himself on his fiscal austerity, said the tax proposals are necessary because neither he nor lawmakers are open to cuts in the two biggest portions of the state's budget, education and health care spending.

One of his proposals would enact an “internet fairness conformity tax” on third party sales over the Internet. This move sets up a battle with large, Internet-based sales sites like Amazon and eBay. Cuomo has twice before tried to broaden the state's sales-tax laws to capture more online sales on "marketplace" sites that facilitate sales between buyers and third-party sellers. Cuomo's proposal would apply only to large online marketplace companies. That would include eBay and Amazon Marketplace, where outside sellers can sell their wares. (When Amazon sells directly to New York consumers, it already has to collect sales tax.) Under his plan, the marketplace companies would be required to collect sales tax on any sale to a New York resident regardless of where the seller is based. Under current law, third-party sellers are required to charge sales tax only if they themselves have a physical presence in New York. Often, the online marketplace company will collect the tax on their behalf. Cuomo's office anticipates the change would boost tax revenues by \$89 million in 2018-19 and \$159 million annually in future years.

[Democrat & Chronicle](#)

