

The Great National Fuel *Tax Dodge*

How National Fuel Avoids Income Taxes
and Pads its Pockets at Public Expense

March 2012

A report by the Public Accountability Initiative, in
partnership with the National Fuel Accountability Coalition

Executive Summary

National Fuel is one of Western New York's largest companies, consistently reporting revenues of nearly \$2 billion and operating profits in excess of \$200 million each year. Even in the depths of the recession, as many Western New Yorkers struggle to deal with poor economic prospects, the gas company has remained consistently profitable.

Given its size and profitability, National Fuel can certainly afford to pay its fair share in income taxes. But the following report shows that National Fuel has actually paid next to nothing in state and federal income taxes over the past three years, in some cases using the tax code to its advantage in order to pay negative income tax rates. The result: one of the region's most profitable companies has scored over \$400 million in state and federal income tax subsidies from 2009 to 2011.

National Fuel's tax avoidance may not be of much help to most Western New Yorkers, but some area residents do benefit from it: the company's CEO, David F. Smith, has made \$7 million in each of the past two years, a pay rate that works out to \$3,500 per hour. Anna Marie Cellino, president of National Fuel's utility subsidiary, made \$3 million last year. The company's top five executives have on average received raises of more than 50% since 2008, and make more than double what they did in 2006.

National Fuel is not alone: its tax dodging is part of a national trend. This study follows shortly on the heels of two reports by the Washington-based research group Citizens for Tax Justice (CTJ) on corporate income tax dodging at the state and federal levels.¹ CTJ studied 280 of the country's most profitable companies and found that they had received \$223 billion in federal income tax subsidies from 2008-2010, and that 30 companies had paid no taxes at all in that period. The CTJ studies did not include National Fuel because the company is not among the Fortune 500. We have applied CTJ's methodology, which is documented in the two reports, to calculate National Fuel's state and federal income tax rates.

As long as National Fuel does not release its income tax returns, it is impossible to know exactly how much the company is paying in income taxes. This report

¹ Citizens for Tax Justice reports: "Corporate Taxpayers & Corporate Tax Dodgers, 2008-2010," available at <http://www.ctj.org/corporatetaxdodgers/CorporateTaxDodgersReport.pdf>
"Corporate Tax Dodging in the 50 States, 2008-2010," available at <http://www.ctj.org/corporatetaxdodgers50states/CorporateTaxDodgers50StatesReport.pdf>

estimates National Fuel's income tax rates using the best available data and methodology.

The following are some of the following report's central findings:

National Fuel is paying extremely low state and federal income tax rates, despite having raked in over \$1 billion in pre-tax profits over the past three years.

- National Fuel paid no federal income taxes in 2010 or 2011, receiving a *refund* of \$0.4 million in 2011 and a *refund* of \$9.1 million in 2010, and so paying a negative federal income tax rate for each year (-.09% and -2.51%).
- From 2009 to 2011, National Fuel paid an average effective federal income tax rate of just 2.6% on pre-tax profits of \$1.1 billion, less than one-tenth the federal statutory income tax rate of 35%.
- National Fuel paid a state income tax rate of less than 1% in each of the past two years: 0.4% in 2011 and 0.84% in 2010. By comparison, a family of four making just \$58,000 in New York State pays state income tax at a rate of 4.1%.
- From 2009 to 2011, National Fuel paid an average state income tax rate of just 1.3%, well short of both the New York State corporate income tax rate of 7.1% and the weighted state average income tax rate of 6.2%.
- An analysis of National Fuel's cash flow statements shows that the company received a net cash refund of \$63 million from combined federal and state income taxes in 2011, and has paid less than 1% of its pre-tax profits in total income taxes over the past three years.
- National Fuel appears to reduce its tax bill significantly through the use of accelerated depreciation, which allows companies to reduce the value of investments for tax purposes faster than they actually decrease in value, resulting in income tax obligations that are deferred indefinitely instead of being paid.

National Fuel has avoided over \$400 million in state and federal income taxes over the past three years.

- If National Fuel had paid the statutory corporate rate of 35 percent, it would have paid \$359 million in federal income taxes from 2009 to 2011, instead of just \$29 million.

- National Fuel effectively received state income tax subsidies of roughly \$60 million from 2009 to 2011; if it had paid the New York State income tax rate of 7.1% on all of its income, its state income taxes would have totaled \$80 million rather than \$14 million for those three years combined, an effective subsidy of \$66 million. Even if it had paid the weighted U.S. average state income tax rate of 6.2%, it would have paid an additional \$56 million.

National Fuel's profits and compensation have soared as its income tax payments have dwindled to almost nothing.

- National Fuel booked \$1.1 billion in pre-tax US profits from 2009 to 2011.
- National Fuel's top five executives have enjoyed raises of close to 150% since 2006, and over 50% since the economic meltdown of 2008.
- CEO David F. Smith made \$6.96 million in 2011, slightly less than the \$7.06 million he took home in 2010 but 53% more than what he made in his first full year as CEO in 2009.
- Utility president Anna Marie Cellino was paid nearly \$3 million in 2011, after receiving raises of 13% that year and 50% in 2010.

National Fuel's political influence helps it shape the rules in its favor.

- National Fuel CEO David F. Smith recently became chair of the Business Council of New York State, and has vowed to ramp up political spending in support of the Business Council's agenda of tax and spending cuts.
- National Fuel spends heavily on campaign contributions and lobbying: roughly half a million dollars per year on campaign contributions and lobbying at the state and federal level.

I. National Fuel's Income Tax Avoidance

As the new chair of the Business Council of New York State, National Fuel CEO David F. Smith is expected to lead the fight against tax reform on behalf of the big business lobby's members. His own company is hardly struggling under the current tax system: National Fuel paid no federal income taxes in the past two years, and less than 1% at the state level (compared to the New York State corporate income tax rate of 7.1%).

The resulting income tax subsidy since 2009? Over \$400 million. Given National Fuel's tax situation, it's hard to accept the protestations of Smith and other corporate CEOs that their businesses already pay taxes at an appropriate rate. In fact, an analysis of National Fuel's income tax rates highlights many of the problems with the corporate income tax system at both the state and federal levels.

National Fuel is not required to make its tax returns public, but it is possible to estimate its federal, state, and worldwide income tax rates using figures reported in its annual 10-K (our methodology is explained in the appendix).

The income tax rates calculated below differ significantly from the income tax rates National Fuel reports in its 10-K, which are largely useless when trying to determine what a company actually pays in income taxes. National Fuel's figures include deferred income taxes that may not be paid for years, if ever (see part C below for more on deferrals).² Utilities are among the biggest beneficiaries of income tax deferrals, and including deferrals in their own tax rate calculations when they are not actually paid makes National Fuel's own accounting method highly misleading.

A. State Income Taxes

National Fuel paid just \$14.2 million in state income taxes from 2009 to 2011 on pre-tax US profits of \$1.1 billion, making their state income tax rate just 1.3%.

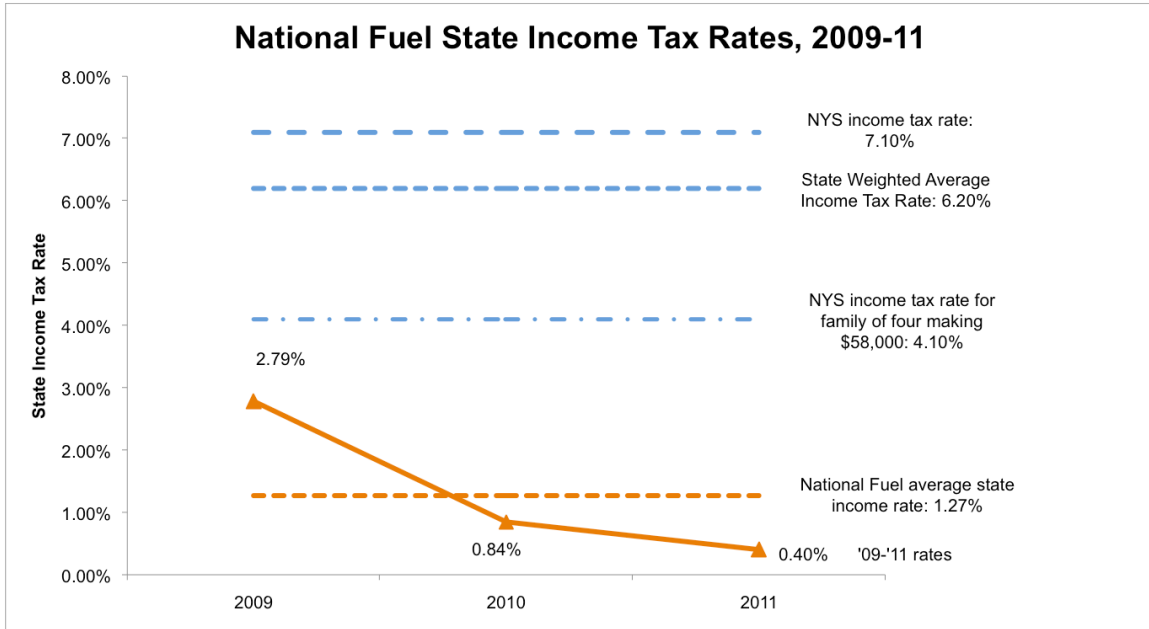
² Citizens for Tax Justice on deferred income taxes: "'Deferred' is a euphemism for 'not paid.' Corporations can defer (delay) paying taxes if, for example, they enjoy tax breaks for accelerated depreciation, which allow them to take deductions for capital investments sooner than they would if the rules were simply based on the actual life of the investment. A company could eventually pay taxes that it has 'deferred.' But that doesn't happen very often." See here: http://www.ctj.org/taxjusticedigest/archive/2011/02/us_corporations_are_paying_eve_1.php

If it had paid the weighted state average income tax rate of 6.2%, National Fuel's state income tax bill would have been \$70 million (or \$80 million at the New York State rate of 7.1%). This amounts to an effective state income tax subsidy of \$56 million - \$66 million. Money that could have been used to fund infrastructure projects or vital public services like healthcare and education in states where National Fuel operates, including New York, is going toward the company's profits and boosting the compensation of a handful of top executives instead.

The following table details National Fuel's state income tax rates and payments over the past three years:

National Fuel State Income Taxes, 2009-2011				
(\$ millions)				
	2011	2010	2009	Total 2009-11
US Income Before Income Taxes	\$422.1	\$367.0	\$333.9	\$1,123.0
Current State Income Tax	1.5	5.0	10.3	16.9
Less Stock Option Excess Tax Benefits	-0.2	2.0	0.9	2.7
	1.7	3.0	9.5	14.2
Effective Current State Income Tax Rate	0.40%	0.82%	2.79%	1.27%

- National Fuel paid a state income tax rate of less than 1% in each of the past two years: 0.4% in 2011 and 0.82% in 2010, and less than 3% in 2009. By comparison, a family of four making just \$58,000 in New York State pays state income tax at a rate of 4.1%.
- If National Fuel paid the New York State income tax rate of 7.1% on all of its income, it would pay an additional \$66 million in state income taxes.
- If National Fuel had paid the national weighted average rate of 6.2%, it would have paid an additional \$56 million.



B. Federal Income Taxes

National Fuel has been even more successful at protecting its profits from income taxes at the federal level. From 2009 to 2011, the company paid just \$28.8 million in federal income taxes, or 2.56%. In 2010 and 2011, National Fuel paid no federal income taxes, instead receiving a combined \$9.5 million in *refunds* from the federal government.

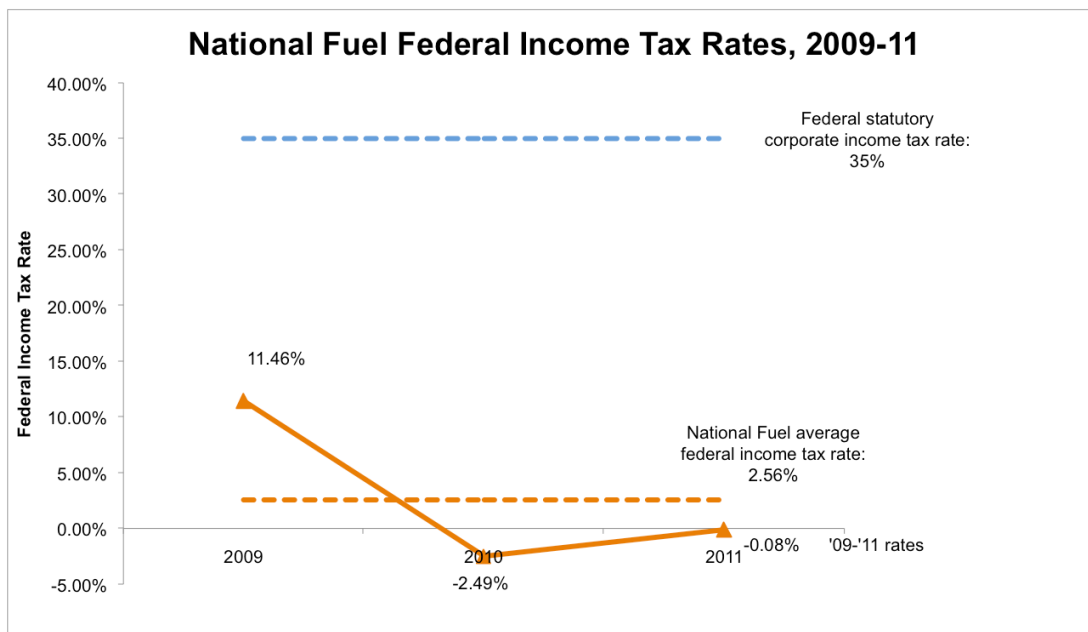
If it had paid the statutory federal corporate income tax rate of 35%, National Fuel would have paid \$388 million in federal income taxes. This amounts to a federal income tax subsidy of \$359 million.

The following table details National Fuel's federal income tax payments and rates over the past three years:

National Fuel Federal Income Taxes, 2009-2011 (\$ millions)

	2011	2010	2009	Total 2009-11
US Income Before Income Taxes	\$422.1	\$367.0	\$333.9	\$1,123.0
Less Current State Income Tax	1.7	3.0	9.5	14.2
	420.4	364.0	324.5	1,108.8
Current Federal Income Tax Expense	-1.4	2.1	43.3	44.0
Less Stock Option Excess Tax Benefits*	-1.0	11.2	5.0	15.2
Adjusted Federal Income Tax	-0.4	-9.1	38.3	28.8
Effective Current Federal Income Tax Rate	-0.09%	-2.51%	11.46%	2.56%

The above numbers are taken from National Fuel's annual 10-K report filed with the Securities and Exchange Commission. See the Appendix for an explanation of these calculations, including adjustments to profits and current income tax expense.



- National Fuel paid *no federal income taxes* in two consecutive years, receiving a *refund* of \$0.4 million in 2011 and \$9.1 million in 2010, and so

paying a negative rate for each year (-0.09% and -2.51%).

- National Fuel paid less in federal income taxes over the three-year period than it paid its top 5 executives (see executive compensation section).

C. Combined State, Federal, and Foreign Income Taxes

The above calculations of state and federal income taxes make use of figures reported in the notes to National Fuel’s financial statements. Using another statistic from the company’s cash flow statement, it is also possible to calculate National Fuel’s worldwide – combined state, federal, and foreign – income tax rate (see section D for more information on how this is calculated). The “*Cash income taxes paid*” figure in the cash flow statement refers to the company’s total cash outlay for income taxes in a given year.

This worldwide income tax figure is not necessarily useful for many multinational corporations, but as National Fuel is an almost entirely US-based corporation with little foreign income tax liability, the “Cash income taxes paid” figure gives us a sense of what the company pays in combined state and federal income taxes. Because it is reported as a lump sum, and not broken down by taxing jurisdiction, it is not possible to use these figures to arrive at discrete state and federal rates.

This method of calculation suggests that National Fuel’s income tax avoidance is even more egregious than the above findings show: it paid a combined state and federal income tax rate of less than 1% from 2009 to 2011, a total outlay of just \$8.5 million:

National Fuel State + Federal Income Taxes, 2009-2011				
(\$ millions)				
	2011	2010	2009	Total 2009-2011
Pre-tax Income	\$ 422.8	\$ 356.3	\$ 339.2	\$ 1,118.3
Cash paid for income taxes	- 63.1	31.0	40.6	8.5
Combined income tax rate	-14.93%	8.69%	11.98%	0.76%

- **National Fuel actually received a combined state and federal income tax refund of \$63 million in 2011.**

Why the discrepancy?

There are several possible explanations for the large difference between this calculation of National Fuel's combined income tax rate (0.76%) and the separate calculations of state and federal income taxes above, which find the combined rate to be closer to 4%.

The first explanation is that the "*Cash income taxes paid*" number represents what a company owes the IRS for a given year, but companies do not necessarily make those payments in full until after the fiscal year in question. For this reason, Citizens for Tax Justice considers it a somewhat problematic measure, noting that there is a potential mismatch between the figures and that "the cash payments made during the year include quarterly estimated tax payments for the current year, balances due on tax returns for prior years, and any refunds or additional taxes due as a result of tax return examinations or loss carrybacks."³

The CTJ report does, however, state that over a period of several years, cash income taxes paid and current income taxes "are generally very close." Citizens for Tax Justice also suggests that a discrepancy between the cash paid rate and total current rate for a particular company could be due to the company claiming "dubious tax benefits":

An interesting point regarding worldwide "cash income taxes paid" is that in the cases we have examined, over time, they are usually very similar to worldwide "current income taxes" (less stock option tax benefits). The relatively small exceptions are generally in the case of companies that are very aggressive in claiming dubious tax benefits year after year. Since it takes time for the tax authorities to disallow these dubious tax benefits, worldwide cash taxes paid overtime by such companies are typically somewhat lower than "current income taxes" (less stock option benefits).

D. How are they doing it?

It is impossible to know exactly how National Fuel is cutting its tax bill without greater corporate income tax transparency – the state and federal governments do not require companies to release their income tax returns. However, basic

³ For a more extensive discussion see Citizens for Tax Justice report on federal income tax dodging, page 23: <http://www.ctj.org/corporatetaxdodgers/CorporateTaxDodgersReport.pdf>

disclosures in National Fuel's annual 10-K filings do shed some light on how the company is reducing its tax liabilities.

Accelerated depreciation.

National Fuel appears to have reduced its taxes significantly through deferrals related to accelerated depreciation. This highly controversial provision allows corporations to depreciate investment property (equipment, facilities, and even other less obviously depreciating assets) at a faster rate for tax purposes than these assets are actually decreasing in value. This allows companies to "defer" taxes owed to future years. Furthermore, extending the deferral of these taxes each year requires only a minimal level of capital investment, which for a utility company like National Fuel is required just to maintain their current business activities. As a result, what are theoretically still taxes owed by National Fuel to the federal government, are put off indefinitely and become, for practical purposes, tax subsidies.

The Bush administration expanded the accelerated depreciation tax break in 2008 with a 50% "bonus depreciation" provision, in an attempt at economic stimulus. New York State does not allow companies to apply this tax break for state income tax purposes.

Stock option tax breaks.

National Fuel also saved millions due to a section of the tax code related to executive compensation. There is a large gap between what corporations report as stock option compensation expenses for book purposes and what they later take as tax deductions when executives exercise those stock options. The resulting tax benefit is reported in the company's cash flow statements, though not included in current income taxes. National Fuel reported over \$17 million in related tax benefits from 2009 to 2011.

II. Executive Compensation at National Fuel

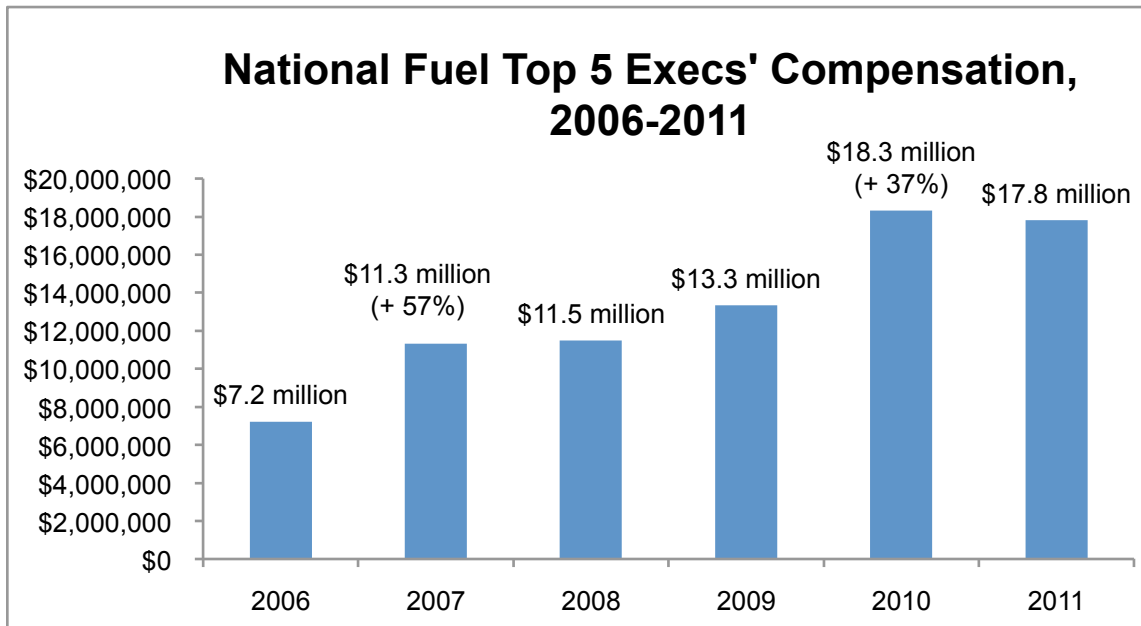
While most Erie County residents' financial situations have not improved over the past five years – median adjusted household income grew only 11% between 2006 and 2010 – the top employees of National Fuel have seen their pay rise significantly over the same period.

In 2007, the total compensation of National Fuel's five highest-paid executives increased a remarkable 57% from the previous year, and it has continued to trend upward with another large jump (37%) in 2010. **Combined executive compensation has increased nearly 150% since 2006.**

Executive	Position	2011 Compensation	Hourly Pay
David F. Smith	Chairman & CEO	\$6.96 million	\$3,480
Ronald J. Tanski	President & COO	\$4.73 million	\$2,360
Anna Marie Cellino	President, NFG Distribution	\$2.95 million	\$1,475
Matthew D. Cabell	President, Seneca Resources	\$2.40 million	\$1,200
David P. Bauer	Treasurer & CFO	\$770,000	\$385

Source: compensation figures from National Fuel's 2012 proxy statement.

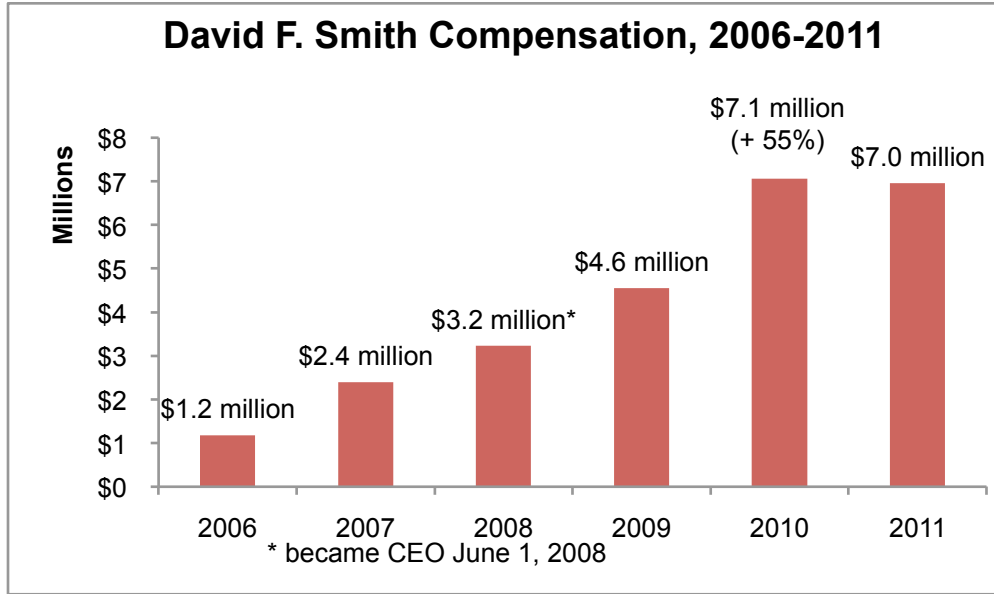
The slight dip in total compensation from 2010 to 2011 is somewhat misleading with regard to the executives listed above – the amount paid to these five individuals specifically was up 3% in 2011, from \$17.3 million in 2010. (Another employee, no longer among the five highest-paid, accounted for the net decrease.)



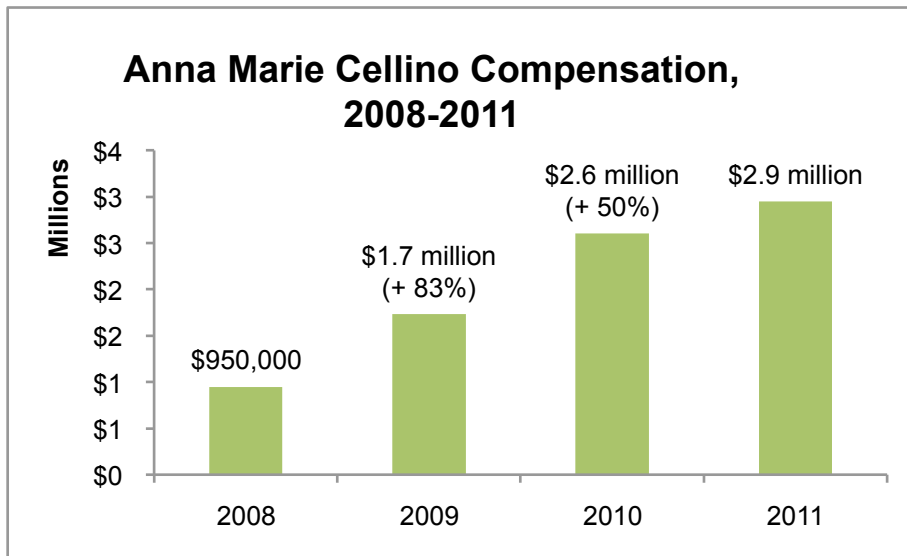
National Fuel's top executives are some of Erie County's richest residents thanks to the average 146% their compensation has risen since 2006. If the county's median household income had increased at the same rate it would stand at nearly **\$105,000**. Instead, the figure is currently about \$47,000, up a modest 11% from 2006 – the disparity highlights just how little National Fuel shares in the economic challenges being faced by its customers.⁴

National Fuel chief executive David F. Smith's \$7 million compensation package in 2010, his second full year at the head of the company, was 46% more than he or his predecessor as CEO had ever been awarded before.

⁴ Erie County median household income data (1989-2010): <http://www.ledgerdata.com/poverty/new-york/erie-county/36029/2005/>; 2006-2010:



The amount paid to Anna Marie Cellino, who runs National Fuel’s utility operations, has more than tripled in just three years, from \$950,000 in 2008 to \$2.9 million last year.



In February 2012, proxy advisory firm ISS published a report warning shareholders that National Fuel’s rising executive compensation was not in line with the company’s unexceptional market performance, or the practices of similar companies – CEO David F. Smith’s total pay was found to be **2.45 times**

that of the median CEO from the peer group selected.⁵ National Fuel responded with figures claiming that Smith's compensation was only **1.06 times** the median of a different set of companies; however, even if National Fuel is granted its preferred peer group rather than that chosen by ISS, a study of those 16 companies' individual SEC filings for 2010 shows that Smith's \$7 million compensation is actually **1.57 times** their median total CEO pay of \$4.5 billion.⁶

⁵ ISS Proxy Advisory Services report, "National Fuel Gas Company" (February 17, 2012)

⁶ National Fuel letter to shareholders (February 27, 2012):

<http://www.sec.gov/Archives/edgar/data/70145/000119312512080925/d307002ddefa14a.htm>

III. National Fuel's Political Influence

National Fuel, like many large corporations, would not be saving nearly as much on income taxes without the cooperation of the state and federal government: year after year, legislators choose to ignore existing corporate tax loopholes and open up new ones that deliver billions in benefits to big business while starving public revenues.

This cooperation comes at a price: big business ponies up in the form of campaign contributions and lobbying expenditures designed to influence legislative efforts. The benefits they win as a result far outweigh the costs of such political expenditures. Corporate income tax dodging may be legal, in many cases, but only because corporate political spending has ensured that this is the case.

Likewise, National Fuel's money has won significant political support in Albany and Washington. Any effort to ensure that the company begins paying its fair share in income taxes will have to overcome National Fuel's political clout.

A. The Business Council of New York State

In September 2011, National Fuel CEO David F. Smith became chair of the Business Council of New York State, the big business lobbying group. Shortly after his election, the Albany Business Review reported that Smith "will lead a statewide fundraising push so the lobby can step up its political activity."⁷ Tops on his agenda: taxes. The article also stated that Smith "held out the hope of cutting taxes" on wealthy individuals.

Ensuring that corporate tax avoidance by corporations like National Fuel can continue is apparently a major priority of the Business Council. Its 2012 agenda prioritizes "rejecting new or increased business taxes" and "imposing limits on new spending growth," and applauds success in 2011 "controlling spending and avoiding new business taxes."⁸

The Business Council is also a major force behind the Committee to Save New York, which has pushed for state budget cuts since 2011.

B. Campaign Contributions

National Fuel, through its PAC and direct contributions from executives, gives significant amounts of campaign cash to elected officials at the state and federal level.

⁷ "Business Council chairman plans to step up lobby's political activity," *Albany Business Review*, September 23, 2011.

⁸ Business Council 2012 agenda, <http://www.bcnys.org/inside/gac/FixNewYorkAgenda.htm>

A recent report from Common Cause New York analyzed National Fuel's political spending at the state level and found that the company's PAC and top executives made \$287,547 in candidates running for election at all levels of New York government.⁹ State Senator Mike Ranzenhofer was the top recipient, receiving nearly \$16,000 in campaign contributions.

According to Common Cause, this political spending "raises serious questions about the undue influence of [National Fuel's] special interest money in shaping important policy outcomes."

On the federal level, according to data from Open Secrets, National Fuel's PAC has already donated \$121,400 in the past two cycles.¹⁰ Rep. Glenn Thompson of Pennsylvania (\$6,000) and Rep. Brian Higgins of New York (\$6,000) are among its top recipients.

C. Lobbying

National Fuel also spends heavily on lobbying efforts designed to influence policy at the state and federal levels.

At the federal level, according to data on Open Secrets, National Fuel spends \$400,000 per year on lobbying efforts aimed at influencing legislation related to issues such as hydro-fracking, LIHEAP, and taxes.¹¹

At the state level, National Fuel retains the lobbying firm of Masiello, Martucci, Calabrese, & Associates to lobby on a range of issues, including Public Service Commission-regulated matters, drilling, labor law, utility maintenance and restoration efforts, and regulatory and legislative issues pertaining to public utilities, according to New York State's lobbying database.¹²

⁹ Common Cause report on National Fuel, available at: <http://www.commoncause.org/atf/cf/%7BF3C17E2-CDD1-4DF6-92BE-BD4429893665%7D/CONNECT%20THE%20DOTS%20-%20NationalFuelFINAL.pdf>

¹⁰ Open Secrets data on National Fuel PAC: <http://www.opensecrets.org/pacs/lookup2.php?cycle=2012&strID=C00083758>

¹¹ <http://www.opensecrets.org/lobby/clientsum.php?id=D000027849&year=2011>

¹² Accessible at: http://www.jcope.ny.gov/public/lobby_data.html

Appendix: Methodology

In calculating National Fuel's income tax rates we followed a methodology devised by Citizens for Tax Justice (CTJ), a Washington, DC-based think tank, and explained in detail in their recent reports on state and federal income tax dodging:

- "Corporate Taxpayers & Corporate Tax Dodgers, 2008-2010," page 66:
<http://www.ctj.org/corporatetaxdodgers/CorporateTaxDodgersReport.pdf>
- "Corporate Tax Dodging in the 50 States, 2008-2010," page 30:
<http://www.ctj.org/corporatetaxdodgers50states/CorporateTaxDodgers50StatesReport.pdf>

The source of the figures used in our calculations is National Fuel's 2011 Form 10-K, available from the SEC's EDGAR database (<http://www.sec.gov/edgar.shtml>). This document includes financial data for 2009 and 2010 as well as the current year.

Calculating State and Federal Income Tax Rates/Payments

Like other publicly-held corporations, National Fuel reports the components of income taxes in the notes to its financial statements. The following figure, from page 90 of the 2011 10-K, shows National Fuel's reported tax figures:

Note D — Income Taxes

The components of federal and state income taxes included in the Consolidated Statements of Income are as follows:

	Year Ended September 30		
	2011	2010	2009
	(Thousands)		
Current Income Taxes —			
Federal	\$ (1,390)	\$ 2,074	\$43,300
State	1,520	4,991	10,341
Deferred Income Taxes —			
Federal	130,434	110,515	(4,940)
State	33,817	24,164	2,419
	164,381	141,744	51,120

National Fuel reports both *current* and *deferred* income taxes; for the purpose of calculating actual tax payments in the years we are considering, we are concerned only with current income taxes. Deferred income taxes are often not paid for many years; if and when they do come due they are reported in the

current component of income taxes. In order to calculate state and federal income tax rates, we divide the current income tax numbers by pre-tax *domestic* profits. National Fuel helpfully provides its domestic pre-tax profit in the following table (though its foreign operations are not currently significant):

	Year Ended September 30		
	2011	2010	2009
	(Thousands)		
U.S. Income Before Income Taxes	\$422,086	\$366,960	\$151,131

In 2009, National Fuel reported somewhat lower profits due to a “non-cash 182.8 million impairment charge” related to the company’s exploration and production oil- and gas-producing properties. We added this charge back to pre-tax profit. CTJ suggests that such one-time charges have a largely distortionary effect:

Impairment charges to assets (tangible or intangible) that are depreciable or amortizable on the books will affect future book income somewhat (by reducing future book write-offs, and thus increasing future book profits). But big impairment charges still hugely distort current year book profit. So as a general rule, we also added these back to reported profits if the charges were significant.¹³

Finally, it is necessary to adjust National Fuel’s current income tax payments by subtracting excess tax benefits associated with the exercise of stock options granted to executives. Due to a nonsensical wrinkle in the tax code, there is a large gap between what corporations report as stock option compensation expenses for book purposes and what they later claim as tax deductions when the options are exercised. The tax benefits associated with this are reported in the cash flow statement, but not in the income tax notes.¹⁴ The following figure is from National Fuel’s cash flow statement, on page 74 of National Fuel’s 2011 annual report:

Excess Tax (Costs) Benefits Associated with Stock-Based Compensation Awards	(1,224)	13,207	5,927
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To calculate state income tax rates, it is first necessary to adjust current state income taxes paid by subtracting the state share of excess tax benefits associated with the exercise of stock options (we found the state share using the weighted state average of 6.2% and the federal rate of 35%). Dividing this adjusted current state income tax figure by pre-tax US profits yields the state income tax rate.

¹³ CTJ report on federal tax dodgers, page 67.

¹⁴ Excess tax benefits from stock options are explained in detail on page 12 of “Corporate Taxpayers & Corporate Tax Dodgers” and in a December 2011 New York Times article: <http://www.nytimes.com/2011/12/30/business/tax-breaks-from-options-a-windfall-for-businesses.html?pagewanted=all>

To calculate federal income tax rates, first we adjusted pre-tax US profits by subtracting the above figure for state income tax payments. Then we adjusted current federal income tax payments by subtracting the federal share of excess tax benefits associated with the exercise of stock options. Dividing this adjusted current federal income tax figure by adjusted pre-tax US profits yielded the federal income tax rate.

Calculating Worldwide Income Tax

In order to calculate the worldwide or combined federal, state, and foreign income tax payments and rate, it is necessary to find the figure for “cash paid for income taxes” in the Consolidated Cash Flow statement in National Fuel’s annual report. This figure can be found on page 74 of National Fuel’s annual report, and is shown in the following image:

Cash Paid For:			
Interest	\$ 81,966	\$ 93,333	\$ 75,640
Income Taxes (Refunded)	\$ (63,105)	\$ 30,975	\$ 40,638

It is also necessary to find total pre-tax profits. This can be found on the Consolidated Statement of Income on page 72:

Income from Continuing Operations			
Before Income Taxes	422,783	356,360	156,343
Income Tax Expense	164,381	137,227	52,859

To find the worldwide income tax rate, we divided cash paid for income taxes by total pre-tax profits. We also adjusted pre-tax profits to reflect the non-cash impairment charge.