

540

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to the personal income tax table benefit recapture; to repeal subsection (d) of section 601 of such law relating to personal income tax; and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The opening paragraph of subsection (d) of section 601 of
2 the tax law, as amended by section 1 of part R of chapter 63 of the laws
3 of 2003, is amended to read as follows:
4 For taxable years beginning after nineteen hundred ninety AND BEFORE
5 TWO THOUSAND NINE, there is hereby imposed a supplemental tax in addi-
6 tion to the tax imposed under subsections (a), (b) and (c) of this
7 section for the purpose of recapturing the benefit of the tax tables
8 contained in such subsections or section six hundred ninety-nine of this
9 article, as the case may be. The supplemental tax shall be an amount
10 equal to the sum of the tax table benefits in paragraphs one, two and
11 three of this subsection multiplied by their respective fractions in
12 such paragraphs provided, however, that paragraph two of this subsection
13 shall not apply to taxpayers that are not subject to the second highest
14 rate of tax.
15 S 2. Section 601 of the tax law is amended by adding three new
16 subsections (d-1), (d-2) and (d-3) to read as follows:
17 (D-1) TAX TABLE BENEFIT RECAPTURE. FOR TAXABLE YEARS BEGINNING ON AND
18 AFTER JANUARY FIRST, TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO
19 THOUSAND ELEVEN, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX IN ADDITION
20 TO THE TAX IMPOSED UNDER SUBSECTIONS (A), (B) AND (C) OF THIS SECTION
21 FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 IN SUCH SUBSECTIONS OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE,
2 AS THE CASE MAY BE. PROVIDED, HOWEVER, THIS SUBSECTION SHALL NOT APPLY
3 TO TAXPAYERS WHO ARE SMALL BUSINESSES AS DEFINED IN SECTION ONE HUNDRED
4 THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW AND WHOSE GROSS RECEIPTS OR
5 SALES FROM THEIR TRADE OR BUSINESS ARE GREATER THAN TEN THOUSAND
6 DOLLARS. THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE TAX TABLE
7 BENEFIT MULTIPLIED BY A FRACTION.

8 (1) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS AND RESIDENT
9 SURVIVING SPOUSES. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN
10 (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN
11 SUBSECTION (A) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINETY-NINE OF
12 THIS ARTICLE, AS THE CASE MAY BE, NOT SUBJECT TO THE HIGHEST RATE OF TAX
13 FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE HIGHEST DOLLAR
14 DENOMINATED TAX SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE
15 YEAR IN SUBSECTION (A) OF THIS SECTION OR SECTION SIX HUNDRED
16 NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

17 (B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS
18 OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME
19 THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD
20 IS EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS. THE DENOMINATOR IS
21 FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE
22 GREATER THAN ONE.

23 (2) RESIDENT HEADS OF HOUSEHOLDS. (A) THE TAX TABLE BENEFIT IS THE
24 DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX
25 TABLE IN SUBSECTION (B) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINE-
26 TY-NINE OF THIS ARTICLE, AS THE CASE MAY BE, NOT SUBJECT TO THE HIGHEST
27 RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE
28 HIGHEST DOLLAR DENOMINATED TAX SET FORTH IN THE TAX TABLE APPLICABLE TO
29 THE TAXABLE YEAR IN SUBSECTION (B) OF THIS SECTION OR SECTION SIX
30 HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

31 (B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS
32 OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME
33 THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD
34 IS EQUAL TO ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS. THE DENOMINATOR
35 IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE
36 GREATER THAN ONE.

37 (3) RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS
38 FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS. (A) THE TAX
39 TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME
40 SET FORTH IN THE TAX TABLE IN SUBSECTION (C) OF THIS SECTION, OR IN
41 SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE, NOT
42 SUBJECT TO THE HIGHEST RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY
43 SUCH RATE AND (II) THE HIGHEST DOLLAR DENOMINATED TAX SET FORTH IN THE
44 TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (C) OF THIS
45 SECTION OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE
46 MAY BE.

47 (B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS
48 OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME
49 THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD
50 IS EQUAL TO ONE HUNDRED THOUSAND DOLLARS. THE DENOMINATOR IS FIFTY THOU-
51 SAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE GREATER THAN
52 ONE.

53 (D-2) TAX TABLE BENEFIT RECAPTURE. FOR TAXABLE YEARS BEGINNING ON AND
54 AFTER JANUARY FIRST, TWO THOUSAND ELEVEN AND BEFORE JANUARY FIRST, TWO
55 THOUSAND TWELVE, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX IN ADDITION
56 TO THE TAX IMPOSED UNDER SUBSECTIONS (A), (B) AND (C) OF THIS SECTION

FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED IN SUCH SUBSECTIONS OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE. THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE TAX TABLE BENEFIT MULTIPLIED BY A FRACTION.

(1) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS AND RESIDENT SURVIVING SPOUSES. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (A) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE, NOT SUBJECT TO THE HIGHEST RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE HIGHEST DOLLAR DENOMINATED TAX SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (A) OF THIS SECTION OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

(B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD IS EQUAL TO TWO HUNDRED THOUSAND DOLLARS. THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE GREATER THAN ONE.

(2) RESIDENT HEADS OF HOUSEHOLDS. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (B) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE, NOT SUBJECT TO THE HIGHEST RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE HIGHEST DOLLAR DENOMINATED TAX SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (B) OF THIS SECTION OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

(B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD IS EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS. THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE GREATER THAN ONE.

(3) RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (C) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE, NOT SUBJECT TO THE HIGHEST RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE HIGHEST DOLLAR DENOMINATED TAX SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (C) OF THIS SECTION OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

(B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD IS EQUAL TO ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS. THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE GREATER THAN ONE.

(D-3) TAX TABLE BENEFIT RECAPTURE. FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTIONS (A), (B) AND (C) OF THIS SECTION FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED IN SUCH SUBSECTIONS OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE. THE SUPPLEMENTAL TAX

1 SHALL BE AN AMOUNT EQUAL TO THE TAX TABLE BENEFIT MULTIPLIED BY A FRAC-
2 TION.

3 (1) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS AND RESIDENT
4 SURVIVING SPOUSES. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN
5 (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN
6 SUBSECTION (A) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINETY-NINE OF
7 THIS ARTICLE, AS THE CASE MAY BE, NOT SUBJECT TO THE HIGHEST RATE OF TAX
8 FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE HIGHEST DOLLAR
9 DENOMINATED TAX SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE
10 YEAR IN SUBSECTION (A) OF THIS SECTION OR SECTION SIX HUNDRED
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12 (B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS
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15 IS EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS. THE DENOMINATOR IS
16 FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE
17 GREATER THAN ONE.

18 (2) RESIDENT HEADS OF HOUSEHOLDS. (A) THE TAX TABLE BENEFIT IS THE
19 DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE
20 TAX TABLE IN SUBSECTION (B) OF THIS SECTION, OR IN SECTION SIX HUNDRED
21 NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE, NOT SUBJECT TO THE
22 HIGHEST RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND
23 (II) THE HIGHEST DOLLAR DENOMINATED TAX SET FORTH IN THE TAX TABLE
24 APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (B) OF THIS SECTION OR
25 SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

26 (B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS
27 OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME
28 THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD
29 IS EQUAL TO ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS. THE DENOMINATOR
30 IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE
31 GREATER THAN ONE.

32 (3) RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS
33 FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS. (A) THE TAX
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36 SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE, NOT
37 SUBJECT TO THE HIGHEST RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY
38 SUCH RATE AND (II) THE HIGHEST DOLLAR DENOMINATED TAX SET FORTH IN THE
39 TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (C) OF THIS
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45 IS EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS. THE DENOMINATOR IS
46 FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE
47 GREATER THAN ONE.

48 S 3. Subsection (d) of section 601 of the tax law is REPEALED.

49 S 4. This act shall take effect immediately and shall apply to taxable
50 years starting on or after January 1, 2010; provided, however that
51 section two of this act shall expire and be deemed repealed January 1,
52 2013 and section three of this act shall take effect January 1, 2013.