

STATE OF NEW YORK

S. 4177

A. 5009

2017-2018 Regular Sessions

SENATE - ASSEMBLY

February 6, 2017

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

IN ASSEMBLY -- Introduced by M. of A. THIELE, SCHIMMINGER, STIRPE, BARCLAY, HAWLEY, RAIA, CROUCH, GJONAJ, CRESPO, BLAKE, COLTON, MAGNARELLI, WOERNER, CAHILL, BICHOTTE, PICHARDO, MOSLEY, McDONOUGH, RA, MURRAY, MONTESANO, DiPIETRO, WALTER, LAWRENCE, McKEVITT, JAFFEE, OTIS, HYNDMAN, SANTABARBARA, PALUMBO -- Multi-Sponsored by -- M. of A. COOK, ENGLEBRIGHT, FITZPATRICK, HEVESI, MAGEE, McDONALD, McLAUGHLIN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the business income base rate and certain small business taxpayers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "small business tax reform act".
3 § 2. Subparagraph (iv) of paragraph (a) of subdivision 1 of section
4 210 of the tax law, as amended by section 12 of part A of chapter 59 of
5 the laws of 2014, is amended to read as follows:
6 (iv) (A) for taxable years beginning before January first, two thou-
7 sand sixteen, if the business income base is not more than two hundred
8 ninety thousand dollars the amount shall be six and one-half percent of
9 the business income base; if the business income base is more than two
10 hundred ninety thousand dollars but not over three hundred ninety thou-
11 sand dollars the amount shall be the sum of (1) eighteen thousand eight
12 hundred fifty dollars, (2) seven and one-tenth percent of the excess of
13 the business income base over two hundred ninety thousand dollars but
14 not over three hundred ninety thousand dollars and (3) four and thirty-
15 five hundredths percent of the excess of the business income base over

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

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1 three hundred fifty thousand dollars but not over three hundred ninety
2 thousand dollars;

3 (B) for taxable years beginning on or after January first, two thou-
4 sand seventeen and before January first, two thousand eighteen, if the
5 business income base is not more than five hundred thousand dollars the
6 amount shall be three and one-quarter percent of the business income
7 base; if the business income base is more than five hundred thousand
8 dollars but not over six hundred thousand dollars the amount shall be
9 the sum of (1) sixteen thousand two hundred fifty dollars, (2) six and
10 one-half percent of the excess of the business income base over five
11 hundred thousand dollars but not over six hundred thousand dollars and
12 (3) thirty-two and one-half percent of the excess of the business income
13 base over five hundred fifty thousand dollars but not over six hundred
14 thousand dollars;

15 (C) for taxable years beginning on or after January first, two thou-
16 sand eighteen and before January first, two thousand nineteen, if the
17 business income base is not more than five hundred thousand dollars the
18 amount shall be two and nine-tenths percent of the business income base;
19 if the business income base is more than five hundred thousand dollars
20 but not over six hundred thousand dollars the amount shall be the sum of
21 (1) fourteen thousand five hundred dollars, (2) six and one-half percent
22 of the excess of the business income base over five hundred thousand
23 dollars but not over six hundred thousand dollars and (3) thirty-six
24 percent of the excess of the business income base over five hundred
25 fifty thousand dollars but not over six hundred thousand dollars;

26 (D) for taxable years beginning on or after January first, two thou-
27 sand nineteen, if the business income base is not more than five hundred
28 thousand dollars the amount shall be two and one-half percent of the
29 business income base; if the business income base is more than five
30 hundred thousand dollars but not over six hundred thousand dollars the
31 amount shall be the sum of (1) twelve thousand five dollars, (2) six and
32 one-half percent of the excess of the business income base over five
33 hundred thousand dollars but not over six hundred thousand dollars and
34 (3) forty percent of the excess of the business income base over four
35 hundred fifty thousand dollars but not over five hundred thousand
36 dollars;

37 § 3. Paragraph 39 of subsection (c) of section 612 of the tax law, as
38 added by section 1 of part Y of chapter 59 of the laws of 2013, is
39 amended to read as follows:

40 (39) In the case of a taxpayer who is a small business who has busi-
41 ness income and/or farm income as defined in the laws of the United
42 States, an amount equal to three percent of the net items of income,
43 gain, loss and deduction attributable to such business or farm entering
44 into federal adjusted gross income, but not less than zero, for taxable
45 years beginning on or after January first, two thousand thirteen[7] but
46 before January first, two thousand fifteen; an amount equal to three and
47 three-quarters percent of the net items of income, gain, loss and
48 deduction attributable to such business or farm entering into federal
49 adjusted gross income, but not less than zero, for taxable years begin-
50 ning on or after January first, two thousand fourteen[7-and] but before
51 January first, two thousand fifteen; an amount equal to five percent of
52 the net items of income, gain, loss and deduction attributable to such
53 business or farm entering into federal adjusted gross income, but not
54 less than zero, for taxable years beginning on or after January first,
55 two thousand fifteen but before January first, two thousand seventeen;
56 an amount equal to ten percent of the net items of income, gain, loss

1 and deduction attributable to such business or farm entering into federal
2 adjusted gross income, but not less than zero, for taxable years
3 beginning on or after January first, two thousand seventeen but before
4 January first, two thousand eighteen; an amount equal to fifteen percent
5 of the net items of income, gain, loss and deduction attributable to
6 such business or farm entering into federal adjusted gross income, but
7 not less than zero, for taxable years beginning on or after January
8 first, two thousand eighteen but before January first, two thousand
9 nineteen; and an amount equal to twenty percent of the net items of
10 income, gain, loss and deduction attributable to such business or farm
11 entering into federal adjusted gross income, but not less than zero, for
12 taxable years beginning on or after January first, two thousand nine-
13 teen. Provided that such business or farm income is less than or equal
14 to five hundred thousand dollars. For the purposes of this paragraph,
15 the term small business shall mean a ~~[sole proprietor]~~ business or a
16 farm business who employs one or more persons during the taxable year
17 and who has net business income or net farm income of equal to or less
18 than ~~[two hundred fifty]~~ five hundred thousand dollars. For the purposes
19 of this paragraph, if the taxpayer is a member, partner, or shareholder
20 of a limited liability company, partnership or S-corporation, the
21 taxpayer will only be eligible under this paragraph if the New York
22 source gross income of the limited liability company, partnership or
23 S-corporation does not exceed one million dollars. New York source
24 gross income is the sum of the members, partners, or shareholders shares
25 of federal gross income from the limited liability company, partnership,
26 or S-corporation derived from or connected with New York sources, deter-
27 mined in accordance with the provisions of section six hundred thirty-
28 one of this article as if those provisions and any related provisions
29 expressly referred to a computation of federal gross income from New
30 York sources.

31 § 4. This act shall take effect immediately.