

STATE OF NEW YORK

6758

2017-2018 Regular Sessions

IN ASSEMBLY

March 17, 2017

Introduced by M. of A. KOLB, BUTLER, OAKS, MONTESANO, DiPIETRO --
Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, FINCH, FITZPATRICK,
GIGLIO, HAWLEY, LOPEZ, McDONOUGH, McKEVITT, RAIA, THIELE -- read once
and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to eliminating the corporate
franchise and personal income tax on manufacturers

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

1 Section 1. Subparagraph 1 of paragraph (b) of subdivision 1 of section
2 210 of the tax law, as amended by section 18 of part T of chapter 59 of
3 the laws of 2015, is amended to read as follows:
4 (1) [~~i~~] The amount prescribed by this paragraph shall be computed
5 at .15 percent for each dollar of the taxpayer's total business capital,
6 or the portion thereof apportioned within the state as hereinafter
7 provided for taxable years beginning before January first, two thousand
8 sixteen. However, in the case of a cooperative housing corporation as
9 defined in the internal revenue code, the applicable rate shall be .04
10 percent until taxable years beginning on or after January first, two
11 thousand twenty. The rate of tax for subsequent tax years shall be as
12 follows: .125 percent for taxable years beginning on or after January
13 first, two thousand sixteen and before January first, two thousand
14 seventeen; .100 percent for taxable years beginning on or after January
15 first, two thousand seventeen and before January first, two thousand
16 eighteen; .075 percent for taxable years beginning on or after January
17 first, two thousand eighteen and before January first, two thousand
18 nineteen; .050 percent for taxable years beginning on or after January
19 first, two thousand nineteen and before January first, two thousand
20 twenty; .025 percent for taxable years beginning on or after January
21 first, two thousand twenty and before January first, two thousand twen-
22 ty-one; and zero percent for years beginning on or after January first,
23 two thousand twenty-one. The rate of tax for a qualified New York

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

LBD10259-01-7

1 manufacturer shall be .132 percent for taxable years beginning on or
 2 after January first, two thousand fifteen and before January first, two
 3 thousand sixteen, .106 percent for taxable years beginning on or after
 4 January first, two thousand sixteen and before January first, two thou-
 5 sand seventeen, ~~[-.085]~~ and zero percent for taxable years beginning on
 6 or after January first, two thousand seventeen and ~~[before January~~
 7 ~~first, two thousand eighteen; .056 percent for taxable years beginning~~
 8 ~~on or after January first, two thousand eighteen and before January~~
 9 ~~first, two thousand nineteen; .038 percent for taxable years beginning~~
 10 ~~on or after January first, two thousand nineteen and before January~~
 11 ~~first, thousand twenty; .010 percent for taxable years beginning on or~~
 12 ~~after January first, two thousand twenty and before January first, two~~
 13 ~~thousand twenty-one; and zero percent for years beginning on or after~~
 14 ~~January first, two thousand twenty-one. (ii) In no event shall the~~
 15 ~~amount prescribed by this paragraph exceed three hundred fifty thousand~~
 16 ~~dollars for qualified New York manufacturers and for all other taxpayers~~
 17 ~~five million dollars]~~ thereafter.

18 § 2. Paragraph (d) of subdivision 1 of section 210 of the tax law, as
 19 amended by section 12 of Part A of chapter 59 of the laws of 2014,
 20 subparagraphs 1 and 2 as amended by section 19 of part T of chapter 59
 21 of the laws of 2015, is amended to read as follows:

22 (d) Fixed dollar minimum. (1) (A) The amount prescribed by this para-
 23 graph for New York S corporations, other than New York S corporations
 24 that are qualified New York manufacturers or qualified emerging technol-
 25 ogy companies, will be determined in accordance with the following
 26 table:

27 If New York receipts are:	The fixed dollar minimum tax is:
28 not more than \$100,000	\$ 25
29 more than \$100,000 but not over \$250,000	\$ 50
30 more than \$250,000 but not over \$500,000	\$ 175
31 more than \$500,000 but not over \$1,000,000	\$ 300
32 more than \$1,000,000 but not over \$5,000,000	\$1,000
33 more than \$5,000,000 but not over \$25,000,000	\$3,000
34 Over \$25,000,000	\$4,500

35 (B) Provided further, the amount prescribed by this paragraph for New
 36 York S corporations that are qualified New York manufacturers, as
 37 defined in subparagraph (vi) of paragraph (a) of this subdivision, and
 38 for New York S corporations that are qualified emerging technology
 39 companies under paragraph (c) of subdivision one of section thirty-one
 40 hundred two-e of the public authorities law regardless of the ten
 41 million dollar limitation expressed in subparagraph one of such para-
 42 graph (c), will be determined in accordance with the following tables.

43 For taxable years beginning on or after January 1, 2015 and before Janu-
 44 ary 1, 2016:

45 If New York receipts are:	The fixed dollar minimum tax is:
46 not more than \$100,000	\$ 22
47 more than \$100,000 but not over \$250,000	\$ 44
48 more than \$250,000 but not over \$500,000	\$ 153
49 more than \$500,000 but not over \$1,000,000	\$ 263
50 more than \$1,000,000 but not over \$5,000,000	\$ 877
51 more than \$5,000,000 but not over \$25,000,000	\$2,631

1 Over \$25,000,000 \$3,947

2 For taxable years beginning on or after January 1, 2016 and before Janu-
3 ary 1, [~~2018~~] 2017:

4 If New York receipts are:	The fixed dollar minimum tax is:
5 not more than \$100,000	\$ 21
6 more than \$100,000 but not over \$250,000	\$ 42
7 more than \$250,000 but not over \$500,000	\$ 148
8 more than \$500,000 but not over \$1,000,000	\$ 254
9 more than \$1,000,000 but not over \$5,000,000	\$ 846
10 more than \$5,000,000 but not over \$25,000,000	\$2,538
11 Over \$25,000,000	\$3,807

12 For taxable years beginning on or after January 1, [~~2018~~] 2017:

13 If New York receipts are:	The fixed dollar minimum tax is:
14 not more than \$100,000	\$ [19
15 more than \$100,000 but not over \$250,000	\$ 38
16 more than \$250,000 but not over \$500,000	\$ 131
17 more than \$500,000 but not over \$1,000,000	\$ 225
18 more than \$1,000,000 but not over \$5,000,000	\$ 750
19 more than \$5,000,000 but not over \$25,000,000	\$2,250
20 Over \$25,000,000	\$3,375] <u>0</u>

21 (C) Provided further, the amount prescribed by this paragraph for a
22 qualified New York manufacturer, as defined in subparagraph (vi) of
23 paragraph (a) of this subdivision, and a qualified emerging technology
24 company under paragraph (c) of subdivision one of section thirty-one
25 hundred two-e of the public authorities law regardless of the ten
26 million dollar limitation expressed in subparagraph one of such para-
27 graph (c), that is not a New York S corporation, will be determined in
28 accordance with the following tables. However, with respect to qualified
29 New York manufacturers, the amounts in these tables will apply in the
30 case of a combined report only if the combined group satisfies the
31 requirements to be a qualified New York manufacturer as set forth in
32 such subparagraph (vi).

33 For tax years beginning on or after January 1, 2015 and before January
34 1, 2016:

35 If New York receipts are:	The fixed dollar minimum tax is:
36 not more than \$100,000	\$ 22
37 more than \$100,000 but not over \$250,000	\$ 66
38 more than \$250,000 but not over \$500,000	\$ 153
39 more than \$500,000 but not over \$1,000,000	\$ 439
40 more than \$1,000,000 but not over \$5,000,000	\$1,316
41 more than \$5,000,000 but not over \$25,000,000	\$3,070
42 Over \$25,000,000	\$4,385

43 For tax years beginning on or after January 1, 2016 and before January
44 1, 2018:

45 If New York receipts are:	The fixed dollar minimum tax is:
46 not more than \$100,000	\$ 21

1	more than \$100,000 but not over \$250,000	\$ 63
2	more than \$250,000 but not over \$500,000	\$ 148
3	more than \$500,000 but not over \$1,000,000	\$ 423
4	more than \$1,000,000 but not over \$5,000,000	\$1,269
5	more than \$5,000,000 but not over \$25,000,000	\$2,961
6	Over \$25,000,000	\$4,230

7 For tax years beginning on or after January 1, 2018:

8	If New York receipts are:	The fixed dollar minimum tax is:
9	not more than \$100,000	\$ 19
10	more than \$100,000 but not over \$250,000	\$ 56
11	more than \$250,000 but not over \$500,000	\$ 131
12	more than \$500,000 but not over \$1,000,000	\$ 375
13	more than \$1,000,000 but not over \$5,000,000	\$1,125
14	more than \$5,000,000 but not over \$25,000,000	\$2,625
15	Over \$25,000,000	\$3,750

16 (D) Otherwise, for all other taxpayers not covered by clauses (A), (B)
 17 and (C) of this subparagraph, the amount prescribed by this paragraph
 18 will be determined in accordance with the following table:

19	If New York receipts are:	The fixed dollar minimum tax is:
20	not more than \$100,000	\$ 25
21	more than \$100,000 but not over \$250,000	\$ 75
22	more than \$250,000 but not over \$500,000	\$ 175
23	more than \$500,000 but not over \$1,000,000	\$ 500
24	more than \$1,000,000 but not over \$5,000,000	\$1,500
25	more than \$5,000,000 but not over \$25,000,000	\$3,500
26	more than \$25,000,000 but not over \$50,000,000	\$5,000
27	more than \$50,000,000 but not over \$100,000,000	\$10,000
28	more than \$100,000,000 but not over \$250,000,000	\$20,000
29	more than \$250,000,000 but not over \$500,000,000	\$50,000
30	more than \$500,000,000 but not over \$1,000,000,000	\$100,000
31	Over \$1,000,000,000	\$200,000

32 (E) For purposes of this paragraph, New York receipts are the receipts
 33 included in the numerator of the apportionment factor determined under
 34 section two hundred ten-A for the taxable year.

35 (2) If the taxable year is less than twelve months, the amount of New
 36 York receipts is determined by dividing the amount of the receipts for
 37 the taxable year by the number of months in the taxable year and multi-
 38 plying the result by twelve, and the amount prescribed by this paragraph
 39 shall be reduced by twenty-five percent of the period for which the
 40 taxpayer is subject to tax is more than six months but not more than
 41 nine months and by fifty percent if the period for which the taxpayer is
 42 subject to tax is not more than six months. In the case of a termination
 43 year of a New York S corporation, the sum of the tax computed under this
 44 paragraph for the S short year and for the C short year shall not be
 45 less than the amount computed under this paragraph as if the corporation
 46 were a New York C corporation for the entire taxable year.

47 § 3. Subsection (i) of section 601 of the tax law is relettered
 48 subsection (j) and a new subsection (i) is added to read as follows:

49 (i) Manufacturers. Notwithstanding this or any other section of this
 50 article, a person's liability for tax under this section, if such
 51 person's primary activity is in his or her role as a manufacturer, shall

1 be zero for taxable years beginning on or after January first, two thou-
2 sand seventeen. For purposes of this section a person shall be classi-
3 fied as a manufacturer if, he or she is principally engaged in the
4 production of goods by manufacturing, processing, assembling, refining,
5 mining, extracting, farming, agriculture, horticulture, floriculture,
6 viticulture or commercial fishing. In addition, for purposes of comput-
7 ing the capital base in a combined report, the group shall be considered
8 a manufacturer for purposes of this article, only if the combined group
9 during the taxable year is principally engaged in the activities set
10 forth in this subsection, or any combination thereof. For purposes of
11 this subsection, a taxpayer is "principally engaged" in the described
12 activity if, during the taxable year, more than fifty percent of the
13 gross receipts of the taxpayer are derived from receipts from activities
14 covered by this subsection.

15 § 4. This act shall take effect immediately; provided, however, that
16 the commissioner of taxation and finance is authorized to promulgate any
17 and all rules and regulations and take any other measures necessary for
18 the timely implementation of this act on its effective date on or before
19 such date.