S T A T E O F N E W Y O R K

5859

2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. ESPAILLAT -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the extension of the top personal income tax rate for incomes in excess of five hundred thousand dollars a year or more and the dedication of such revenue to class size reduction in a city having a population of one million or more

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

Section 1. The opening paragraph of section 1304-D of the tax law, as added by section 1 of part B of chapter 63 of the laws of 2003, is amended to read as follows:

Notwithstanding any provision of law to the contrary, in lieu of the tax tables provided in section thirteen hundred four of this article, any city imposing the taxes authorized by section thirteen hundred one of this article is hereby authorized and empowered to adopt and amend local laws to impose the rates set forth in the tax tables provided in this section. Provided, however, if any such city adopts a local law to impose tax at the rates set forth in this section, the authorization granted to such city to impose an additional tax by section thirteen hundred four-B of this article shall be suspended while such local law is in effect; AND PROVIDED, FURTHER, HOWEVER THAT ANY CITY IMPOSING THE RATES SET FORTH IN THE TAX TABLES PROVIDED IN THIS SECTION FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE BUT BEFORE TWO THOUSAND THIRTEEN SHALL DO SO ONLY IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION.

S 2. Subparagraphs (A), (B) and (C) of paragraph 1 of subsection (a) of section 1304-D of the tax law are relettered subparagraphs (B), (C) and (D) and a new subparagraph (A) is added to read as follows:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE BUT BEFORE TWO THOUSAND THIRTEEN:

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

LBD09086-01-9

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $21,600	2.907% OF THE CITY TAXABLE INCOME
OVER $21,600 BUT NOT OVER $45,000	$628 PLUS 3.534% OF EXCESS OVER $21,600
OVER $45,000 BUT NOT OVER $90,000	$1,455 PLUS 3.591% OF EXCESS OVER $45,000
OVER $90,000 BUT NOT OVER $500,000	$3,071 PLUS 3.648% OF EXCESS OVER $90,000
OVER $500,000	$18,028 PLUS 4.45% OF EXCESS OVER $500,000

S 3. Subparagraphs (A), (B) and (C) of paragraph 2 of subsection (a) of section 1304-D of the tax law are relettered subparagraphs (B), (C) and (D) and a new subparagraph (A) is added to read as follows:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE BUT BEFORE TWO THOUSAND THIRTEEN:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $14,400	2.907% OF THE CITY TAXABLE INCOME
OVER $14,400 BUT NOT OVER $30,000	$419 PLUS 3.534% OF EXCESS OVER $14,400
OVER $30,000 BUT NOT OVER $60,000	$970 PLUS 3.591% OF EXCESS OVER $30,000
OVER $60,000 BUT NOT OVER $500,000	$2,047 PLUS 3.648% OF EXCESS OVER $60,000
OVER $500,000	$18,098 PLUS 4.45% OF EXCESS OVER $500,000

S 4. Subparagraphs (A), (B) and (C) of paragraph 3 of subsection (a) of subsection 1304-D of the tax law are relettered subparagraphs (B), (C) and (D) and a new subparagraph (A) is added to read as follows:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE BUT BEFORE TWO THOUSAND THIRTEEN:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $12,000	2.907% OF THE CITY TAXABLE INCOME
OVER $12,000 BUT NOT OVER $25,000	$349 PLUS 3.534% OF EXCESS OVER $12,000
OVER $25,000 BUT NOT OVER $50,000	$808 PLUS 3.591% OF EXCESS OVER $25,000
OVER $50,000 BUT NOT OVER $500,000	$1,706 PLUS 3.648% OF EXCESS OVER $50,000
OVER $500,000	$18,403 PLUS 4.45% OF EXCESS OVER $500,000

S 5. Section 1304-D of the tax law is amended by adding two new subsections (c) and (d) to read as follows:

(C) TAX TABLE BENEFIT RECAPTURE. (1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE BUT BEFORE TWO THOUSAND THIRTEEN, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX, IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED IN SUCH SUBSECTION. THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE TAX TABLE BENEFIT CALCULATED PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION MULTIPLIED BY THE FRACTION IN PARAGRAPH

THREE OF THIS SUBSECTION, PROVIDED, HOWEVER, THAT THIS SUBSECTION SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE HIGHEST RATE OF TAX.

(2) FOR PURPOSES OF THIS SUBSECTION, THE TAX TABLE BENEFIT FOR RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, SURVIVING SPOUSES, RESIDENT HEADS OF HOUSEHOLDS, RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS IS THE DIFFERENCE BETWEEN (A) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (A) OF THIS SECTION NOT SUBJECT TO THE HIGHEST RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (B) THE HIGHEST DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (A) OF THIS SECTION.

(3) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER FIVE HUNDRED FIFTY THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

(D) DEDICATION OF ADDITIONAL REVENUE FROM HIGHEST RATE OF TAX TO CLASS SIZE REDUCTION. (1) ANY CITY IMPOSING THE TAX AUTHORIZED BY SECTION THIRTEEN HUNDRED ONE OF THIS ARTICLE AT THE RATES PROVIDED FOR IN THIS SECTION FOR TAX YEARS BEGINNING AFTER TWO THOUSAND NINE SHALL DEDICATE THE ADDITIONAL REVENUE FROM THE HIGHEST RATE OF TAX TO EDUCATION AS PROVIDED IN THIS SUBSECTION.

(2) FOR PURPOSES OF THIS SUBSECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "ADDITIONAL REVENUE FROM THE HIGHEST RATE OF TAX" SHALL MEAN THE AGGREGATE REVENUE COLLECTED FROM ALL TAXPAYERS SUBJECT TO THE HIGHEST RATE OF TAX IN THIS SUBSECTION, LESS THE AGGREGATE REVENUE WHICH WOULD HAVE BEEN COLLECTED FROM ALL SUCH TAXPAYERS IF THE SECOND HIGHEST RATE OF TAX WERE THE HIGHEST RATE.

(B) "ADDITIONAL EDUCATION CAPITAL PROJECTS" SHALL MEAN CAPITAL PROJECTS FOR THE PUBLIC SCHOOLS OF A CITY IMPOSING THE TAX AT THE RATES SET FORTH IN THIS SECTION PAID FOR BY FUNDING FROM THE EXPENSE BUDGET OF SUCH CITY AND NOT CONTAINED IN A FIVE-YEAR EDUCATIONAL FACILITIES CAPITAL PLAN AS OF THE EFFECTIVE DATE OF THIS SUBSECTION, AS SUCH PROJECTS ARE SET FORTH IN A MEMORANDUM OF UNDERSTANDING BETWEEN THE MAYOR OR OTHER CHIEF EXECUTIVE OFFICER OF SUCH CITY, THE SPEAKER OR OTHER SIMILAR OFFICER OF THE LOCAL LEGISLATIVE BODY OF SUCH CITY AND THE SCHOOL'S CHANCELLOR OF SUCH CITY AND ANY MODIFICATIONS THERETO.

(C) "CLASSROOM TEACHERS" SHALL MEAN TEACHERS WHO PROVIDE DIRECT INSTRUCTIONAL SERVICES IN THE PUBLIC SCHOOL SYSTEM ON A FULL-TIME, PART-TIME OR PER DIEM BASIS.

(D) "PERCENTAGE OF NON-ACHIEVEMENT" FOR A FISCAL YEAR SHALL BE EQUAL TO A FRACTION, EXPRESSED AS A PERCENTAGE (BUT NOT TO EXCEED ONE HUNDRED PERCENT OR BE LESS THAN EIGHTY PERCENT) THE DENOMINATOR OF WHICH IS THE TARGETED CLASSROOM TEACHER STAFFING LEVEL FOR SUCH FISCAL YEAR AND THE NUMERATOR OF WHICH SHALL BE THE DIFFERENCE BETWEEN SUCH TARGETED CLASSROOM TEACHER STAFFING LEVEL AND THE ACTUAL CLASSROOM TEACHER STAFFING LEVEL FOR SUCH FISCAL YEAR.

(E) "TARGETED CLASSROOM TEACHER STAFFING LEVEL" SHALL MEAN THE FOLLOWING IN THE FOLLOWING FISCAL YEARS: SEVENTY-NINE THOUSAND EIGHT HUNDRED CLASSROOM TEACHERS IN THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR TWO THOUSAND NINE; EIGHTY THOUSAND SIX HUNDRED CLASSROOM TEACHERS IN THE FISCAL YEAR COMMENCING IN CALENDAR YEAR TWO THOUSAND TEN; AND EIGHTY-ONE THOUSAND TWO HUNDRED CLASSROOM TEACHERS IN THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR TWO THOUSAND TWELVE.

(3) NOTWITHSTANDING ANYTHING IN THIS ARTICLE TO THE CONTRARY, THE ADDITIONAL REVENUE FROM THE HIGHEST RATE OF TAX PURSUANT TO THE AUTHORITY OF THIS SECTION WHICH THE COMPTROLLER IS REQUIRED TO PAY TO THE CHIEF FISCAL OFFICER OF THE CITY IMPOSING SUCH TAX AT THE RATES PROVIDED FOR IN THIS SECTION FOR PAYMENT INTO THE TREASURY OF SUCH CITY, SHALL BE CREDITED TO THE GENERAL FUND OF SUCH CITY TO BE APPLIED EXCLUSIVELY TO OR IN AID OR SUPPORT OF SUCH CITY'S DEPARTMENT OF EDUCATION FOR THE PURPOSE OF (A) REDUCING CLASS SIZE BY ADDING ADDITIONAL CLASSROOM TEACHERS AND (B) COMPLETING ADDITIONAL EDUCATION CAPITAL PROJECTS, IN ACCORDANCE WITH THIS PARAGRAPH AND PARAGRAPH FOUR OF THIS SUBSECTION. SUCH CITY SHALL FIRST MAKE ITS BEST EFFORTS TO ACHIEVE THE TARGETED CLASSROOM TEACHER STAFFING LEVELS. ANY ADDITIONAL REVENUE FROM THE HIGHEST RATE OF TAX, IN EXCESS OF THAT NECESSARY TO REACH THE TARGETED CLASSROOM TEACHER STAFFING LEVELS CONTAINED IN THIS SUBSECTION, OR REVENUE REMAINING BECAUSE OF THE INABILITY OF SUCH CITY TO MEET SUCH TARGETED CLASSROOM TEACHER STAFFING LEVELS SHALL BE APPLIED TO ADDITIONAL EDUCATION CAPITAL PROJECTS.

(4) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, WITH RESPECT TO TAXABLE YEARS BEGINNING IN TWO THOUSAND ELEVEN AND TWO THOUSAND TWELVE, THE MAYOR OR OTHER CHIEF EXECUTIVE OFFICER OF A CITY IN WHICH A TAX IS IMPOSED AT THE RATES PROVIDED IN THIS SECTION SHALL, BY AUGUST FIRST OF TWO THOUSAND TEN AND TWO THOUSAND ELEVEN, TRANSMIT TO THE COMMISSIONER A CERTIFICATION SETTING FORTH THE PERCENTAGE OF NON-ACHIEVEMENT REGARDING THE TARGETED CLASSROOM TEACHER STAFFING LEVEL WITH RESPECT TO THE LAST FISCAL YEAR OF SUCH CITY ENDING ON THE IMMEDIATELY PRECEDING JUNE THIRTIETH. IF SUCH PERCENTAGE OF NON-ACHIEVEMENT EXCEEDS TWO AND ONE-HALF PERCENT WITH RESPECT TO THE FISCAL YEAR OF SUCH CITY ENDING NO LATER THAN JUNE THIRTIETH, TWO THOUSAND ELEVEN, THEN THE HIGHEST RATE OF TAX AUTHORIZED BY SUBPARAGRAPH (A) OF PARAGRAPH ONE, SUBPARAGRAPH (A) OF PARAGRAPH TWO AND SUBPARAGRAPH (A) OF PARAGRAPH THREE OF SUBSECTION (A) OF THIS SECTION FOR THE TAXABLE YEARS BEGINNING IN THE CALENDAR YEAR BEGINNING ON JANUARY FIRST, TWO THOUSAND TWELVE SHALL BE THE PRODUCTS OF EACH SUCH HIGHEST RATE AND A PERCENTAGE EQUAL TO THE DIFFERENCE BETWEEN ONE HUNDRED PERCENT AND THE PORTION OF THE PERCENTAGE OF NON-ACHIEVEMENT THAT IS IN EXCESS OF TWO PERCENT, SUCH PRODUCTS COMPUTED TO THE NEAREST HUNDREDTH OF A PERCENT.

(5) IF THE HIGHEST RATES OF TAX TO BE IMPOSED PURSUANT TO THIS SECTION FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND NINE ARE MODIFIED PURSUANT TO PARAGRAPH THREE OR FOUR OF THIS SUBSECTION, THE COMMISSIONER SHALL PROMULGATE REGULATIONS STATING THE MODIFIED RATES.

S 6. This act shall take effect immediately.