

5912

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. TOWNS, GREENE, KAVANAGH, JOHN, JEFFRIES, HEASTIE, ESPAILLAT, KOON, PHEFFER, LANCMAN, EDDINGTON, MILLMAN -- Multi-Sponsored by -- M. of A. BARRON, BROOK-KRASNY, CAMARA, COLTON, DINOWITZ, LIFTON, LUPARDO, PERALTA, POWELL, RAMOS, P. RIVERA, TITUS -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to enacting the "fair share tax reform act of 2009"

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

1 Section 1. Legislative Intent. The legislature hereby finds that at
2 no time since the great depression has the need to enact fair and equi-
3 table reform to the state's tax system been greater. Over the last 30
4 years, New York state's personal income tax laws have become increasing-
5 ly unfair and inequitable. Personal income tax rates for the wealthiest
6 New Yorkers have been reduced by more than 50%, and upper income tax
7 brackets have been eliminated, substantially reducing the burden on New
8 Yorkers earning over \$250,000 per year. New York state now requires a
9 family struggling to get by on just over \$40,000 of taxable income a
10 year to pay the same marginal tax rate as a family fortunate enough to
11 make \$4,000,000 a year.
12 While personal income tax rates have been cut, New York has increas-
13 ingly relied on other, more regressive, state and local fees and taxes,
14 including sales and property taxes. As we seek to address an historic
15 fiscal crisis, New York's poor and working families are again being
16 asked to pay higher fees and higher taxes, while they endure major
17 cutbacks in education, health and public protection services.
18 The legislature therefore finds that the Empire State now has one of
19 the most regressive tax systems in the United States, with poor and
20 middle income families paying a far higher portion of their income in
21 state and local taxes than the wealthiest New Yorkers.

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

LBD04364-06-9

1 Accordingly, the legislature hereby finds and declares that it is
2 imperative that we reform the state's personal income tax system to
3 restore progressivity and fairness. In order to insure that all New
4 Yorkers do their fair share as we implement policies to address our
5 state's fiscal crisis, the legislature hereby enacts the "fair share tax
6 reform act of 2009".

7 S 2. Paragraphs 2, 3, 4, 5, 6, 7 and 8 of subsection (a) of section
8 601 of the tax law are renumbered paragraphs 3, 4, 5, 6, 7, 8 and 9.

9 S 3. Paragraph 1 of subsection (a) of section 601 of the tax law, as
10 amended by section 1 of part Y3 of chapter 62 of the laws of 2003, is
11 amended to read as follows:

12 (1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT:

13 IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
14 NOT OVER \$16,000	4% OF THE NEW YORK TAXABLE
15	INCOME
16 OVER \$16,000 BUT NOT OVER \$22,000	\$640 PLUS 4.5% OF EXCESS OVER
17	\$16,000
18 OVER \$22,000 BUT NOT OVER \$26,000	\$910 PLUS 5.25% OF EXCESS OVER
19	\$22,000
20 OVER \$26,000 BUT NOT OVER \$40,000	\$1,120 PLUS 5.9% OF EXCESS OVER
21	\$26,000
22 OVER \$40,000 BUT NOT OVER \$250,000	\$1,946 PLUS 6.85% OF EXCESS OVER
23	\$40,000
24 OVER \$250,000 BUT NOT OVER \$500,000	\$16,331 PLUS 8.25% OF EXCESS OVER
25	\$250,000
26 OVER \$500,000 BUT NOT OVER \$1,000,000	\$36,956 PLUS 8.97% OF EXCESS OVER
27	\$500,000
28 OVER \$1,000,000	\$81,806 PLUS 10.30% OF EXCESS OVER
29	\$1,000,000

30 (2) For taxable years beginning after two thousand five AND BEFORE TWO
31 THOUSAND NINE:

32 If the New York taxable income is:	The tax is:
33 Not over \$16,000	4% of the New York taxable
34	income
35 Over \$16,000 but not over \$22,000	\$640 plus 4.5% of excess over
36	\$16,000
37 Over \$22,000 but not over \$26,000	\$910 plus 5.25% of excess over
38	\$22,000
39 Over \$26,000 but not over \$40,000	\$1,120 plus 5.9% of excess over
40	\$26,000
41 Over \$40,000	\$1,946 plus 6.85% of excess over
42	\$40,000

43 S 4. Paragraphs 2, 3, 4, 5, 6, 7 and 8 of subsection (b) of section
44 601 of the tax law are renumbered paragraphs 3, 4, 5, 6, 7, 8 and 9.

45 S 5. Paragraph 1 of subsection (b) of section 601 of the tax law, as
46 amended by section 1 of part Y3 of chapter 62 of the laws of 2003, is
47 amended to read as follows:

48 (1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT:

49 IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
50 NOT OVER \$11,000	4% OF THE NEW YORK TAXABLE

1		INCOME
2	OVER \$11,000 BUT NOT OVER \$15,000	\$440 PLUS 4.5% OF EXCESS OVER
3		\$11,000
4	OVER \$15,000 BUT NOT OVER \$17,000	\$620 PLUS 5.25% OF EXCESS OVER
5		\$15,000
6	OVER \$17,000 BUT NOT OVER \$30,000	\$725 PLUS 5.9% OF EXCESS OVER
7		\$17,000
8	OVER \$30,000 BUT NOT OVER \$250,000	\$1,492 PLUS 6.85% OF EXCESS OVER
9		\$30,000
10	OVER \$250,000 BUT NOT OVER \$500,000	\$16,562 PLUS 8.25% OF EXCESS OVER
11		\$250,000
12	OVER \$500,000 BUT NOT OVER \$1,000,000	\$37,187 PLUS 8.97% OF EXCESS OVER
13		\$500,000
14	OVER \$1,000,000	\$82,037 PLUS 10.30% OF EXCESS OVER
15		\$1,000,000

16 (2) For taxable years beginning after two thousand five AND BEFORE TWO
 17 THOUSAND NINE:

18	If the New York taxable income is:	The tax is:
19	Not over \$11,000	4% of the New York taxable
20		income
21	Over \$11,000 but not over \$15,000	\$440 plus 4.5% of excess over
22		\$11,000
23	Over \$15,000 but not over \$17,000	\$620 plus 5.25% of excess over
24		\$15,000
25	Over \$17,000 but not over \$30,000	\$725 plus 5.9% of excess over
26		\$17,000
27	Over \$30,000	\$1,492 plus 6.85% of excess over
28		\$30,000

29 S 6. Paragraphs 2, 3, 4, 5, 6, 7 and 8 of subsection (c) of section
 30 601 of the tax law are renumbered paragraphs 3, 4, 5, 6, 7, 8 and 9.

31 S 7. Paragraph 1 of subsection (c) of section 601 of the tax law, as
 32 amended by section 1 of part Y3 of chapter 62 of the laws of 2003, is
 33 amended to read as follows:

34 (1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT:

35	IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
36	NOT OVER \$8,000	4% OF THE NEW YORK TAXABLE
37		INCOME
38	OVER \$8,000 BUT NOT OVER \$11,000	\$320 PLUS 4.5% OF EXCESS OVER
39		\$8,000
40	OVER \$11,000 BUT NOT OVER \$13,000	\$455 PLUS 5.25% OF EXCESS OVER
41		\$11,000
42	OVER \$13,000 BUT NOT OVER \$20,000	\$560 PLUS 5.9% OF EXCESS OVER
43		\$13,000
44	OVER \$20,000 BUT NOT OVER \$250,000	\$973 PLUS 6.85% OF EXCESS OVER
45		\$20,000
46	OVER \$250,000 BUT NOT OVER \$500,000	\$16,728 PLUS 8.25% OF EXCESS OVER
47		\$250,000
48	OVER \$500,000 BUT NOT OVER \$1,000,000	\$37,353 PLUS 8.97% OF EXCESS OVER
49		\$500,000
50	OVER \$1,000,000	\$82,203 PLUS 10.30% OF EXCESS OVER
51		\$1,000,000

1 (2) For taxable years beginning after two thousand five AND BEFORE TWO
2 THOUSAND NINE:

3 If the New York taxable income is:	The tax is:
4 Not over \$8,000	4% of the New York taxable
5	income
6 Over \$8,000 but not over \$11,000	\$320 plus 4.5% of excess over
7	\$8,000
8 Over \$11,000 but not over \$13,000	\$455 plus 5.25% of excess over
9	\$11,000
10 Over \$13,000 but not over \$20,000	\$560 plus 5.9% of excess over
11	\$13,000
12 Over \$20,000	\$973 plus 6.85% of excess over
13	\$20,000

14 S 8. Paragraphs 2 and 3 of subsection (d) of section 601 of the tax
15 law, as amended by section 1 of part R of chapter 63 of the laws of
16 2003, subparagraph (B) of paragraph 3 as separately amended by section 2
17 of part R of chapter 63 of the laws of 2003, are amended to read as
18 follows:

19 (2) Resident married individuals filing joint returns, surviving
20 spouses, resident heads of households, resident unmarried individuals,
21 resident married individuals filing separate returns and resident
22 estates and trusts. (A) The tax table benefit is the difference between
23 (i) the amount of taxable income set forth in the tax table in
24 subsection (a), (b) or (c) of this section, as the case may be, not
25 subject to the [second highest] 6.85 PERCENT rate of tax for the taxable
26 year multiplied by such rate and (ii) the second highest dollar denomi-
27 nated tax for such amount of taxable income set forth in the tax table
28 applicable to the taxable year in subsection (a), (b) or (c) of this
29 section, as the case may be, less the tax table benefit in paragraph one
30 of this subsection.

31 (B) The fraction is computed as follows: the numerator is the lesser
32 of fifty thousand dollars or the excess of New York adjusted gross
33 income for the taxable year over one hundred fifty thousand dollars and
34 the denominator is fifty thousand dollars.

35 (C) This paragraph shall [only] apply to taxable years beginning after
36 two thousand [two and before two thousand six] EIGHT.

37 (3) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, SURVIVING
38 SPOUSES, RESIDENT HEADS OF HOUSEHOLDS, RESIDENT UNMARRIED INDIVIDUALS,
39 RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT
40 ESTATES AND TRUSTS. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN
41 (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN
42 SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, NOT
43 SUBJECT TO THE 8.25 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED
44 BY SUCH RATE AND (II) THE THIRD HIGHEST DOLLAR DENOMINATED TAX FOR SUCH
45 AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE
46 TAXABLE YEAR IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE
47 MAY BE, LESS THE TAX TABLE BENEFIT IN PARAGRAPH ONE OF THIS SUBSECTION.

48 (B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER
49 OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS
50 INCOME FOR THE TAXABLE YEAR OVER TWO HUNDRED FIFTY THOUSAND DOLLARS AND
51 THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

52 (C) THIS PARAGRAPH SHALL APPLY TO TAXABLE YEARS BEGINNING AFTER TWO
53 THOUSAND EIGHT.

1 (4) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, SURVIVING
2 SPOUSES, RESIDENT HEADS OF HOUSEHOLDS, RESIDENT UNMARRIED INDIVIDUALS,
3 RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT
4 ESTATES AND TRUSTS. (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), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, NOT
7 SUBJECT TO THE 8.97 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED
8 BY SUCH RATE AND (II) THE SECOND HIGHEST DOLLAR DENOMINATED TAX FOR SUCH
9 AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE
10 TAXABLE YEAR IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE
11 MAY BE, LESS THE TAX TABLE BENEFIT IN PARAGRAPH ONE OF THIS SUBSECTION.

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

16 (C) THIS PARAGRAPH SHALL APPLY TO TAXABLE YEARS BEGINNING AFTER TWO
17 THOUSAND EIGHT.

18 (5) Resident married individuals filing joint returns, surviving
19 spouses, resident heads of households, resident unmarried individuals,
20 resident married individuals filing separate returns and resident
21 estates and trusts. (A) The tax table benefit is the difference between
22 (i) the amount of taxable income set forth in the tax table in
23 subsection (a), (b) or (c) of this section, as the case may be, not
24 subject to the highest rate of tax for the taxable year multiplied by
25 such rate and (ii) the highest dollar denominated tax set forth in the
26 tax table applicable to the taxable year in subsection (a), (b) or (c)
27 of this section, as the case may be, less the sum of the tax table bene-
28 fits in paragraphs one and two of this subsection.

29 (B) For such taxpayers with adjusted gross income over [five hundred
30 thousand] ONE MILLION dollars, the fraction is [one. Provided, however,
31 that the total tax prior to the application of any tax credits shall not
32 exceed the highest rate of tax set forth in the tax table in subsection
33 (a) of this section multiplied by the taxpayer's taxable income]
34 COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND
35 DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE
36 YEAR OVER ONE MILLION DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND
37 DOLLARS.

38 (C) This paragraph shall [only] apply to taxable years beginning after
39 two thousand [two and before two thousand six] EIGHT.

40 S 9. This act shall take effect immediately.