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

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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:

Section 1. Legislative Intent. The legislature hereby finds that at no time since the great depression has the need to enact fair and equitable reform to the state's tax system been greater. Over the last 30 years, New York state's personal income tax laws have become increasingly unfair and inequitable. Personal income tax rates for the wealthiest New Yorkers have been reduced by more than 50%, and upper income tax brackets have been eliminated, substantially reducing the burden on New Yorkers earning over $250,000 per year. New York state now requires a family struggling to get by on just over $40,000 of taxable income a year to pay the same marginal tax rate as a family fortunate enough to make $4,000,000 a year.

While personal income tax rates have been cut, New York has increasingly relied on other, more regressive, state and local fees and taxes, including sales and property taxes. As we seek to address an historic fiscal crisis, New York's poor and working families are again being asked to pay higher fees and higher taxes, while they endure major cutbacks in education, health and public protection services.

The legislature therefore finds that the Empire State now has one of the most regressive tax systems in the United States, with poor and middle income families paying a far higher portion of their income in 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.

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

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

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

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

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $16,000	4% OF THE NEW YORK TAXABLE INCOME
OVER $16,000 BUT NOT OVER $22,000	$640 PLUS 4.5% OF EXCESS OVER $16,000
OVER $22,000 BUT NOT OVER $26,000	$910 PLUS 5.25% OF EXCESS OVER $22,000
OVER $26,000 BUT NOT OVER $40,000	$1,120 PLUS 5.9% OF EXCESS OVER $26,000
OVER $40,000 BUT NOT OVER $250,000	$1,946 PLUS 6.85% OF EXCESS OVER $40,000
OVER $250,000 BUT NOT OVER $500,000	$16,331 PLUS 8.25% OF EXCESS OVER $250,000
OVER $500,000 BUT NOT OVER $1,000,000	$36,956 PLUS 8.97% OF EXCESS OVER $500,000
OVER $1,000,000	$81,806 PLUS 10.30% OF EXCESS OVER $1,000,000

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

If the New York taxable income is:	The tax is:
Not over $16,000	4% of the New York taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.9% of excess over $26,000
Over $40,000	$1,946 plus 6.85% of excess over $40,000

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

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

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

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

	INCOME
OVER $11,000 BUT NOT OVER $15,000	$440 PLUS 4.5% OF EXCESS OVER $11,000
OVER $15,000 BUT NOT OVER $17,000	$620 PLUS 5.25% OF EXCESS OVER $15,000
OVER $17,000 BUT NOT OVER $30,000	$725 PLUS 5.9% OF EXCESS OVER $17,000
OVER $30,000 BUT NOT OVER $250,000	$1,492 PLUS 6.85% OF EXCESS OVER $30,000
OVER $250,000 BUT NOT OVER $500,000	$16,562 PLUS 8.25% OF EXCESS OVER $250,000
OVER $500,000 BUT NOT OVER $1,000,000	$37,187 PLUS 8.97% OF EXCESS OVER $500,000
OVER $1,000,000	$82,037 PLUS 10.30% OF EXCESS OVER $1,000,000

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

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $15,000	$440 plus 4.5% of excess over $11,000
Over $15,000 but not over $17,000	$620 plus 5.25% of excess over $15,000
Over $17,000 but not over $30,000	$725 plus 5.9% of excess over $17,000
Over $30,000	$1,492 plus 6.85% of excess over $30,000

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

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

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

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $8,000	4% OF THE NEW YORK TAXABLE INCOME
OVER $8,000 BUT NOT OVER $11,000	$320 PLUS 4.5% OF EXCESS OVER $8,000
OVER $11,000 BUT NOT OVER $13,000	$455 PLUS 5.25% OF EXCESS OVER $11,000
OVER $13,000 BUT NOT OVER $20,000	$560 PLUS 5.9% OF EXCESS OVER $13,000
OVER $20,000 BUT NOT OVER $250,000	$973 PLUS 6.85% OF EXCESS OVER $20,000
OVER $250,000 BUT NOT OVER $500,000	$16,728 PLUS 8.25% OF EXCESS OVER $250,000
OVER $500,000 BUT NOT OVER $1,000,000	$37,353 PLUS 8.97% OF EXCESS OVER $500,000
OVER $1,000,000	$82,203 PLUS 10.30% OF EXCESS OVER $1,000,000

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

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

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

(2) 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. (A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in subsection (a), (b) or (c) of this section, as the case may be, not subject to the [second highest] 6.85 PERCENT rate of tax for the taxable year multiplied by such rate and (ii) the second highest dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in subsection (a), (b) or (c) of this section, as the case may be, less the tax table benefit in paragraph one of this subsection.

(B) 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 one hundred fifty thousand dollars and the denominator is fifty thousand dollars.

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

(3) 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. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, NOT SUBJECT TO THE 8.25 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE THIRD HIGHEST DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, LESS THE TAX TABLE BENEFIT IN PARAGRAPH ONE OF THIS SUBSECTION.

(B) 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 TWO HUNDRED FIFTY THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

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

(4) 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. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, NOT SUBJECT TO THE 8.97 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE SECOND HIGHEST DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, LESS THE TAX TABLE BENEFIT IN PARAGRAPH ONE OF THIS SUBSECTION.

(B) 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 THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

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

(5) 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. (A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in subsection (a), (b) or (c) of this section, 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), (b) or (c) of this section, as the case may be, less the sum of the tax table benefits in paragraphs one and two of this subsection.

(B) For such taxpayers with adjusted gross income over [five hundred thousand] ONE MILLION dollars, the fraction is [one. Provided, however, that the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax table in subsection (a) of this section multiplied by the taxpayer's taxable income] 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 ONE MILLION DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

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

S 9. This act shall take effect immediately.