

2654

2009-2010 Regular Sessions

I N   S E N A T E

February 26, 2009

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

AN ACT to amend the tax law, in relation to income tax rates and standard deductions

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

1     Section 1. Paragraphs 2, 3, 4, 5, 6, 7 and 8 of subsection (a) of  
2 section 601 of the tax law are renumbered paragraphs 3, 4, 5, 6, 7, 8  
3 and 9.

4     S 2. Paragraph 1 of subsection (a) of section 601 of the tax law, as  
5 amended by section 1 of part Y3 of chapter 62 of the laws of 2003, is  
6 amended to read as follows:

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

8 IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
9 NOT OVER \$16,000	4% OF THE NEW YORK TAXABLE
10	INCOME
11 OVER \$16,000 BUT NOT OVER \$22,000	\$640 PLUS 4.5% OF EXCESS OVER
12	\$16,000
13 OVER \$22,000 BUT NOT OVER \$26,000	\$910 PLUS 5.25% OF EXCESS OVER
14	\$22,000
15 OVER \$26,000 BUT NOT OVER \$40,000	\$1,120 PLUS 5.9% OF EXCESS OVER
16	\$26,000
17 OVER \$40,000 BUT NOT OVER	\$1,946 PLUS 6.85% OF EXCESS OVER
18 \$250,000	\$40,000
19 OVER \$250,000 BUT NOT OVER	\$16,331 PLUS 7.25% OF EXCESS OVER
20 \$500,000	\$250,000
21 OVER \$500,000 BUT NOT OVER	\$34,456 PLUS 7.7% OF EXCESS OVER
22 \$1,000,000	\$500,000
23 OVER \$1,000,000 BUT NOT OVER	\$72,956 PLUS 8.97% OF EXCESS OVER
24 \$3,000,000	\$1,000,000
25 OVER \$3,000,000	\$252,356 PLUS 10.3% OF EXCESS OVER
26	\$3,000,000

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

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 \$16,000	4% of the New York taxable
5		income
6	Over \$16,000 but not over \$22,000	\$640 plus 4.5% of excess over
7		\$16,000
8	Over \$22,000 but not over \$26,000	\$910 plus 5.25% of excess over
9		\$22,000
10	Over \$26,000 but not over \$40,000	\$1,120 plus 5.9% of excess over
11		\$26,000
12	Over \$40,000	\$1,946 plus 6.85% of excess over
13		\$40,000

14 S 3. Paragraphs 2, 3, 4, 5, 6, 7 and 8 of subsection (b) of section  
15 601 of the tax law are renumbered paragraphs 3, 4, 5, 6, 7, 8 and 9.

16 S 4. Paragraph 1 of subsection (b) of section 601 of the tax law, as  
17 amended by section 1 of part Y3 of chapter 62 of the laws of 2003, is  
18 amended to read as follows:

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

20	IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
21	NOT OVER \$11,000	4% OF THE NEW YORK TAXABLE
22		INCOME
23	OVER \$11,000 BUT NOT OVER \$15,000	\$440 PLUS 4.5% OF EXCESS OVER
24		\$11,000
25	OVER \$15,000 BUT NOT OVER \$17,000	\$620 PLUS 5.25% OF EXCESS OVER
26		\$15,000
27	OVER \$17,000 BUT NOT OVER \$30,000	\$725 PLUS 5.9% OF EXCESS OVER
28		\$17,000
29	OVER \$30,000 BUT NOT OVER \$250,000	\$1,492 PLUS 6.85% OF EXCESS OVER
30		\$30,000
31	OVER \$250,000 BUT NOT OVER \$500,000	\$16,562 PLUS 7.25% OF EXCESS OVER
32		\$250,000
33	OVER \$500,000 BUT NOT OVER \$1,000,000	\$34,687 PLUS 7.7% OF EXCESS OVER
34		\$1,000,000
35	OVER \$1,000,000 BUT NOT OVER	\$73,187 PLUS 8.97% OF EXCESS OVER
36	\$3,000,000	\$1,000,000
37	OVER \$3,000,000	\$252,587 PLUS 10.30% OF EXCESS OVER
38		\$3,000,000

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

41	If the New York taxable income is:	The tax is:
42	Not over \$11,000	4% of the New York taxable
43		income
44	Over \$11,000 but not over \$15,000	\$440 plus 4.5% of excess over
45		\$11,000
46	Over \$15,000 but not over \$17,000	\$620 plus 5.25% of excess over
47		\$15,000
48	Over \$17,000 but not over \$30,000	\$725 plus 5.9% of excess over
49		\$17,000
50	Over \$30,000	\$1,492 plus 6.85% of excess over
51		\$30,000

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

3 S 6. Paragraph 1 of subsection (c) of section 601 of the tax law, as  
4 amended by section 1 of part Y3 of chapter 62 of the laws of 2003, is  
5 amended to read as follows:

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

7	IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
8	NOT OVER \$8,000	4% OF THE NEW YORK TAXABLE
9		INCOME
10	OVER \$8,000 BUT NOT OVER \$11,000	\$320 PLUS 4.5% OF EXCESS OVER
11		\$8,000
12	OVER \$11,000 BUT NOT OVER \$13,000	\$455 PLUS 5.25% OF EXCESS OVER
13		\$11,000
14	OVER \$13,000 BUT NOT OVER \$20,000	\$560 PLUS 5.9% OF EXCESS OVER
15		\$13,000
16	OVER \$20,000 BUT NOT OVER \$250,000	\$973 PLUS 6.85% OF EXCESS OVER
17		\$20,000
18	OVER \$250,000 BUT NOT OVER \$500,000	\$16,728 PLUS 7.25% OF EXCESS OVER
19		\$250,000
20	OVER \$500,000 BUT NOT OVER \$1,000,000	\$34,853 PLUS 7.7% OF EXCESS OVER
21		\$500,000
22	OVER \$1,000,000 BUT NOT OVER	\$73,353 PLUS 8.97% OF EXCESS OVER
23	\$3,000,000	\$1,000,000
24	OVER \$3,000,000	\$252,753 PLUS 10.30% OF EXCESS OVER
25		\$3,000,000

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

28	If the New York taxable income is:	The tax is:
29	Not over \$8,000	4% of the New York taxable
30		income
31	Over \$8,000 but not over \$11,000	\$320 plus 4.5% of excess over
32		\$8,000
33	Over \$11,000 but not over \$13,000	\$455 plus 5.25% of excess over
34		\$11,000
35	Over \$13,000 but not over \$20,000	\$560 plus 5.9% of excess over
36		\$13,000
37	Over \$20,000	\$973 plus 6.85% of excess over
38		\$20,000

39 S 7. Paragraph 1 of subsection (d) of section 601 of the tax law, as  
40 amended by section 1 of part R of chapter 63 of the laws of 2003, is  
41 amended to read as follows:

42 (1) Resident married individuals filing joint returns, resident  
43 surviving spouses, resident heads of households, resident unmarried  
44 individuals, resident married individuals filing separate returns and  
45 resident estates and trusts. (A) The tax table benefit is the difference  
46 between (i) the amount of taxable income set forth in the tax table in  
47 subsection (a), (b) or (c), of this section, as the case may be, or in  
48 section six hundred ninety-nine, as the case may be, not subject to the  
49 6.85 percent rate of tax for the taxable year multiplied by such rate  
50 and (ii) the dollar denominated tax for such amount of taxable income  
51 set forth in the tax table applicable to the taxable year in subsection  
52 (a), (b) or (c) of this section, as the case may be, or section six  
53 hundred ninety-nine, as the case may be.

1 (B) The fraction is computed as follows: the numerator is the lesser  
2 of fifty thousand dollars or the excess of New York adjusted gross  
3 income for the taxable year over one hundred FIFTY thousand dollars and  
4 the denominator is fifty thousand dollars.

5 S 8. Subsection (d) of section 601 of the tax law is amended by adding  
6 three new paragraphs 4, 5, and 6 to read as follows:

7 (4) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, RESIDENT  
8 SURVIVING SPOUSES, RESIDENT HEADS OF HOUSEHOLDS, RESIDENT UNMARRIED  
9 INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND  
10 RESIDENT ESTATES AND TRUSTS. (A) THE TAX TABLE BENEFIT IS THE DIFFER-  
11 ENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE  
12 IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, NOT  
13 SUBJECT TO THE 7.25 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED  
14 BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF  
15 TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR  
16 IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, LESS  
17 THE TAX TABLE BENEFIT IN PARAGRAPH ONE OF THIS SUBSECTION.

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

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

24 (5) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, RESIDENT  
25 SURVIVING SPOUSES, RESIDENT HEADS OF HOUSEHOLDS, RESIDENT UNMARRIED  
26 INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND  
27 RESIDENT ESTATES AND TRUSTS. (A) THE TAX TABLE BENEFIT IS THE DIFFER-  
28 ENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE  
29 IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, NOT  
30 SUBJECT TO THE 7.7 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED  
31 BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF  
32 TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR  
33 IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, LESS  
34 THE SUM OF THE TAX TABLE BENEFITS IN PARAGRAPHS ONE AND FOUR OF THIS  
35 SUBSECTION.

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

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

42 (6) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, RESIDENT  
43 SURVIVING SPOUSES, RESIDENT HEADS OF HOUSEHOLDS, RESIDENT UNMARRIED  
44 INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND  
45 RESIDENT ESTATES AND TRUSTS. (A) THE TAX TABLE BENEFIT IS THE DIFFER-  
46 ENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE  
47 IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, NOT  
48 SUBJECT TO THE 8.97 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED  
49 BY SUCH RATE AND (II) THE DOLLAR DENOMINATED TAX FOR SUCH AMOUNT OF  
50 TAXABLE INCOME SET FORTH IN THE TAX TABLE APPLICABLE TO THE TAXABLE YEAR  
51 IN SUBSECTION (A), (B) OR (C) OF THIS SECTION, AS THE CASE MAY BE, LESS  
52 THE SUM OF THE TAX TABLE BENEFITS IN PARAGRAPHS ONE, FOUR, AND FIVE OF  
53 THIS SUBSECTION.

54 (B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER  
55 OF FIFTY THOUSAND DOLLARS OF THE EXCESS OF NEW YORK ADJUSTED GROSS

1 INCOME FOR THE TAXABLE YEAR OVER ONE MILLION DOLLARS AND THE DENOMINATOR  
2 IS FIFTY THOUSAND DOLLARS.

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

5 S 9. Section 614 of the tax law, as amended by chapter 170 of the laws  
6 of 1994, subsections (b) and (d) as amended by section 1 of part C of  
7 chapter 62 of the laws of 2006, is amended to read as follows:

8 S 614. New York standard deduction of a resident individual. (a)  
9 Unmarried individual. For TAXABLE YEARS BEGINNING AFTER TWO THOUSAND  
10 EIGHT, THE NEW YORK STANDARD DEDUCTION OF A RESIDENT INDIVIDUAL WHO IS  
11 NOT MARRIED NOR THE HEAD OF A HOUSEHOLD NOR A SURVIVING SPOUSE NOR AN  
12 INDIVIDUAL WHOSE FEDERAL EXEMPTION AMOUNT IS ZERO SHALL BE FIFTEEN THOU-  
13 SAND DOLLARS; FOR taxable years beginning after nineteen hundred nine-  
14 ty-six AND BEFORE TWO THOUSAND NINE, the New York standard deduction of  
15 a resident individual who is not married nor the head of a household nor  
16 a surviving spouse nor an individual whose federal exemption amount is  
17 zero shall be seven thousand five hundred dollars; for taxable years  
18 beginning in nineteen hundred ninety-six, such standard deduction shall  
19 be seven thousand four hundred dollars; for taxable years beginning in  
20 nineteen hundred ninety-five, such standard deduction shall be six thou-  
21 sand six hundred dollars; and for taxable years beginning after nineteen  
22 hundred eighty-nine and before nineteen hundred ninety-five, such stand-  
23 ard deduction shall be six thousand dollars.

24 (b) Husband and wife filing jointly and surviving spouse. For TAXABLE  
25 YEARS BEGINNING AFTER TWO THOUSAND EIGHT, THE NEW YORK STANDARD  
26 DEDUCTION OF A HUSBAND AND WIFE WHOSE NEW YORK TAXABLE INCOME IS DETER-  
27 MINED JOINTLY OR A SURVIVING SPOUSE SHALL BE THIRTY THOUSAND DOLLARS;  
28 FOR taxable years beginning after two thousand five AND BEFORE TWO THOU-  
29 SAND NINE, the New York standard deduction of a husband and wife whose  
30 New York taxable income is determined jointly or a surviving spouse  
31 shall be fifteen thousand dollars; for taxable years beginning after two  
32 thousand two and before two thousand six, such standard deduction shall  
33 be fourteen thousand six hundred dollars; for taxable years beginning in  
34 two thousand two, such standard deduction shall be fourteen thousand two  
35 hundred dollars; for taxable years beginning in two thousand one, such  
36 standard deduction shall be thirteen thousand four hundred dollars; for  
37 taxable years beginning after nineteen hundred ninety-six and before two  
38 thousand one, such standard deduction shall be thirteen thousand  
39 dollars; for taxable years beginning in nineteen hundred ninety-six,  
40 such standard deduction shall be twelve thousand three hundred fifty  
41 dollars; for taxable years beginning in nineteen hundred ninety-five,  
42 such standard deduction shall be ten thousand eight hundred dollars; and  
43 for taxable years beginning after nineteen hundred eighty-nine and  
44 before nineteen hundred ninety-five, such standard deduction shall be  
45 nine thousand five hundred dollars.

46 (c) Head of household. For TAXABLE YEARS BEGINNING AFTER TWO THOUSAND  
47 EIGHT, THE NEW YORK STANDARD DEDUCTION OF AN INDIVIDUAL WHO IS A HEAD OF  
48 HOUSEHOLD SHALL BE TWENTY-ONE THOUSAND DOLLARS; FOR taxable years begin-  
49 ning after nineteen hundred ninety-six AND BEFORE TWO THOUSAND NINE, the  
50 New York standard deduction of an individual who is a head of household  
51 shall be ten thousand five hundred dollars; for taxable years beginning  
52 in nineteen hundred ninety-six, such standard deduction shall be ten  
53 thousand dollars; for taxable years beginning in nineteen hundred nine-  
54 ty-five, such standard deduction shall be eight thousand one hundred  
55 fifty dollars; and for taxable years beginning after nineteen hundred

1 eighty-nine and before nineteen hundred ninety-five, such standard  
2 deduction shall be seven thousand dollars.

3 (d) Married individuals filing separately. For TAXABLE YEARS BEGINNING  
4 AFTER TWO THOUSAND EIGHT, THE NEW YORK STANDARD DEDUCTION OF A MARRIED  
5 INDIVIDUAL FILING A SEPARATE RETURN SHALL BE FIFTEEN THOUSAND DOLLARS;  
6 FOR taxable years beginning after two thousand five AND BEFORE TWO THOU-  
7 SAND NINE, the New York standard deduction of a married individual  
8 filing a separate return shall be seven thousand five hundred dollars;  
9 for taxable years beginning after nineteen hundred ninety-six and before  
10 two thousand six, such standard deduction shall be six thousand five  
11 hundred dollars; for taxable years beginning in nineteen hundred nine-  
12 ty-six, such standard deduction shall be six thousand one hundred seven-  
13 ty-five dollars; for taxable years beginning in nineteen hundred nine-  
14 ty-five, such standard deduction shall be five thousand four hundred  
15 dollars; and for taxable years beginning after nineteen hundred eighty-  
16 nine and before nineteen hundred ninety-five, such standard deduction  
17 shall be four thousand seven hundred fifty dollars.

18 (e) Standard deduction of a dependent individual. For TAXABLE YEARS  
19 BEGINNING AFTER TWO THOUSAND EIGHT, THE NEW YORK STANDARD DEDUCTION OF A  
20 RESIDENT INDIVIDUAL WHOSE FEDERAL EXEMPTION AMOUNT IS ZERO SHALL BE SIX  
21 THOUSAND DOLLARS; FOR taxable years beginning after nineteen hundred  
22 ninety-six AND BEFORE TWO THOUSAND NINE, the New York standard deduction  
23 of a resident individual whose federal exemption amount is zero shall be  
24 three thousand dollars; for taxable years beginning in nineteen hundred  
25 ninety-six, such standard deduction shall be two thousand nine hundred  
26 dollars; and for taxable years beginning after nineteen hundred eighty-  
27 nine and before nineteen hundred ninety-six, such standard deduction  
28 shall be two thousand eight hundred dollars.

29 S 10. 1. The department of taxation and finance shall calculate the  
30 anticipated amount of refund, if any, that may be due to any taxpayer  
31 for the first taxable year that commences after December 31, 2008. This  
32 calculation shall be performed only for those taxpayers who elected to  
33 take the standard deduction in 2008, or for any taxpayer whose itemized  
34 deductions in 2008, when totaled, are less than the standard deduction  
35 amount allowed for taxable year 2009 pursuant to section six hundred  
36 fourteen of the tax law, as amended by section nine of this act.

37 2. When making the calculation required pursuant to subdivision 1 of  
38 this section, the department of taxation and finance shall use the  
39 taxpayer's financial information from the taxable year immediately  
40 preceding January 1, 2009.

41 3. If the department determines that a taxpayer may be entitled to an  
42 income tax refund, the department shall send the taxpayer an amount  
43 equal to that anticipated refund. The department shall make such  
44 payments in the form of an electronic benefit transfer card or debit  
45 card. Any refund provided to a taxpayer shall be valid until and includ-  
46 ing December 31, 2009. Any money not used by a taxpayer prior to January  
47 1, 2010 shall revert to and become the property of the state.

48 4. The department of taxation and finance shall have sole discretion  
49 to establish the policies and procedures relating to the distribution  
50 and use of moneys pursuant to this act, provided that such policies and  
51 procedures are consistent with the provisions of this section. Further-  
52 more, any policy or procedure must ensure that all moneys are distrib-  
53 uted to taxpayers prior to July 1, 2009.

54 S 11. This act shall take effect immediately.