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

540

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. ALESI -- 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 the personal income tax table benefit recapture; to repeal subsection (d) of section 601 of such law relating to personal income tax; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. The opening paragraph 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, is amended to read as follows:

For taxable years beginning after nineteen hundred ninety AND BEFORE TWO THOUSAND NINE, there is hereby imposed a supplemental tax in addition to the tax imposed under subsections (a), (b) and (c) of this section for the purpose of recapturing the benefit of the tax tables contained in such subsections or section six hundred ninety-nine of this article, as the case may be. The supplemental tax shall be an amount equal to the sum of the tax table benefits in paragraphs one, two and three of this subsection multiplied by their respective fractions in such paragraphs provided, however, that paragraph two of this subsection shall not apply to taxpayers that are not subject to the second highest rate of tax.

S 2. Section 601 of the tax law is amended by adding three new subsections (d-1), (d-2) and (d-3) to read as follows:

(D-1) TAX TABLE BENEFIT RECAPTURE. FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN AND BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTIONS (A), (B) AND (C) OF THIS SECTION FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED

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

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IN SUCH SUBSECTIONS OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE. PROVIDED, HOWEVER, THIS SUBSECTION SHALL NOT APPLY TO TAXPAYERS WHO ARE SMALL BUSINESSES AS DEFINED IN SECTION ONE HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW AND WHOSE GROSS RECEIPTS OR SALES FROM THEIR TRADE OR BUSINESS ARE GREATER THAN TEN THOUSAND DOLLARS. THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE TAX TABLE BENEFIT MULTIPLIED BY A FRACTION.

(1) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS AND RESIDENT SURVIVING SPOUSES. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (A) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, 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) OF THIS SECTION OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

(B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THE INCOME THRESHOLD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE INCOME THRESHOLD IS EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS. THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THE FRACTION SHALL NOT BE GREATER THAN ONE.

(2) RESIDENT HEADS OF HOUSEHOLDS. (A) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN SUBSECTION (B) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINE-TY-NINE OF THIS ARTICLE, 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 (B) OF THIS SECTION OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

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(3) 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 (C) OF THIS SECTION, OR IN SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, 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 (C) OF THIS SECTION OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE.

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(D-2) TAX TABLE BENEFIT RECAPTURE. FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN AND BEFORE JANUARY FIRST, TWO THOUSAND TWELVE, THERE IS HEREBY IMPOSED A SUPPLEMENTAL TAX IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTIONS (A), (B) AND (C) OF THIS SECTION

FOR THE PURPOSE OF RECAPTURING THE BENEFIT OF THE TAX TABLES CONTAINED IN SUCH SUBSECTIONS OR SECTION SIX HUNDRED NINETY-NINE OF THIS ARTICLE, AS THE CASE MAY BE. THE SUPPLEMENTAL TAX SHALL BE AN AMOUNT EQUAL TO THE TAX TABLE BENEFIT MULTIPLIED BY A FRACTION.

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S 3. Subsection (d) of section 601 of the tax law is REPEALED.

S 4. This act shall take effect immediately and shall apply to taxable years starting on or after January 1, 2010; provided, however that section two of this act shall expire and be deemed repealed January 1, 2013 and section three of this act shall take effect January 1, 2013.