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

2654

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

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:

Section 1. 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 2. 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 7.25% OF EXCESS OVER $250,000
OVER $500,000 BUT NOT OVER $1,000,000	$34,456 PLUS 7.7% OF EXCESS OVER $500,000
OVER $1,000,000 BUT NOT OVER $3,000,000	$72,956 PLUS 8.97% OF EXCESS OVER $1,000,000
OVER $3,000,000	$252,356 PLUS 10.3% OF EXCESS OVER $3,000,000

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

LBD09537-03-9

(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 3. 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 4. 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 7.25% OF EXCESS OVER $250,000
OVER $500,000 BUT NOT OVER $1,000,000	$34,687 PLUS 7.7% OF EXCESS OVER $1,000,000
OVER $1,000,000 BUT NOT OVER $3,000,000	$73,187 PLUS 8.97% OF EXCESS OVER $1,000,000
OVER $3,000,000	$252,587 PLUS 10.30% OF EXCESS OVER $3,000,000

(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 5. 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 6. 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 7.25% OF EXCESS OVER $250,000
OVER $500,000 BUT NOT OVER $1,000,000	$34,853 PLUS 7.7% OF EXCESS OVER $500,000
OVER $1,000,000 BUT NOT OVER $3,000,000	$73,353 PLUS 8.97% OF EXCESS OVER $1,000,000
OVER $3,000,000	$252,753 PLUS 10.30% OF EXCESS OVER $3,000,000

(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 7. Paragraph 1 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:

(1) Resident married individuals filing joint returns, resident 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, or in section six hundred ninety-nine, as the case may be, not subject to the 6.85 percent rate of tax for the taxable year multiplied by such rate and (ii) the 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, or section six hundred ninety-nine, as the case may be.

(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.

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

(4) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, RESIDENT 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 7.25 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE 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.

(5) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, RESIDENT 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 7.7 PERCENT RATE OF TAX FOR THE TAXABLE YEAR MULTIPLIED BY SUCH RATE AND (II) THE 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 SUM OF THE TAX TABLE BENEFITS IN PARAGRAPHS ONE AND FOUR 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.

(6) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS, RESIDENT 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 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 SUM OF THE TAX TABLE BENEFITS IN PARAGRAPHS ONE, FOUR, AND FIVE OF THIS SUBSECTION.

(B) THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OF 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 APPLY TO TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT.

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

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

(b) Husband and wife filing jointly and surviving spouse. For TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT, THE NEW YORK STANDARD DEDUCTION OF A HUSBAND AND WIFE WHOSE NEW YORK TAXABLE INCOME IS DETERMINED JOINTLY OR A SURVIVING SPOUSE SHALL BE THIRTY THOUSAND DOLLARS; FOR taxable years beginning after two thousand five AND BEFORE TWO THOUSAND NINE, the New York standard deduction of a husband and wife whose New York taxable income is determined jointly or a surviving spouse shall be fifteen thousand dollars; for taxable years beginning after two thousand two and before two thousand six, such standard deduction shall be fourteen thousand six hundred dollars; for taxable years beginning in two thousand two, such standard deduction shall be fourteen thousand two hundred dollars; for taxable years beginning in two thousand one, such standard deduction shall be thirteen thousand four hundred dollars; for taxable years beginning after nineteen hundred ninety-six and before two thousand one, such standard deduction shall be thirteen thousand dollars; for taxable years beginning in nineteen hundred ninety-six, such standard deduction shall be twelve thousand three hundred fifty dollars; for taxable years beginning in nineteen hundred ninety-five, such standard deduction shall be ten thousand eight hundred dollars; and for taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five, such standard deduction shall be nine thousand five hundred dollars.

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

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

(d) Married individuals filing separately. For TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT, THE NEW YORK STANDARD DEDUCTION OF A MARRIED INDIVIDUAL FILING A SEPARATE RETURN SHALL BE FIFTEEN THOUSAND DOLLARS; FOR taxable years beginning after two thousand five AND BEFORE TWO THOUSAND NINE, the New York standard deduction of a married individual filing a separate return shall be seven thousand five hundred dollars; for taxable years beginning after nineteen hundred ninety-six and before two thousand six, such standard deduction shall be six thousand five hundred dollars; for taxable years beginning in nineteen hundred ninety-six, such standard deduction shall be six thousand one hundred seventy-five dollars; for taxable years beginning in nineteen hundred ninety-five, such standard deduction shall be five thousand four hundred dollars; and for taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five, such standard deduction shall be four thousand seven hundred fifty dollars.

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

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

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

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

4. The department of taxation and finance shall have sole discretion to establish the policies and procedures relating to the distribution and use of moneys pursuant to this act, provided that such policies and procedures are consistent with the provisions of this section. Furthermore, any policy or procedure must ensure that all moneys are distributed to taxpayers prior to July 1, 2009.

S 11. This act shall take effect immediately.