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

5277

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. AVELLA -- 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 increases on income tax rates on incomes over one million dollars

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

Section 1. Subsections (a), (b), and (c) of section 601 of the tax law, as amended by section 1 of part Z-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(a) Resident married individuals filing joint returns and resident surviving spouses. There is hereby imposed for each taxable year on the New York taxable income of every resident married individual who makes a single return jointly with his spouse under subsection (b) of section six hundred fifty-one and on the New York taxable income of every resident surviving spouse a tax determined in accordance with the following tables:

(1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND THIRTEEN:

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 $1,000,000	$1,946 PLUS 6.85% OF EXCESS OVER

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

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	$40,000
OVER $1,000,000	$67,706 PLUS 8.97% OF EXCESS OVER $1,000,000

(2) For taxable years beginning after two thousand eight and before two thousand twelve:

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 $300,000	$1,946 plus 6.85% of excess over $40,000
Over $300,000 but not over $500,000	$19,756 plus 7.85% of excess over $300,000
Over $500,000	$35,456 plus 8.97% of excess over $500,000

[(2)] (3) For taxable years beginning after two thousand five and before two thousand nine and after two thousand [eleven] TWELVE:

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

[(3)] (4) For taxable years beginning in two thousand five:

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 $150,000	$1,946 plus 6.85% of excess over $40,000
Over $150,000 but not over $500,000	$9,481 plus 7.25% of excess over $150,000
Over $500,000	$34,856 plus 7.7% of excess over $500,000

[(4)] (5) For taxable years beginning in two thousand four:

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 $150,000	$1,946 plus 6.85% of excess over $40,000
Over $150,000 but not over $500,000	$9,481 plus 7.375% of excess over $150,000
Over $500,000	$35,294 plus 7.7% of excess over $500,000

[(5)] (6) For taxable years beginning in two thousand three:

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 $150,000	$1,946 plus 6.85% of excess over $40,000
Over $150,000 but not over $500,000	$9,481 plus 7.5% of excess over $150,000
Over $500,000	$35,731 plus 7.7% of excess over $500,000

[(6)] (7) For taxable years beginning after nineteen hundred ninety-six and before two thousand three:

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

[(7)] (8) For taxable years beginning in nineteen hundred ninety-six:

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 $16,000	$440 plus 5% of excess over $11,000
Over $16,000 but not over $22,000	$690 plus 6% of excess over $16,000
Over $22,000	$1,050 plus 7% of excess over $22,000

[(8)] (9) For taxable years beginning in nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $13,000	4.55% of the New York taxable income
Over $13,000 but not over $19,000	$592 plus 5.55% of excess over $13,000
Over $19,000 but not over $25,000	$925 plus 6.55% of excess over $19,000
Over $25,000	$1,318 plus 7.5% of excess over $25,000

[(9)] (10) For taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five:

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 $16,000	$440 plus 5% of excess over $11,000
Over $16,000 but not over $22,000	$690 plus 6% of excess over $16,000
Over $22,000 but not over $26,000	$1,050 plus 7% of excess over $22,000
Over $26,000	$1,330 plus 7.875% of excess over $26,000

(b) Resident heads of households. There is hereby imposed for each taxable year on the New York taxable income of every resident head of a household a tax determined in accordance with the following tables:

(1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND THIRTEEN:

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 $1,000,000	$1,492 PLUS 6.85% OF EXCESS OVER $30,000
OVER $1,000,000	$67,937 PLUS 8.97% OF EXCESS OVER $1,000,000

(2) For taxable years beginning after two thousand eight and before two thousand twelve:

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 7.85% of excess over $250,000
Over $500,000	$36,187 plus 8.97% of excess over $500,000

[(2)] (3) For taxable years beginning after two thousand five and before two thousand nine and after two thousand [eleven] TWELVE:

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

[(3)] (4) For taxable years beginning in two thousand five:

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 $125,000	$1,492 plus 6.85% of excess over $30,000
Over $125,000 but not over $500,000	$8,000 plus 7.25% of excess over $125,000
Over $500,000	$35,187 plus 7.7% of excess over $500,000

[(4)] (5) For taxable years beginning in two thousand four:

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 $125,000	$1,492 plus 6.85% of excess over $30,000
Over $125,000 but not over $500,000	$8,000 plus 7.375% of excess over $125,000
Over $500,000	$35,656 plus 7.7% of excess over $500,000

[(5)] (6) For taxable years beginning in two thousand three:

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 $125,000	$1,492 plus 6.85% of excess over $30,000
Over $125,000 but not over $500,000	$8,000 plus 7.5% of excess over $125,000
Over $500,000	$36,125 plus 7.7% of excess over $500,000

[(6)] (7) For taxable years beginning after nineteen hundred ninety-six and before two thousand three:

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

[(7)] (8) For taxable years beginning in nineteen hundred ninety-six:

If the New York taxable income is:	The tax is:
Not over $7,500	4% of the New York taxable income
Over $7,500 but not over $11,000	$300 plus 5% of excess over $7,500
Over $11,000 but not over $15,000	$475 plus 6% of excess over $11,000
Over $15,000	$ 715 plus 7% of excess over $15,000

[(8)] (9) For taxable years beginning in nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $9,000	4.55% of the New York taxable income
Over $9,000 but not over $14,000	$410 plus 5.55% of excess over $9,000
Over $14,000 but not over $19,000	$687 plus 6.55% of excess over $14,000
Over $19,000	$1,015 plus 7.5% of excess over $19,000

[(9)] (10) For taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $7,500	4% of the New York taxable income
Over $7,500 but not over $11,000	$300 plus 5% of excess over $7,500
Over $11,000 but not over $15,000	$475 plus 6% of excess over $11,000
Over $15,000 but not over $17,000	$715 plus 7% of excess over $15,000
Over $17,000	$855 plus 7.875% of excess over $17,000

(c) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. There is hereby imposed for each taxable year on the New York taxable income of every resident individual who is not a married individual who makes a single return jointly with his spouse under subsection (b) of section six hundred fifty-one or a resident head of a household or a resident surviving spouse, and on the New York taxable income of every resident estate and trust a tax determined in accordance with the following tables:

(1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND THIRTEEN:

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 $1,000,000	$973 PLUS 6.85% OF EXCESS OVER $20,000
OVER $1,000,000	$68,103 PLUS 8.97% OF EXCESS OVER $1,000,000

(2) For taxable years beginning after two thousand eight and before two thousand twelve:

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 $200,000	$973 plus 6.85% of excess over $20,000
Over $200,000 but not over $500,000	$13,303 plus 7.85% of excess over $200,000
Over $500,000	$36,853 plus 8.97% of excess over $500,000

[(2)] (3) For taxable years beginning after two thousand five and before two thousand nine and after two thousand [eleven] TWELVE:

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

[(3)] (4) For taxable years beginning in two thousand five:

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 $100,000	$973 plus 6.85% of excess over $20,000
Over $100,000 but not over $500,000	$6,453 plus 7.25% of excess over $100,000
Over $500,000	$35,453 plus 7.7% of excess over $500,000

[(4)] (5) For taxable years beginning in two thousand four:

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 $100,000	$973 plus 6.85% of excess over $20,000
Over $100,000 but not over $500,000	$6,453 plus 7.375% of excess over $100,000
Over $500,000	$35,953 plus 7.7% of excess over $500,000

[(5)] (6) For taxable years beginning in two thousand three:

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 $100,000	$973 plus 6.85% of excess over $20,000
Over $100,000 but not over $500,000	$6,453 plus 7.5% of excess over $100,000
Over $500,000	$36,453 plus 7.7% of excess over $500,000

[(6)] (7) For taxable years beginning after nineteen hundred ninety-six and before two thousand three:

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

[(7)] (8) For taxable years beginning in nineteen hundred ninety-six:

If the New York taxable income is:	The tax is:
Not over $5,500	4% of the New York taxable income
Over $5,500 but not over $8,000	$220 plus 5% of excess over $5,500
Over $8,000 but not over $11,000	$345 plus 6% of excess over $8,000
Over $11,000	$525 plus 7% of excess over $11,000

[(8)] (9) For taxable years beginning in nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $6,500	4.55% of the New York taxable income
Over $6,500 but not over $9,500	$296 plus 5.55% of excess over $6,500
Over $9,500 but not over $12,500	$462 plus 6.55% of excess over $9,500
Over $12,500	$659 plus 7.5% of excess over $12,500

[(9)] (10) For taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $5,500	4% of the New York taxable income
Over $5,500 but not over $8,000	$220 plus 5% of excess over $5,500
Over $8,000 but not over $11,000	$345 plus 6% of excess over $8,000
Over $11,000 but not over $13,000	$525 plus 7% of excess over $11,000
Over $13,000	$665 plus 7.875% of excess over $13,000

S 2. Subparagraph (B) of paragraph 3 of subsection (d) of section 601 of the tax law, as amended by section 3 of part Z-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(B) For such taxpayers with adjusted gross income over five hundred thousand dollars, for taxable years beginning after two thousand eight and before two thousand twelve, 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. FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND ELEVEN AND BEFORE TWO THOUSAND THIRTEEN, 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 MILLION DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. 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.

S 3. Clause (ii) of subparagraph (B) of paragraph 3 of subsection (c) of section 685 of the tax law is amended by adding a new undesignated paragraph to read as follows:

FURTHER PROVIDED THAT THE TAX SHOWN ON SUCH RETURN FOR TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN SHALL BE CALCULATED AS IF SUCH YEAR BEGAN IN TWO THOUSAND TWELVE.

S 4. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by regulations of the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2012 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Provided, however, for tax year 2012 the withholding tables shall reflect as accurately as practicable the full amount of tax year 2012 liability so that such amount is withheld by December 31, 2012. Any such regulations to implement a change in withholding tables and methods for tax year 2012 shall be adopted and effective as soon as practicable and the commissioner of taxation and finance may adopt such regulations on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act. In carrying out his or her duties and responsibilities under this section, the commissioner of taxation and finance may accompany such a rule making procedure with a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursuant to the authority of articles 30, 30-A and 30-B of the tax law, the provisions of any other law in relation to such a procedure to the contrary notwithstanding.

S 5. The commissioner of taxation and finance shall take steps to publicize the necessary adjustments to estimated tax and, to the extent reasonably possible, to inform the taxpayer of the tax liability changes made by this act.

S 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2012.