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

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I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sen. GALLIVAN -- 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 placing a limit upon the personal income tax by the state of New York

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

Section 1. The tax law is amended by adding a new section 608 to read as follows:

S 608. LIMIT UPON THE PERSONAL INCOME TAX LEVY BY THE STATE OF NEW YORK.

1. UNLESS OTHERWISE PROVIDED BY LAW, THE AMOUNT OF PERSONAL INCOME TAXES THAT MAY BE LEVIED BY OR ON BEHALF OF THE STATE OF NEW YORK SHALL NOT EXCEED THE TAX LEVY LIMIT ESTABLISHED PURSUANT TO THIS SECTION.

2. WHEN USED IN THIS SECTION:

(A) "ALLOWABLE LEVY GROWTH FACTOR" FOR ALL FISCAL YEARS THAT BEGIN AFTER TWO THOUSAND TWELVE SHALL BE THE HIGHER OF: (I) ONE AND TWO ONE-HUNDREDTHS; OR (II) THE SUM OF NINETY-NINE ONE-HUNDREDTHS PLUS THE INFLATION FACTOR.

(B) "AVAILABLE CARRYOVER" MEANS THE AMOUNT BY WHICH THE TAX LEVY FOR THE PRIOR FISCAL YEAR WAS BELOW THE TAX LEVY LIMIT FOR SUCH FISCAL YEAR, IF ANY, BUT NO MORE THAN AN AMOUNT THAT EQUALS ONE AND ONE-HALF PERCENT OF THE TAX LEVY LIMIT FOR SUCH FISCAL YEAR.

(C) "COMING FISCAL YEAR" MEANS THE FISCAL YEAR OF THE STATE GOVERNMENT FOR WHICH A TAX LEVY LIMIT SHALL BE DETERMINED PURSUANT TO THIS SECTION.

(D) "INFLATION FACTOR" MEANS THE QUOTIENT OF: (I) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE COMING FISCAL YEAR MINUS THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, DIVIDED BY: (II) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF

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

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LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, WITH THE RESULT EXPRESSED AS A DECIMAL TO FOUR PLACES.

(E) "PRIOR FISCAL YEAR" MEANS THE FISCAL YEAR OF THE STATE IMMEDIATELY PRECEDING THE COMING FISCAL YEAR.

(F) "TAX LEVY LIMIT" MEANS THE AMOUNT OF TAXES AUTHORIZED TO BE LEVIED BY OR ON BEHALF OF THE STATE PURSUANT TO THIS SECTION FOR FISCAL YEARS BEGINNING AFTER TWO THOUSAND TWELVE.

(G) "TAX" OR "TAXES" MEANS PERSONAL INCOME TAXES LEVIED BY OR ON BEHALF OF THE STATE.

3. (A) SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION, BEGINNING WITH THE FISCAL YEAR THAT BEGINS AFTER TWO THOUSAND TWELVE, THE STATE SHALL NOT ADOPT A BUDGET THAT REQUIRES A TAX LEVY THAT IS GREATER THAN THE TAX LEVY LIMIT FOR THE COMING FISCAL YEAR.

(B) THE STATE SHALL CALCULATE THE TAX LEVY LIMIT APPLICABLE TO THE COMING FISCAL YEAR WHICH SHALL BE DETERMINED AS FOLLOWS:

(I) ASCERTAIN THE TOTAL AMOUNT OF TAXES LEVIED FOR THE PRIOR FISCAL YEAR.

(II) MULTIPLY THE RESULT BY THE ALLOWABLE LEVY GROWTH FACTOR.

(III) ADD THE AVAILABLE CARRYOVER, IF ANY.

4. IN THE EVENT THE STATE'S ACTUAL TAX LEVY FOR A GIVEN FISCAL YEAR EXCEEDS THE TAX LEVY LIMIT BY MORE THAN ONE PERCENT OF THE TAX LEVY LIMIT, THE STATE SHALL REBATE THE TOTAL AMOUNT THAT THE ACTUAL TAX LEVY EXCEEDS THE TAX LEVY LIMIT SO THAT EACH INDIVIDUAL FILER RECEIVES A REBATE OF EQUAL AMOUNT ROUNDED DOWN TO THE NEAREST CENT, PROVIDED THAT NO INDIVIDUAL SHALL RECEIVE A REBATE OF A GREATER AMOUNT THAN THE INCOME TAXES PAID DURING THE SAME FISCAL YEAR. THESE REBATES SHALL BE MAILED IN THE FORM OF CHECKS PAYABLE TO THE FILING INDIVIDUAL NO LATER THAN THE FIRST OF SEPTEMBER FOLLOWING THE END OF EACH FISCAL YEAR.

5. IN THE EVENT THE STATE'S ACTUAL TAX LEVY FOR A GIVEN FISCAL YEAR EXCEEDS THE TAX LEVY LIMIT AS ESTABLISHED PURSUANT TO THIS SECTION BY LESS THAN ONE PERCENT OF THE TAX LEVY LIMIT, THE STATE SHALL PLACE THE EXCESS AMOUNT OF THE LEVY IN RESERVE IN ACCORDANCE WITH SUCH REQUIREMENTS AS THE STATE COMPTROLLER MAY PRESCRIBE, AND SHALL USE SUCH FUNDS AND ANY INTEREST EARNED THEREON TO OFFSET THE TAX LEVY FOR THE ENSUING FISCAL YEAR.

S 2. This act shall take effect immediately.