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

7616

2013-2014 Regular Sessions

I N A S S E M B L Y

May 28, 2013

Introduced by M. of A. STECK -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and section 11 of part A of chapter 56 of the laws of 2011 relating to personal income rate and benefit recapture, in relation to personal income tax rates; and to repeal subsection (d-2) of section 601 of the tax law relating thereto

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

Section 1. Paragraph 1 of subsection (a) of section 601 of the tax law, as amended by section 1 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(1) (A) For taxable years beginning after two thousand eleven and before two thousand [eighteen] FOURTEEN:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of 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 5.90% of excess over $26,000
Over $40,000 but not over $150,000	$1,946 plus 6.45% of excess over $40,000
Over $150,000 but not over $300,000	$9,041 plus 6.65% of excess over $150,000
Over $300,000 but not over $2,000,000	$19,016 plus 6.85% of excess over $300,000
Over $2,000,000	$135,466 plus 8.82% of excess over $2,000,000

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

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(B) For taxable years beginning after two thousand [seventeen] THIRTEEN, the following brackets and dollar amounts shall apply, as adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part [for tax years two thousand thirteen through two thousand seventeen]:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of 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 5.90% of excess over $26,000
Over $40,000 BUT NOT OVER $150,000	$1,946 plus [6.85%] 6.45% of excess over $40,000
OVER $150,000 BUT NOT OVER $300,000	$9,041 PLUS 6.65% OF EXCESS OVER $150,000
OVER $300,000 BUT NOT OVER $1,000,000	$19,016 PLUS 6.85% OF EXCESS OVER $300,000
OVER $1,000,000 BUT NOT OVER $2,000,000	$66,966 PLUS 7.85% OF EXCESS OVER $1,000,000
OVER $2,000,000	$145,466 PLUS 8.82% OF EXCESS OVER $2,000,000

S 2. Paragraph 1 of subsection (b) of section 601 of the tax law, as amended by section 2 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(1) (A) For taxable years beginning after two thousand eleven and before two thousand [eighteen] FOURTEEN:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of 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 5.90% of excess over $26,000
Over $40,000 but not over $150,000	$1,946 plus 6.45% of excess over $40,000
Over $150,000 but not over $300,000	$9,041 plus 6.65% of excess over $150,000
Over $300,000 but not over $2,000,000	$19,016 plus 6.85% of excess over $300,000
Over $2,000,000	$135,466 plus 8.82% of excess over $2,000,000

(B) For taxable years beginning after two thousand [seventeen] THIRTEEN, the following brackets and dollars amounts shall apply, as adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part [for tax years two thousand thirteen through two thousand seventeen]:

If the New York taxable income is:	The tax is:
Not over $12,000	4% of taxable income
Over $12,000 but not over $16,500	$480 plus 4.5% of excess over $12,000
Over $16,500 but not over $19,500	$683 plus 5.25% of excess over $16,500
Over $19,500 but not over $30,000	$840 plus 5.90% of excess over $19,500
Over $30,000 BUT NOT OVER $100,000	$1,460 plus [6.85%] 6.45% of excess over $30,000
OVER $100,000 BUT NOT OVER $250,000	$5,975 PLUS 6.65% OF EXCESS OVER $100,000
OVER $250,000 BUT NOT OVER $750,000	$15,950 PLUS 6.85% OF EXCESS OVER $250,000
OVER $750,000 BUT NOT OVER $1,500,000	$50,200 PLUS 7.85% OF EXCESS OVER $750,000
OVER $1,500,000	$109,075 PLUS 8.82% OF EXCESS OVER $1,500,000

S 3. Paragraph 1 of subsection (c) of section 601 of the tax law, as amended by section 3 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(1) (A) For taxable years beginning after two thousand eleven and before two thousand [eighteen] FOURTEEN:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of 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 5.90% of excess over $13,000
Over $20,000 but not over $75,000	$973 plus 6.45% of excess over $20,000
Over $75,000 but not over $200,000	$4,521 plus 6.65% of excess over $75,000
Over $200,000 but not over $1,000,000	$12,833 plus 6.85% of excess over $200,000
Over $1,000,000	$67,633 plus 8.82% of excess over $1,000,000

(B) For taxable years beginning after two thousand [seventeen] THIRTEEN, the following brackets and dollars amounts shall apply, as adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part [for tax years two thousand thirteen through two thousand seventeen]:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of 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 5.90% of excess over

	$13,000
Over $20,000 BUT NOT OVER $75,000	$973 plus [6.85%] 6.45% of excess over $20,000
OVER $75,000 BUT NOT OVER $200,000	$4,521 PLUS 6.65% OF EXCESS OVER $75,000
OVER $200,000 BUT NOT OVER $500,000	$12,833 PLUS 6.85% OF EXCESS OVER $200,000
OVER $500,000 BUT NOT OVER $1,000,000	$33,383 PLUS 7.85% OF EXCESS OVER $500,000
OVER $1,000,000	$72,633 PLUS 8.82% OF EXCESS OVER $1,000,000

S 4. Subsection (d-1) of section 601 of the tax law, as added by section 7 of part A of chapter 56 of the laws of 2011, the opening paragraph as amended by section 4, subparagraph (D) of paragraph 1 as amended by section 5, subparagraph (C) of paragraph 2 as amended by section 6 and subparagraph (C) of paragraph 3 as amended by section 7 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(d-1) Alternative tax table benefit recapture. Notwithstanding the provisions of subsection (d) of this section, for taxable years beginning after two thousand eleven [and before two thousand eighteen], 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; PROVIDED, HOWEVER, THAT THE SUPPLEMENTAL TAX RELATED TO THE 7.85 PERCENT TAX RATE SHALL ONLY APPLY FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND THIRTEEN. During these taxable years, any reference in this chapter to subsection (d) of this section shall be read as a reference to this subsection.

(1) For resident married individuals filing joint returns and resident surviving spouses, the supplemental tax shall be an amount equal to the sum of the tax table benefits described in subparagraphs (A), (B), (C) [and], (D) AND (E) of this paragraph multiplied by their respective fractions in such subparagraphs.

(A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 6.45 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 paragraph one of subsection (a) of this section. The fraction for this subparagraph 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 thousand dollars and the denominator is fifty thousand dollars.

(B) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 6.65 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 paragraph one of subsection (a) of this section less the tax table benefit in subparagraph (A) of this paragraph. The fraction for this subparagraph 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. Provided, howev-

er, this subparagraph shall not apply to taxpayers who are not subject to the 6.65 percent tax rate.

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section 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 paragraph one of subsection (a) of this section less the sum of the tax table benefit in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph 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 three hundred thousand dollars and the denominator is fifty thousand dollars. Provided, however, this subparagraph shall not apply to taxpayers who are not subject to the 6.85 percent tax rate.

(D) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION NOT SUBJECT TO THE 7.85 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 PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION LESS THE SUM OF THE TAX TABLE BENEFIT IN SUBPARAGRAPHS (A), (B) AND (C) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH 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, THIS SUBPARAGRAPH SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE 7.85 PERCENT TAX RATE.

(E) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 8.82 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 paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) [and], (C) AND (D) of this paragraph. The fraction for this subparagraph 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 million dollars and the denominator is fifty thousand dollars. [This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand eighteen.

(E)] (F) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (a) of this section multiplied by the taxpayer's taxable income.

(2) For resident heads of households, the supplemental tax shall be an amount equal to the sum of the tax table benefits described in subparagraphs (A), (B) [and], (C) AND (D) of this paragraph multiplied by their respective fractions in such subparagraphs.

(A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 6.65 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 paragraph one of subsection (b) of this section.

The fraction for this subparagraph 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 thousand dollars and the denominator is fifty thousand dollars.

(B) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section 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 paragraph one of subsection (b) of this section less the tax table benefit in subparagraph (A) of this paragraph. The fraction for this subparagraph 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. Provided, however, this subparagraph shall not apply to taxpayers who are not subject to the 6.85 percent tax rate.

(C) THE TABLE TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION NOT SUBJECT TO THE 7.85 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 PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION LESS THE SUM OF THE TAX TABLE BENEFITS IN SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH 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 SEVEN HUNDRED FIFTY THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. PROVIDED, HOWEVER, THIS SUBPARAGRAPH SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE 7.85 PERCENT TAX RATE.

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 8.82 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 paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) [and], (B) AND (C) of this paragraph. The fraction for this subparagraph 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 five hundred thousand dollars and the denominator is fifty thousand dollars. [This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand eighteen.

(D)] (E) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (b) of this section multiplied by the taxpayer's taxable income.

(3) For resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts, the supplemental tax shall be an amount equal to the sum of the tax table benefits described in subparagraphs (A), (B) [and], (C) AND (D) of this paragraph multiplied by their respective fractions in such subparagraphs.

(A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (c) of this section not subject to the 6.65 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 paragraph one of subsection (c) of this section. 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 thousand dollars and the denominator is fifty thousand dollars.

(B) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (c) of this section 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 paragraph one of subsection (c) of this section less the tax table benefit in subparagraph (A) of this paragraph. The fraction for this subparagraph 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 thousand dollars and the denominator is fifty thousand dollars. Provided, however, this subparagraph shall not apply to taxpayers who are not subject to the 6.85 percent tax rate.

(C) THE TAX TABLE BENEFIT IS THE DIFFERENCE BETWEEN (I) THE AMOUNT OF TAXABLE INCOME SET FORTH IN THE TAX TABLE IN PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION NOT SUBJECT TO THE 7.85 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 PARAGRAPH ONE OF SUBSECTION (C) OF THIS SECTION LESS THE TAX TABLE BENEFIT IN SUBPARAGRAPH (A) OF THIS PARAGRAPH. THE FRACTION FOR THIS SUBPARAGRAPH 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. PROVIDED, HOWEVER, THIS SUBPARAGRAPH SHALL NOT APPLY TO TAXPAYERS WHO ARE NOT SUBJECT TO THE 7.85 PERCENT TAX RATE.

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 8.82 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 paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) [and], (B) AND (C) of this paragraph. The fraction for this subparagraph 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 five hundred thousand dollars and the denominator is fifty thousand dollars. [This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand eighteen.

(D)] (E) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (c) of this section multiplied by the taxpayer's taxable income.

S 5. Subsection (d-2) of section 601 of the tax law is REPEALED.

S 6. Subsection (a) of section 601-a of the tax law, as amended by section 10 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(a) For tax year two thousand thirteen, the commissioner, not later than September first, two thousand twelve, shall multiply the amounts specified in subsection (b) of this section for tax year two thousand twelve by one plus the cost of living adjustment described in subsection (c) of this section. For tax year two thousand fourteen, the commissioner, not later than September first, two thousand thirteen, shall multiply the amounts specified in subsection (b) of this section for tax year two thousand thirteen by one plus the cost of living adjustment. For each succeeding tax year after tax year two thousand fourteen [and before tax year two thousand eighteen], the commissioner, not later than September first of such tax year, shall multiply the amounts specified in subsection (b) of this section for such tax year by one plus the cost of living adjustment described in subsection (c) of this section for such tax year.

S 7. Subsection (f) of section 614 of the tax law, as amended by section 11 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(f) Adjusted standard deduction. For taxable years beginning after two thousand [seventeen] FOURTEEN, the standard deductions set forth in this section shall be the amounts set forth in this section adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part for tax [years] YEAR two thousand thirteen [through two thousand seventeen].

S 8. Section 11 of part A of chapter 56 of the laws of 2011 relating to personal income rate and benefit recapture as amended by section 12 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

S 11. 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. 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. The commissioner of taxation and finance, in carrying out the duties and responsibilities under this section, 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. The withholding tables and methods for tax [years] YEAR 2013 [through 2017] shall not be prescribed by regulation, notwithstanding any provision of the state administrative procedure act to the contrary.

S 9. This act shall take effect immediately.