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

S. 7667 A. 10139

S E N A T E - A S S E M B L Y

May 12, 2016

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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

AN ACT to amend the tax law, in relation to the business income base rate and certain small business taxpayers

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

Section 1. Short title. This act shall be known and may be cited as the "small business tax reform act".

S 2. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(iv) (A) for taxable years beginning before January first, two thousand sixteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THREE AND ONE-QUARTER PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) SIXTEEN THOUSAND TWO HUNDRED FIFTY DOLLARS, (2) SIX AND

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

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ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS AND (3) THIRTY-TWO AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS;

(C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE TWO AND NINE-TENTHS PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) FOURTEEN THOUSAND FIVE HUNDRED DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS AND (3) THIRTY-SIX PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS;

(D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE TWO AND ONE-HALF PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) TWELVE THOUSAND FIVE DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FIVE HUNDRED THOUSAND DOLLARS BUT NOT OVER SIX HUNDRED THOUSAND DOLLARS AND (3) FORTY PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER FOUR HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER FIVE HUNDRED THOUSAND DOLLARS;

S 3. Paragraph 39 of subsection (c) of section 612 of the tax law, as added by section 1 of part Y of chapter 59 of the laws of 2013, is amended to read as follows:

(39) In the case of a taxpayer who is a small business who has business income and/or farm income as defined in the laws of the United States, an amount equal to three percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning ON OR after JANUARY FIRST, two thousand thirteen[,] BUT BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN; an amount equal to three and three-quarters percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning ON OR after JANUARY FIRST, two thousand fourteen[, and] BUT BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN; an amount equal to five percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning ON OR after JANUARY FIRST, two thousand fifteen BUT BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AN AMOUNT EQUAL TO TEN PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN BUT BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN; AN AMOUNT EQUAL TO FIFTEEN PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN BUT BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN; AND AN AMOUNT EQUAL TO TWENTY PERCENT OF THE NET ITEMS OF INCOME, GAIN, LOSS

AND DEDUCTION ATTRIBUTABLE TO SUCH BUSINESS OR FARM ENTERING INTO FEDERAL ADJUSTED GROSS INCOME, BUT NOT LESS THAN ZERO, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN. PROVIDED THAT SUCH BUSINESS OR FARM INCOME IS LESS THAN OR EQUAL TO FIVE HUNDRED THOUSAND DOLLARS. For the purposes of this paragraph, the term small business shall mean a [sole proprietor] BUSINESS or a farm business who employs one or more persons during the taxable year and who has net business income or net farm income of EQUAL TO OR less than [two hundred fifty] FIVE HUNDRED thousand dollars. FOR THE PURPOSES OF THIS PARAGRAPH, IF THE TAXPAYER IS A MEMBER, PARTNER, OR SHAREHOLDER OF A LIMITED LIABILITY COMPANY, PARTNERSHIP OR S-CORPORATION, THE TAXPAYER WILL ONLY BE ELIGIBLE UNDER THIS PARAGRAPH IF THE NEW YORK SOURCE GROSS INCOME OF THE LIMITED LIABILITY COMPANY, PARTNERSHIP OR S-CORPORATION DOES NOT EXCEED ONE MILLION DOLLARS. NEW YORK SOURCE GROSS INCOME IS THE SUM OF THE MEMBERS, PARTNERS, OR SHAREHOLDERS SHARES OF FEDERAL GROSS INCOME FROM THE LIMITED LIABILITY COMPANY, PARTNERSHIP, OR S-CORPORATION DERIVED FROM OR CONNECTED WITH NEW YORK SOURCES, DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED THIRTY-ONE OF THIS ARTICLE AS IF THOSE PROVISIONS AND ANY RELATED PROVISIONS EXPRESSLY REFERRED TO A COMPUTATION OF FEDERAL GROSS INCOME FROM NEW YORK SOURCES.

S 4. This act shall take effect immediately.