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

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2015-2016 Regular Sessions

I N  A S S E M B L Y

February 13, 2015

Introduced by M. of A. KOLB, TEDISCO, BUTLER, OAKS, CORWIN, MONTESANO -- Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, DUPREY, FINCH, FITZPATRICK, GIGLIO, HAWLEY, LOPEZ, McDONOUGH, McKEVITT, RAIA, SALADINO, TENNEY, THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to eliminating the corporate franchise and personal income tax on manufacturers

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

Section 1. Paragraph (b) 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:

(b) Capital base. (1) The amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business capital, or the portion thereof allocated within the state as hereinafter provided for taxable years beginning before January first, two thousand sixteen. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent until taxable years beginning on or after January first, two thousand twenty. The rate of tax for subsequent tax years shall be as follows: .125 percent for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen; .100 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .075 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .050 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty; .025 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first,

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

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two thousand twenty-one. The rate of tax for a qualified New York manufacturer for tax years [subsequent to taxable years] beginning on or after January first, two thousand fifteen [and before January first, two thousand sixteen] shall be [.106] ZERO percent [for taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand seventeen, .085 percent for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen; .056 percent for taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen; .038 percent for taxable years beginning on or after January first, two thousand nineteen and before January first, thousand twenty; .019 percent for taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one; and zero percent for years beginning on or after January first, two thousand twenty-one. In no event shall the amount prescribed by this paragraph exceed three hundred fifty thousand dollars for qualified New York manufacturers and for all other taxpayers five million dollars].

S 2. Paragraph (d) 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:

(d) Fixed dollar minimum. (1) The amount prescribed by this paragraph for New York S corporations will be determined in accordance with the following table:

| If New York receipts are: | The fixed dollar minimum tax is: |
|---|---|
| not more than $100,000 | $ 25 |
| more than $100,000 but not over $250,000 | $ 50 |
| more than $250,000 but not over $500,000 | $ 175 |
| more than $500,000 but not over $1,000,000 | $ 300 |
| more than $1,000,000 but not over $5,000,000 | $1,000 |
| more than $5,000,000 but not over $25,000,000 | $3,000 |
| Over $25,000,000 | $4,500 |

Provided further, the amount prescribed by this paragraph for a qualified New York manufacturer, as defined in subparagraph (vi) of paragraph (a) of this subdivision, and a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph (c) will be determined in accordance with the following tables:

For tax years beginning on or after January 1, 2014 and before January 1, 2015:

| If New York receipts are: | The fixed dollar minimum tax is: |
|---|---|
| not more than $100,000 | $ 23 |
| more than $100,000 but not over $250,000 | $ 68 |
| more than $250,000 but not over $500,000 | $ 159 |
| more than $500,000 but not over $1,000,000 | $ 454 |
| more than $1,000,000 but not over $5,000,000 | $1,362 |
| more than $5,000,000 but not over $25,000,000 | $3,178 |
| Over $25,000,000 | $4,500 |

For tax years beginning on or after January 1, 2015 [and before January 1, 2016]:

| If New York receipts are: | The fixed dollar minimum tax is: |
|---|---|
| not more than $100,000 | $ [22 |
| more than $100,000 but not over $250,000 | $ 66 |
| more than $250,000 but not over $500,000 | $ 153 |
| more than $500,000 but not over $1,000,000 | $ 439 |
| more than $1,000,000 but not over $5,000,000 | $1,316 |
| more than $5,000,000 but not over $25,000,000 | $3,070 |
| Over $25,000,000 | $4,385 |

For tax years beginning on or after January 1, 2016 and before January 1, 2018:

| If New York receipts are: | The fixed dollar minimum tax is: |
|---|---|
| not more than $100,000 | $ 21 |
| more than $100,000 but not over $250,000 | $ 63 |
| more than $250,000 but not over $500,000 | $ 148 |
| more than $500,000 but not over $1,000,000 | $ 423 |
| more than $1,000,000 but not over $5,000,000 | $1,269 |
| more than $5,000,000 but not over $25,000,000 | $2,961 |
| Over $25,000,000 | $4,230 |

For tax years beginning on or after January 1, 2018:

| If New York receipts are: | The fixed dollar minimum tax is: |
|---|---|
| not more than $100,000 | $ 19 |
| more than $100,000 but not over $250,000 | $ 56 |
| more than $250,000 but not over $500,000 | $ 131 |
| more than $500,000 but not over $1,000,000 | $ 375 |
| more than $1,000,000 but not over $5,000,000 | $1,125 |
| more than $5,000,000 but not over $25,000,000 | $2,625 |
| Over $25,000,000 | $3,750] 0 |

Otherwise the amount prescribed by this paragraph will be determined in accordance with the following table:

| If New York receipts are: | The fixed dollar minimum tax is: |
|---|---|
| not more than $100,000 | $ 25 |
| more than $100,000 but not over $250,000 | $ 75 |
| more than $250,000 but not over $500,000 | $ 175 |
| more than $500,000 but not over $1,000,000 | $ 500 |
| more than $1,000,000 but not over $5,000,000 | $1,500 |
| more than $5,000,000 but not over $25,000,000 | $3,500 |
| more than $25,000,000 but not over $50,000,000 | $5,000 |
| more than $50,000,000 but not over $100,000,000 | $10,000 |
| more than $100,000,000 but not over $250,000,000 | $20,000 |
| more than $250,000,000 but not over $500,000,000 | $50,000 |
| more than $500,000,000 but not over $1,000,000,000 | $100,000 |
| Over $1,000,000,000 | $200,000 |

For purposes of this paragraph, New York receipts are the receipts included in the numerator of the apportionment factor determined under section two hundred ten-A for the taxable year.

(2) If the taxable year is less than twelve months, the amount of New York receipts is determined by dividing the amount of the receipts for the taxable year by the number of months in the taxable year and multi-

plying the result by twelve. In the case of a termination year of a New York S corporation, the sum of the tax computed under this paragraph for the S short year and for the C short year shall not be less than the amount computed under this paragraph as if the corporation were a New York C corporation for the entire taxable year.

S 3. Subsection (i) of section 601 of the tax law is relettered subsection (j) and a new subsection (i) is added to read as follows:

(I) MANUFACTURERS. NOTWITHSTANDING THIS OR ANY OTHER SECTION OF THIS ARTICLE, A PERSON'S LIABILITY FOR TAX UNDER THIS SECTION, IF SUCH PERSON'S PRIMARY ACTIVITY IS IN HIS OR HER ROLE AS A MANUFACTURER, SHALL BE ZERO FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN. FOR PURPOSES OF THIS SECTION A PERSON SHALL BE CLASSIFIED AS A MANUFACTURER IF, HE OR SHE IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING. IN ADDITION, FOR PURPOSES OF COMPUTING THE CAPITAL BASE IN A COMBINED REPORT, THE GROUP SHALL BE CONSIDERED A MANUFACTURER FOR PURPOSES OF THIS ARTICLE, ONLY IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS SUBSECTION, OR ANY COMBINATION THEREOF. FOR PURPOSES OF THIS SUBSECTION, A TAXPAYER IS "PRINCIPALLY ENGAGED" IN THE DESCRIBED ACTIVITY IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER ARE DERIVED FROM RECEIPTS FROM ACTIVITIES COVERED BY THIS SUBSECTION.

S 4. This act shall take effect immediately; provided, however, that the commissioner of taxation and finance is authorized to promulgate any and all rules and regulations and take any other measures necessary for the timely implementation of this act on its effective date on or before such date.