

STATE OF NEW YORK

6651

2019-2020 Regular Sessions

IN ASSEMBLY

March 14, 2019

Introduced by M. of A. KOLB, MONTESANO, DiPIETRO, BRABENEC, ASHBY --
Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, FINCH, FITZPATRICK,
GIGLIO, HAWLEY, McDONOUGH, RAIA, 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 Assem-
bly, do enact as follows:

1 Section 1. Subparagraph 1 of paragraph (b) of subdivision 1 of section
2 210 of the tax law, as amended by section 18 of part T of chapter 59 of
3 the laws of 2015, is amended to read as follows:
4 (1) [~~1.1~~] The amount prescribed by this paragraph shall be computed
5 at .15 percent for each dollar of the taxpayer's total business capital,
6 or the portion thereof apportioned within the state as hereinafter
7 provided for taxable years beginning before January first, two thousand
8 sixteen. However, in the case of a cooperative housing corporation as
9 defined in the internal revenue code, the applicable rate shall be .04
10 percent until taxable years beginning on or after January first, two
11 thousand twenty. The rate of tax for subsequent tax years shall be as
12 follows: .125 percent for taxable years beginning on or after January
13 first, two thousand sixteen and before January first, two thousand
14 seventeen; .100 percent for taxable years beginning on or after January
15 first, two thousand seventeen and before January first, two thousand
16 eighteen; .075 percent for taxable years beginning on or after January
17 first, two thousand eighteen and before January first, two thousand
18 nineteen; .050 percent for taxable years beginning on or after January
19 first, two thousand nineteen and before January first, two thousand
20 twenty; .025 percent for taxable years beginning on or after January
21 first, two thousand twenty and before January first, two thousand twen-
22 ty-one; and zero percent for years beginning on or after January first,
23 two thousand twenty-one. The rate of tax for a qualified New York

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

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1 manufacturer shall be .132 percent for taxable years beginning on or
 2 after January first, two thousand fifteen and before January first, two
 3 thousand sixteen, .106 percent for taxable years beginning on or after
 4 January first, two thousand sixteen and before January first, two thou-
 5 sand seventeen, .085 percent for taxable years beginning on or after
 6 January first, two thousand seventeen and before January first, two
 7 thousand eighteen; .056 percent for taxable years beginning on or after
 8 January first, two thousand eighteen and before January first, two thou-
 9 sand nineteen; ~~[.038]~~ and zero percent for taxable years beginning on or
 10 after January first, two thousand nineteen and ~~[before January first,~~
 11 ~~thousand twenty; .019 percent for taxable years beginning on or after~~
 12 ~~January first, two thousand twenty and before January first, two thou-~~
 13 ~~sand twenty-one; and zero percent for years beginning on or after Janu-~~
 14 ~~ary first, two thousand twenty-one. (ii) In no event shall the amount~~
 15 ~~prescribed by this paragraph exceed three hundred fifty thousand dollars~~
 16 ~~for qualified New York manufacturers and for all other taxpayers five~~
 17 ~~million dollars]~~ thereafter.

18 § 2. Paragraph (d) of subdivision 1 of section 210 of the tax law, as
 19 amended by section 12 of part A of chapter 59 of the laws of 2014,
 20 subparagraphs 1 and 2 as amended by section 19 of part T of chapter 59
 21 of the laws of 2015, clause (D) as amended by section 2 and clause (D-1)
 22 of subparagraph 1 as added by section 3 of part V of chapter 59 of the
 23 laws of 2017, is amended to read as follows:

24 (d) Fixed dollar minimum. (1) (A) The amount prescribed by this para-
 25 graph for New York S corporations, other than New York S corporations
 26 that are qualified New York manufacturers or qualified emerging technol-
 27 ogy companies, will be determined in accordance with the following
 28 table:

29 If New York receipts are:	The fixed dollar minimum tax is:
30 not more than \$100,000	\$ 25
31 more than \$100,000 but not over \$250,000	\$ 50
32 more than \$250,000 but not over \$500,000	\$ 175
33 more than \$500,000 but not over \$1,000,000	\$ 300
34 more than \$1,000,000 but not over \$5,000,000	\$1,000
35 more than \$5,000,000 but not over \$25,000,000	\$3,000
36 Over \$25,000,000	\$4,500

37 (B) Provided further, the amount prescribed by this paragraph for New
 38 York S corporations that are qualified New York manufacturers, as
 39 defined in subparagraph (vi) of paragraph (a) of this subdivision, and
 40 for New York S corporations that are qualified emerging technology
 41 companies under paragraph (c) of subdivision one of section thirty-one
 42 hundred two-e of the public authorities law regardless of the ten
 43 million dollar limitation expressed in subparagraph one of such para-
 44 graph (c), will be determined in accordance with the following tables.

45 For taxable years beginning on or after January 1, 2015 and before Janu-
 46 ary 1, 2016:

47 If New York receipts are:	The fixed dollar minimum tax is:
48 not more than \$100,000	\$ 22
49 more than \$100,000 but not over \$250,000	\$ 44
50 more than \$250,000 but not over \$500,000	\$ 153
51 more than \$500,000 but not over \$1,000,000	\$ 263

1	more than \$1,000,000 but not over \$5,000,000	\$ 877
2	more than \$5,000,000 but not over \$25,000,000	\$2,631
3	Over \$25,000,000	\$3,947

4 For taxable years beginning on or after January 1, 2016 and before Janu-
5 ary 1, 2018:

6	If New York receipts are:	The fixed dollar minimum tax is:
7	not more than \$100,000	\$ 21
8	more than \$100,000 but not over \$250,000	\$ 42
9	more than \$250,000 but not over \$500,000	\$ 148
10	more than \$500,000 but not over \$1,000,000	\$ 254
11	more than \$1,000,000 but not over \$5,000,000	\$ 846
12	more than \$5,000,000 but not over \$25,000,000	\$2,538
13	Over \$25,000,000	\$3,807

14 For taxable years beginning on or after January 1, 2018 and before Janu-
15 ary 1, 2019:

16	If New York receipts are:	The fixed dollar minimum tax is:
17	not more than \$100,000	\$ 19
18	more than \$100,000 but not over \$250,000	\$ 38
19	more than \$250,000 but not over \$500,000	\$ 131
20	more than \$500,000 but not over \$1,000,000	\$ 225
21	more than \$1,000,000 but not over \$5,000,000	\$ 750
22	more than \$5,000,000 but not over \$25,000,000	\$2,250
23	Over \$25,000,000	\$3,375

24 For taxable years beginning on or after January 1, 2019, the fixed
25 dollar minimum tax is \$0.

26 (C) Provided further, the amount prescribed by this paragraph for a
27 qualified New York manufacturer, as defined in subparagraph (vi) of
28 paragraph (a) of this subdivision, and a qualified emerging technology
29 company under paragraph (c) of subdivision one of section thirty-one
30 hundred two-e of the public authorities law regardless of the ten
31 million dollar limitation expressed in subparagraph one of such para-
32 graph (c), that is not a New York S corporation, will be determined in
33 accordance with the following tables. However, with respect to qualified
34 New York manufacturers, the amounts in these tables will apply in the
35 case of a combined report only if the combined group satisfies the
36 requirements to be a qualified New York manufacturer as set forth in
37 such subparagraph (vi).

38 For tax years beginning on or after January 1, 2015 and before January
39 1, 2016:

40	If New York receipts are:	The fixed dollar minimum tax is:
41	not more than \$100,000	\$ 22
42	more than \$100,000 but not over \$250,000	\$ 66
43	more than \$250,000 but not over \$500,000	\$ 153
44	more than \$500,000 but not over \$1,000,000	\$ 439
45	more than \$1,000,000 but not over \$5,000,000	\$1,316
46	more than \$5,000,000 but not over \$25,000,000	\$3,070
47	Over \$25,000,000	\$4,385

1 For tax years beginning on or after January 1, 2016 and before January
2 1, 2018:

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

11 For tax years beginning on or after January 1, 2018 and before January
12 1, 2019:

13 If New York receipts are:	The fixed dollar minimum tax is:
14 not more than \$100,000	\$ 19
15 more than \$100,000 but not over \$250,000	\$ 56
16 more than \$250,000 but not over \$500,000	\$ 131
17 more than \$500,000 but not over \$1,000,000	\$ 375
18 more than \$1,000,000 but not over \$5,000,000	\$1,125
19 more than \$5,000,000 but not over \$25,000,000	\$2,625
20 Over \$25,000,000	\$3,750

21 For tax years beginning on or after January 1, 2019, the fixed dollar
22 minimum tax is \$0.

23 (D) Otherwise, for all other taxpayers not covered by clauses (A),
24 (B), (C) and (D-1) of this subparagraph, the amount prescribed by this
25 paragraph will be determined in accordance with the following table:

26 If New York receipts are:	The fixed dollar minimum tax is:
27 not more than \$100,000	\$ 25
28 more than \$100,000 but not over \$250,000	\$ 75
29 more than \$250,000 but not over \$500,000	\$ 175
30 more than \$500,000 but not over \$1,000,000	\$ 500
31 more than \$1,000,000 but not over \$5,000,000	\$1,500
32 more than \$5,000,000 but not over \$25,000,000	\$3,500
33 more than \$25,000,000 but not over \$50,000,000	\$5,000
34 more than \$50,000,000 but not over \$100,000,000	\$10,000
35 more than \$100,000,000 but not over \$250,000,000	\$20,000
36 more than \$250,000,000 but not over \$500,000,000	\$50,000
37 more than \$500,000,000 but not over \$1,000,000,000	\$100,000
38 Over \$1,000,000,000	\$200,000

39 (D-1) In the case of a REIT or a RIC that is not a captive REIT or
40 captive RIC, the amount prescribed by this paragraph will be determined
41 in accordance with the following table:

42 If New York receipts are:	The fixed dollar minimum tax is:
43 not more than \$100,000	\$ 25
44 more than \$100,000 but not over \$250,000	\$ 75
45 more than \$250,000 but not over \$500,000	\$ 175
46 more than \$500,000	\$ 500

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

4 (2) If the taxable year is less than twelve months, the amount of New
5 York receipts is determined by dividing the amount of the receipts for
6 the taxable year by the number of months in the taxable year and multi-
7 plying the result by twelve, and the amount prescribed by this paragraph
8 shall be reduced by twenty-five percent of the period for which the
9 taxpayer is subject to tax is more than six months but not more than
10 nine months and by fifty percent if the period for which the taxpayer is
11 subject to tax is not more than six months. In the case of a termination
12 year of a New York S corporation, the sum of the tax computed under this
13 paragraph for the S short year and for the C short year shall not be
14 less than the amount computed under this paragraph as if the corporation
15 were a New York C corporation for the entire taxable year.

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

18 (i) Manufacturers. Notwithstanding this or any other section of this
19 article, a person's liability for tax under this section, if such
20 person's primary activity is in his or her role as a manufacturer, shall
21 be zero for taxable years beginning on or after January first, two thou-
22 sand nineteen. For purposes of this section a person shall be classified
23 as a manufacturer if, he or she is principally engaged in the production
24 of goods by manufacturing, processing, assembling, refining, mining,
25 extracting, farming, agriculture, horticulture, floriculture, viticul-
26 ture or commercial fishing. In addition, for purposes of computing the
27 capital base in a combined report, the group shall be considered a
28 manufacturer for purposes of this article, only if the combined group
29 during the taxable year is principally engaged in the activities set
30 forth in this subsection, or any combination thereof. For purposes of
31 this subsection, a taxpayer is "principally engaged" in the described
32 activity if, during the taxable year, more than fifty percent of the
33 gross receipts of the taxpayer are derived from receipts from activities
34 covered by this subsection.

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