

STATE OF NEW YORK

10414

IN ASSEMBLY

May 11, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. De La Rosa)
-- read once and referred to the Committee on Ways and Means

AN ACT to establish the "billionaire mark to market tax act"; to amend the tax law, in relation to establishing a mark to market tax; to amend the state finance law, in relation to establishing the worker bailout fund; and to amend the labor law, in relation to establishing the worker bailout program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "billio-
2 naire mark to market tax act".

3 § 2. The tax law is amended by adding a new section 612-a to read as
4 follows:

5 § 612-a. Billionaire mark to market taxation. 1. Notwithstanding any
6 other provision of law to the contrary, resident individual taxpayers
7 with net assets that are worth one billion dollars or more on the effec-
8 tive date of this section shall recognize gain or loss on such effective
9 date as if each asset owned by the individual taxpayer were sold for its
10 fair market value and any net gain, but not net loss, shall be included
11 for the taxable year during which this section takes effect; provided,
12 however, that an adjustment shall be made in the amount of any gain or
13 loss subsequently realized for gain or loss recognized on the effective
14 date of this section. Any tax payable as a result of such gain shall be
15 payable annually in ten equal installments beginning in the year of the
16 effective date of this section. Any tax paid by installment payment
17 shall be subject to an annual charge of seven and one-half percent annu-
18 ally commencing the year after the initial installment payment.

19 2. Resident individual taxpayers with net assets that are worth one
20 billion dollars or more shall recognize gain or loss as if each asset
21 owned by such taxpayer on the last day of any taxable year were sold for
22 its fair market value on such day and any such gain or loss shall be
23 taken into account for such taxable year; provided, however, that an
24 adjustment shall be made in the amount of any gain or loss subsequently
25 realized for gain or loss recognized on the last day of such taxable

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

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1 year. To the extent the losses of a taxpayer exceed such taxpayer's
2 gains, the net losses shall not be recognized in such taxable year and
3 shall carry forward indefinitely.

4 3. For the purpose of this section, the term "assets" shall include
5 all owned real or personal, tangible or intangible, property, wherever
6 situated, (i) owned by the taxpayer, (ii) owned by the taxpayer's
7 spouse, minor children, or any trust or estate of which the taxpayer is
8 a beneficiary, (iii) the assets of any private foundation, donor advised
9 fund, and any other entity described in section 501(c) or section 527 of
10 the Internal Revenue Code of which the taxpayer is a substantial
11 contributor (as such term is defined in Section 4958(c)(3)(B)(i) of the
12 Internal Revenue Code), and (iv) without duplication, all gifts and
13 donations made within the past five years by the taxpayer or any person
14 or entity described in paragraph (ii) of this subdivision as if such
15 gifts and donations were still owned by the taxpayer. For the purpose of
16 this section, "net assets" shall include the fair market value of assets
17 less the fair market value of liabilities of the taxpayer and, in appro-
18 priate cases as determined by the commissioner, liabilities of such
19 other persons described in the definition of assets.

20 4. The moneys received from such tax, after deducting the amount the
21 commissioner shall determine to be necessary for reasonable costs of the
22 state tax commission in administering, collecting and distributing such
23 tax, shall be distributed to the worker bailout fund established pursu-
24 ant to section ninety-five-j of the state finance law.

25 5. The commissioner shall promulgate rules and regulations implement-
26 ing this section.

27 § 3. The state finance law is amended by adding a new section 95-j to
28 read as follows:

29 § 95-j. Worker bailout fund. 1. There is hereby established in the
30 joint custody of the commissioner of taxation and finance and the state
31 comptroller a fund to be known as the "worker bailout fund".

32 2. The worker bailout fund shall consist of all moneys collected and
33 received by the commissioner pursuant to section six hundred twelve-a of
34 the tax law, including any interest and penalties associated with such
35 collection.

36 3. All moneys collected as contributions and interest relating to wage
37 replacement to workers and families unable to access traditional worker
38 wage insurance or assistance programs shall be deposited in a bank,
39 trust company or industrial bank designated by the state comptroller.
40 Moneys so deposited shall be credited immediately to the account of the
41 worker bailout fund and shall be used for the purposes set forth in
42 section six hundred forty-four of this article. Moneys in such fund may
43 be invested by the state comptroller in accordance with the provisions
44 of section ninety-eight of this article, and shall be used for the
45 purposes specified herein.

46 4. Moneys of the fund shall be used exclusively for the purpose of
47 providing emergency wage replacement to workers that do not qualify for
48 unemployment insurance or other worker wage assistance programs and to
49 households who have lost a major source of income due to the death or
50 disability of a close household member who could not access unemployment
51 insurance or other worker wage assistance programs. The moneys shall be
52 paid out of the fund on the audit and warrant of the state comptroller
53 on vouchers certified or approved by such commissioner the duly desig-
54 nated officer. Any balance in such fund shall not lapse at any time but
55 shall remain continuously available for such purposes.

1 5. Moneys of the fund shall not be used in whole or in part for any
2 purpose or in any manner which (a) would permit its substitution for, or
3 a corresponding reduction in, federal funds that would be available in
4 its absence to finance expenditures for the administration of this arti-
5 cle; or (b) would cause the appropriate agency of the United States
6 government to withhold any part of an administrative grant which would
7 otherwise be made.

8 § 4. The labor law is amended by adding a new section 591-b to read as
9 follows:

10 § 591-b. Worker bailout program. 1. The department is hereby author-
11 ized and empowered to establish and operate a worker bailout program as
12 authorized pursuant to section six hundred forty-four of this article.

13 2. Each worker bailout program applicant shall provide, in such form
14 and at such time as the commissioner may prescribe, at least two of the
15 following:

16 (a) Primary proof of identity including, but not limited to, a driv-
17 er's license, motor vehicle ID card number, valid foreign driver's
18 license that includes a photo image of the applicant and which is unex-
19 pired or expired for less than twenty-four months of its date of expira-
20 tion, New York State ID, IDNYC or other New York municipal or county
21 identification card, student ID card, valid unexpired foreign passport
22 issued by the applicant's country of citizenship, or valid unexpired
23 consular identification document issued by a consulate from the appli-
24 cant's country of citizenship. Nothing contained in this subdivision
25 shall be deemed to preclude the commissioner from approving additional
26 proofs of identity; or

27 (b) Social security number or, in lieu thereof, an individual taxpayer
28 identification number or a United States citizenship and immigration
29 services number; or

30 (c) Names and addresses of all employers and/or hiring parties, in and
31 out of the state, for the last eighteen months to the extent that such
32 information is available to the applicant; or

33 (d) Mailing address and zip code.

34 3. Application forms for such program shall not state: (a) the docu-
35 ments an applicant used to prove identity; or (b) an applicant's inel-
36 igibility for a social security number where applicable; or (c) an
37 applicant's citizenship or immigration status.

38 4. Any portion of any original documents or copies of documents
39 retained or collected by the department in relation to the worker bail-
40 out program application to prove identity, age or fitness or any record
41 that contains the photo image or identifies the social security number,
42 telephone number, place of birth, country of origin, place of employ-
43 ment, school or educational institution attended, source of income,
44 status as a recipient of public benefits, the customer identification
45 number associated with a public utilities account, medical information
46 or disability information of the holder of, or applicant for, such
47 program is not a public record and shall not be disclosed or otherwise
48 made accessible in response to any request for records except:

49 (a) to the person who is the subject of such records; or

50 (b) where necessary to comply with a lawful court order, judicial
51 warrant signed by a judge appointed pursuant to article III of the
52 United States constitution, or subpoena for individual records issued
53 pursuant to the criminal procedure law or the civil practice law and
54 rules.

55 5. For the purposes of this section, whenever a lawful court order,
56 judicial warrant, or subpoena for individual records properly issued

1 pursuant to the criminal procedure law or the civil practice law and
2 rules is presented to the commissioner, only those records, documents,
3 or information specifically sought by such court order, warrant, or
4 subpoena may be disclosed.

5 6. Notwithstanding the disclosure of records pursuant to subdivisions
6 four and five of this section, the commissioner shall require any person
7 or entity that receives or has access to records or information from the
8 department to certify to the commissioner, before such receipt or
9 access, that such person or entity shall not:

10 (a) use such records or information for purposes other than for the
11 administration of the worker bailout program or worker bailout fund; or

12 (b) disclose such records or information to any other agency or to any
13 employee or agent of any such agency unless such disclosure is pursuant
14 to a cooperative arrangement between city, state and federal agencies
15 and which arrangement disclosure is limited to the specific records or
16 information being sought pursuant to such arrangement and used solely
17 for the administration of the worker bailout program or the worker bail-
18 out fund.

19 § 5. The labor law is amended by adding a new section 644 to read as
20 follows:

21 § 644. Eligibility for worker bailout program. 1. For the purpose of
22 section five hundred ninety-one-b of this article, the term "worker
23 bailout program" means a program under which assistance is available to
24 individuals who reside in the state and:

25 (a) do not meet the eligibility requirements:

26 (i) for unemployment insurance benefits as described in this article,
27 including benefits payable to federal civilian employees and to ex-ser-
28 vicemen and servicewomen pursuant to Chapter 85 of the United States
29 Code, and benefits authorized to be used for the self-employment assist-
30 ance program pursuant to the Federal-State Extended Unemployment Compen-
31 sation Act of 1970; or

32 (ii) to receive insurance or assistance payments under any programs
33 provided for under Title II of the federal CARES Act; or

34 (b) suffered a loss:

35 (i) of work-related earnings; or

36 (ii) of one or more major sources of household income due to the death
37 or disability of a close household member on whose income the family
38 depended, during a state of emergency declared by the governor. Such an
39 allowance shall only be accessed: (A) during a state of emergency as
40 declared by the governor and up to eight months after the state of emer-
41 gency has been declared; (B) during a time in which the government of
42 the United States has authorized renewal or extension beyond the date of
43 the Pandemic Unemployment Assistance outline in Title II of the CARES
44 Act; (C) up to the last day of the calendar quarter of the emergency
45 period defined in paragraph (1)(B) of section 1135(g) of the federal
46 Social Security Act (42 U.S.C. 1320b-5(g)) and ending on the last day of
47 the calendar quarter in which the last day of such an emergency period
48 occurs; or (D) up to the last day of any calendar quarter during which
49 the U.S. Bureau of Labor Statistics reports a seasonally adjusted unem-
50 ployment rate of six percent or more in the state.

51 2. Proof of eligibility may be established by documentation or, in the
52 absence of documentation, by self-attestation.

53 (a) The allowance payable to individuals shall be payable in the
54 amount of thirty-three hundred dollars per month, payable monthly from
55 April two thousand twenty through December thirty-first, two thousand
56 twenty. Payments shall be retroactive to the latter of the first date

1 of earnings loss during the state of emergency or April first, two thou-
2 sand twenty. The total amount paid for any benefit year shall not
3 exceed the maximum amount of benefits payable under this article and
4 Title II of the CARES Act.

5 (b) Payments shall continue until the later of: (i) December thirty-
6 first, two thousand twenty; (ii) the last day of the calendar quarter
7 during which the government of the United States has authorized renewal
8 or extension beyond the date of Pandemic Unemployment Assistance; (iii)
9 the last day of the calendar quarter of the emergency period defined in
10 paragraph (1)(B) of section 1135(g) of the federal Social Security Act
11 (42 U.S.C. 1320b-5(g)) and ending on the last day of the calendar quar-
12 ter in which the last day of such an emergency period occurs; or (iv)
13 the last day of any calendar quarter during which the U.S. Bureau of
14 Labor Statistics reports a seasonally adjusted unemployment rate of six
15 percent or more in the state.

16 § 6. This act shall take effect immediately.