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 Assembly, do enact as follows:

Section 1. Subparagraph 1 of paragraph (b) of subdivision 1 of section 210 of the tax law, as amended by section 18 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(1) [~~(i)~~] 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 apportioned 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, 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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manufacturer shall be .132 percent for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, .106 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~~] and zero percent for taxable years beginning on or after January first, two thousand nineteen and [~~before January first, thousand twenty; .010 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. (ii) 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~~] thereafter.

§ 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, subparagraphs 1 and 2 as amended by section 19 of part T of chapter 59 of the laws of 2015, clause (D) as amended by section 2 and clause (D-1) of subparagraph 1 as added by section 3 of part VV of chapter 59 of the laws of 2017, is amended to read as follows:

(d) Fixed dollar minimum. (1) (A) The amount prescribed by this paragraph for New York S corporations, other than New York S corporations that are qualified New York manufacturers or qualified emerging technology companies, 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

(B) Provided further, the amount prescribed by this paragraph for New York S corporations that are qualified New York manufacturers, as defined in subparagraph (vi) of paragraph (a) of this subdivision, and for New York S corporations that are qualified emerging technology companies 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 taxable 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	$ 44
more than $250,000 but not over $500,000	$ 153
more than $500,000 but not over $1,000,000	$ 263

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

For taxable 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	$ 42
more than $250,000 but not over $500,000	$ 148
more than $500,000 but not over $1,000,000	$ 254
more than $1,000,000 but not over $5,000,000	$ 846
more than $5,000,000 but not over $25,000,000	$2,538
Over $25,000,000	$3,807

For taxable years beginning on or after January 1, 2018 **and before January 1, 2019**:

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	$ 38
more than $250,000 but not over $500,000	$ 131
more than $500,000 but not over $1,000,000	$ 225
more than $1,000,000 but not over $5,000,000	$ 750
more than $5,000,000 but not over $25,000,000	$2,250
Over $25,000,000	$3,375

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

(C) 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), that is not a New York S corporation, will be determined in accordance with the following tables. However, with respect to qualified New York manufacturers, the amounts in these tables will apply in the case of a combined report only if the combined group satisfies the requirements to be a qualified New York manufacturer as set forth in such subparagraph (vi).

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 **and before January 1, 2019**:

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

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

(D) Otherwise, for all other taxpayers not covered by clauses (A), (B), (C) and (D-1) of this subparagraph, 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

(D-1) In the case of a REIT or a RIC that is not a captive REIT or captive RIC, 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	$ 500

(E) 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 multiplying the result by twelve, and the amount prescribed by this paragraph shall be reduced by twenty-five percent of the period for which the taxpayer is subject to tax is more than six months but not more than nine months and by fifty percent if the period for which the taxpayer is subject to tax is not more than six months. 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.

§ 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 nineteen. 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.

§ 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.