

STATE OF NEW YORK

5954--A

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sens. KAPLAN, BRESLIN, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- recommitted to the Committee on Budget and Revenue in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to the business income base rate and expanding the small business subtraction modification

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

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

4 (iv) **(A)** for taxable years beginning before January first, two thou-
5 sand sixteen, if the business income base is not more than two hundred
6 ninety thousand dollars the amount shall be six and one-half percent of
7 the business income base; if the business income base is more than two
8 hundred ninety thousand dollars but not over three hundred ninety thou-
9 sand dollars the amount shall be the sum of (1) eighteen thousand eight
10 hundred fifty dollars, (2) seven and one-tenth percent of the excess of
11 the business income base over two hundred ninety thousand dollars but
12 not over three hundred ninety thousand dollars and (3) four and thirty-
13 five hundredths percent of the excess of the business income base over
14 three hundred fifty thousand dollars but not over three hundred ninety
15 thousand dollars;

16 **(B) for taxable years beginning on or after January first, two thou-**
17 **sand twenty-one, if the business income base is not more than two**
18 **hundred ninety thousand dollars the amount shall be four percent of the**
19 **business income base; if the business income base is more than two**
20 **hundred ninety thousand dollars but not over three hundred ninety thou-**
21 **sand dollars the amount shall be the sum of (1) eleven thousand six**

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

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1 hundred dollars, (2) six and one-half percent of the excess of the busi-
2 ness income base over two hundred ninety thousand dollars but not over
3 three hundred ninety thousand dollars and (3) eighteen and thirteen
4 hundredths percent of the excess of the business income base over three
5 hundred fifty thousand dollars but not over three hundred ninety thou-
6 sand dollars;

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

10 (39) (A) In the case of a taxpayer who is a small business or a
11 taxpayer who is a member, partner, or shareholder of a limited liability
12 company, partnership, or New York S corporation, respectively, that is a
13 small business, who or which has business income and/or farm income as
14 defined in the laws of the United States, an amount equal to [three]
15 fifteen percent of the net items of income, gain, loss and deduction
16 attributable to such business or farm entering into federal adjusted
17 gross income, but not less than zero[~~, for taxable years beginning after~~
18 ~~two thousand thirteen, an amount equal to three and three-quarters~~
19 ~~percent of the net items of income, gain, loss and deduction attribut-~~
20 ~~able to such business or farm entering into federal adjusted gross~~
21 ~~income, but not less than zero, for taxable years beginning after two~~
22 ~~thousand fourteen, and an amount equal to five percent of the net items~~
23 ~~of income, gain, loss and deduction attributable to such business or~~
24 ~~farm entering into federal adjusted gross income, but not less than~~
25 ~~zero, for taxable years beginning after two thousand fifteen]~~.

26 (B) (i) For the purposes of this paragraph, the term small business
27 shall mean: (I) a sole proprietor [~~or a farm business~~] who employs one
28 or more persons during the taxable year and who has net business income
29 or net farm income of less than two hundred fifty thousand dollars, or
30 (II) a limited liability company, partnership or New York S corporation
31 that during the taxable year employs one or more persons and has New
32 York gross business income attributable to a non-farm business that is
33 greater than zero but less than one million five hundred thousand
34 dollars or net farm income attributable to a farm business that is
35 greater than zero but less than two hundred fifty thousand dollars.

36 (ii) For purposes of this paragraph, the term New York gross business
37 income shall mean: (I) in the case of a limited liability company or a
38 partnership New York source gross income as defined in subparagraph (B)
39 of paragraph three of subsection (c) of section six hundred fifty-eight
40 of this article, and, (II) in the case of a New York S corporation, New
41 York receipts included in the numerator of the apportionment factor
42 determined under section two hundred ten-A of this chapter for the taxa-
43 ble year.

44 (C) To qualify for this modification in relation to a non-farm small
45 business that is a limited liability company, partnership or New York S
46 corporation, the taxpayer's income attributable to the net business
47 income from its ownership interests in non-farm limited liability compa-
48 nies, partnerships or New York S corporations must be less than two
49 hundred fifty thousand dollars.

50 § 3. This act shall take effect immediately and shall apply to taxable
51 years beginning on or after January 1, 2021.