

# STATE OF NEW YORK

8277--A

## IN SENATE

May 1, 2020

Introduced by Sens. RAMOS, BAILEY, BENJAMIN, BIAGGI, COMRIE, GOUNARDES, HOYLMAN, JACKSON, KAVANAGH, LIU, MAY, MYRIE, RIVERA, SALAZAR, SANDERS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to establish the "billionaire mark to market tax and the worker bailout fund 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 "billionaire mark to market tax and the worker bailout fund act".

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

4  
5 § 612-a. Billionaire mark to market taxation. (a) 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 effective  
8 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 (b) 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

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

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1 its fair market value on such day and any such gain or loss shall be  
2 taken into account for such taxable year; provided, however, that an  
3 adjustment shall be made in the amount of any gain or loss subsequently  
4 realized for gain or loss recognized on the last day of such taxable  
5 year. To the extent the losses of a taxpayer exceed such taxpayer's  
6 gains, the net losses shall not be recognized in such taxable year and  
7 shall carry forward indefinitely.

8 (c) For the purpose of this section, the term "assets" shall include  
9 all owned real or personal, tangible or intangible, property, wherever  
10 situated, (1) owned by the taxpayer, (2) owned by the taxpayer's spouse,  
11 minor children, or any trust or estate of which the taxpayer is a bene-  
12 ficiary, (3) the assets of any private foundation, donor advised fund,  
13 and any other entity described in section 501(c) or section 527 of the  
14 Internal Revenue Code of which the taxpayer is a substantial contributor  
15 (as such term is defined in Section 4958(c)(3)(B)(i) of the Internal  
16 Revenue Code), and (4) without duplication, all gifts and donations made  
17 within the past five years by the taxpayer or any person or entity  
18 described in paragraph two of this subsection as if such gifts and  
19 donations were still owned by the taxpayer. For the purpose of this  
20 section, "net assets" shall include the fair market value of assets less  
21 the fair market value of liabilities of the taxpayer and, in appropriate  
22 cases as determined by the commissioner, liabilities of such other  
23 persons described in the definition of assets.

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

29 5. The commissioner shall promulgate rules and regulations implement-  
30 ing this section.

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

33 § 95-j. Worker bailout fund. 1. There is hereby established in the  
34 joint custody of the commissioner of taxation and finance and the state  
35 comptroller a fund to be known as the "worker bailout fund".

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

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

50 4. Moneys of the fund shall be used exclusively for the purpose of  
51 providing emergency wage replacement to workers that do not qualify for  
52 unemployment insurance or other worker wage assistance programs and to  
53 households who have lost a major source of income due to the death or  
54 disability of a close household member who could not access unemployment  
55 insurance or other worker wage assistance programs. The moneys shall be  
56 paid out of the fund on the audit and warrant of the state comptroller

1 on vouchers certified or approved by such commissioner the duly desig-  
2 nated officer. Any balance in such fund shall not lapse at any time but  
3 shall remain continuously available for such purposes.

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

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

13 § 591-b. Worker bailout program. 1. The department is hereby author-  
14 ized and empowered to establish and operate a worker bailout program as  
15 authorized pursuant to section six hundred forty-four of this article.

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

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

30 (b) Social security number or, in lieu thereof, an individual taxpayer  
31 identification number or a United States citizenship and immigration  
32 services number; or

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

36 (d) Mailing address and zip code.

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

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

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

53 (b) where necessary to comply with a lawful court order, judicial  
54 warrant signed by a judge appointed pursuant to article III of the  
55 United States constitution, or subpoena for individual records issued

1 pursuant to the criminal procedure law or the civil practice law and  
2 rules.

3 5. For the purposes of this section, whenever a lawful court order,  
4 judicial warrant, or subpoena for individual records properly issued  
5 pursuant to the criminal procedure law or the civil practice law and  
6 rules is presented to the commissioner, only those records, documents,  
7 and information specifically sought by such court order, warrant, or  
8 subpoena may be disclosed.

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

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

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

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

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

29 (a) do not meet the eligibility requirements:

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

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

38 (b) suffered a loss:

39 (i) of work-related earnings; or

40 (ii) of one or more major sources of household income due to the death  
41 or disability of a close household member on whose income the family  
42 depended, during a state of emergency declared by the governor. No  
43 individual shall be eligible to receive assistance under the worker  
44 bailout program in any month if the gross work-related earnings they  
45 received in the previous calendar month exceeds two thousand one hundred  
46 eighty-two dollars. Such an allowance shall only be accessed: (A)  
47 during a state of emergency as declared by the governor and up to eight  
48 months after the state of emergency has been declared; (B) during a time  
49 in which the government of the United States has authorized renewal or  
50 extension beyond the date of the Pandemic Unemployment Assistance  
51 outline in Title II of the CARES Act; (C) up to the last day of the  
52 calendar quarter of the emergency period defined in paragraph (1)(B) of  
53 section 1135(g) of the federal Social Security Act (42 U.S.C.  
54 1320b-5(g)) and ending on the last day of the calendar quarter in which  
55 the last day of such an emergency period occurs; or (D) up to the last  
56 day of any calendar quarter during which the U.S. Bureau of Labor

1 Statistics reports a seasonally adjusted unemployment rate of six  
2 percent or more in the state and provided further that no other individ-  
3 ual in the household is receiving an allowance under the worker bailout  
4 program for the same month for the same reason.

5 (c) were released from post-arraignment incarceration or detention or  
6 from immigration detention on or after October first, two thousand nine-  
7 teen.

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

10 (a) The allowance payable to individuals shall be payable in the  
11 amount of thirty-three hundred dollars per month, payable monthly from  
12 April two thousand twenty through December thirty-first, two thousand  
13 twenty. Payments shall be retroactive to the latter of the first date  
14 of earnings loss during the state of emergency or April first, two thou-  
15 sand twenty. The total amount paid for any benefit year shall not  
16 exceed the maximum amount of benefits payable under this article and  
17 Title II of the CARES Act.

18 (b) Payments shall continue until the later of: (i) December thirty-  
19 first, two thousand twenty; (ii) the last day of the calendar quarter  
20 during which the government of the United States has authorized renewal  
21 or extension beyond the date of Pandemic Unemployment Assistance; (iii)  
22 the last day of the calendar quarter of the emergency period defined in  
23 paragraph (1)(B) of section 1135(g) of the federal Social Security Act  
24 (42 U.S.C. 1320b-5(g)) and ending on the last day of the calendar quar-  
25 ter in which the last day of such an emergency period occurs; or (iv)  
26 the last day of any calendar quarter during which the U.S. Bureau of  
27 Labor Statistics reports a seasonally adjusted unemployment rate of six  
28 percent or more in the state.

29 3. No individual shall be required to apply for assistance under the  
30 worker bailout program as a condition of eligibility for any state or  
31 local program.

32 § 6. This act shall take effect immediately.