

STATE OF NEW YORK

8329

IN SENATE

May 11, 2020

Introduced by Sens. MAYER, STAVISKY -- read twice and ordered printed,
and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to extending the top state income tax rate; to amend the state finance law, in relation to providing additional funding for the general support of public schools; and to amend the state finance law, in relation to creating the supplemental public higher education fund

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

1 Section 1. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1
2 of subsection (a) of section 601 of the tax law, as amended by section 1
3 of part P of chapter 59 of the laws of 2019, are amended to read as
4 follows:
5 (iii) For taxable years beginning in two thousand twenty the following
6 rates shall apply:
7 If the New York taxable income is: The tax is:
8 Not over \$17,150 4% of the New York taxable income
9 Over \$17,150 but not over \$23,600 \$686 plus 4.5% of excess over
10 \$17,150
11 Over \$23,600 but not over \$27,900 \$976 plus 5.25% of excess over
12 \$23,600
13 Over \$27,900 but not over \$43,000 \$1,202 plus 5.9% of excess over
14 \$27,900
15 Over \$43,000 but not over \$161,550 \$2,093 plus 6.09% of excess over
16 \$43,000
17 Over \$161,550 but not over \$323,200 \$9,313 plus 6.41% of excess over
18 \$161,550
19 Over \$323,200 but not over \$19,674 plus 6.85% of excess
20 \$2,155,350 \$323,200 over
21 Over \$2,155,350 but not over \$145,177 plus 8.82% of excess over
22 \$5,000,000 \$2,155,350
23 Over \$5,000,000 \$396,076 plus 10.9% of excess over
24 \$5,000,000

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

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1 (iv) For taxable years beginning in two thousand twenty-one the
2 following rates shall apply:

| 3 If the New York taxable income is: | The tax is: |
|--|---|
| 4 Not over \$17,150 | 4% of the New York taxable income |
| 5 Over \$17,150 but not over \$23,600 | \$686 plus 4.5% of excess over 6 \$17,150 |
| 7 Over \$23,600 but not over \$27,900 | \$976 plus 5.25% of excess over 8 \$23,600 |
| 9 Over \$27,900 but not over \$43,000 | \$1,202 plus 5.9% of excess over 10 \$27,900 |
| 11 Over \$43,000 but not over \$161,550 | \$2,093 plus 5.97% of excess over 12 \$43,000 |
| 13 Over \$161,550 but not over \$323,200 | \$9,170 plus 6.33% of excess over 14 \$161,550 |
| 15 Over \$323,200 but not over 16 \$2,155,350 | \$19,403 plus 6.85% of excess over \$323,200 |
| 17 Over \$2,155,350 <u>but not over</u> 18 <u>\$5,000,000</u> | \$144,905 plus 8.82% of excess over \$2,155,350 |
| 19 <u>Over \$5,000,000</u> | <u>\$395,803 plus 10.9% of excess over</u> 20 <u>\$5,000,000</u> |

21 § 2. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1 of
22 subsection (b) of section 601 of the tax law, as amended by section 2 of
23 part P of chapter 59 of the laws of 2019, are amended to read as
24 follows:

25 (iii) For taxable years beginning in two thousand twenty the following
26 rates shall apply:

| 27 If the New York taxable income is: | The tax is: |
|--|---|
| 28 Not over \$12,800 | 4% of the New York taxable income |
| 29 Over \$12,800 but not over \$17,650 | \$512 plus 4.5% of excess over \$12,800 |
| 30 Over \$17,650 but not over \$20,900 | \$730 plus 5.25% of excess over 31 \$17,650 |
| 32 Over \$20,900 but not over \$32,200 | \$901 plus 5.9% of excess over \$20,900 |
| 33 Over \$32,200 but not over \$107,650 | \$1,568 plus 6.09% of excess over 34 \$32,200 |
| 35 Over \$107,650 but not over \$269,300 | \$6,162 plus 6.41% of excess over 36 \$107,650 |
| 37 Over \$269,300 but not over 38 \$1,616,450 | \$16,524 plus 6.85% of excess over \$269,300 |
| 39 Over \$1,616,450 <u>but not over</u> 40 <u>\$5,000,000</u> | \$108,804 plus 8.82% of excess over \$1,616,450 |
| 41 <u>Over \$5,000,000</u> | <u>\$407,233 plus 10.9% of excess over</u> 42 <u>\$5,000,000</u> |

43 (iv) For taxable years beginning in two thousand twenty-one the
44 following rates shall apply:

| 45 If the New York taxable income is: | The tax is: |
|--|--|
| 46 Not over \$12,800 | 4% of the New York taxable income |
| 47 Over \$12,800 but not over \$17,650 | \$512 plus 4.5% of excess over 48 \$12,800 |
| 49 Over \$17,650 but not over \$20,900 | \$730 plus 5.25% of excess over 50 \$17,650 |
| 51 Over \$20,900 but not over \$32,200 | \$901 plus 5.9% of excess over 52 \$20,900 |
| 53 Over \$32,200 but not over \$107,650 | \$1,568 plus 5.97% of excess over 54 \$32,200 |
| 55 Over \$107,650 but not over \$269,300 | \$6,072 plus 6.33% of excess over |

| | | |
|---|--------------------------------------|--|
| 1 | | \$107,650 |
| 2 | Over \$269,300 but not over | \$16,304 plus 6.85% of |
| 3 | \$1,616,450 | excess over \$269,300 |
| 4 | Over \$1,616,450 <u>but not over</u> | \$108,584 plus 8.82% of excess over |
| 5 | <u>\$5,000,000</u> | \$1,616,450 |
| 6 | <u>Over \$5,000,000</u> | <u>\$407,013 plus 10.9% of excess over</u> |
| 7 | | <u>\$5,000,000</u> |

8 § 3. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1 of
9 subsection (c) of section 601 of the tax law, as amended by section 3 of
10 part P of chapter 59 of the laws of 2019, are amended to read as
11 follows:

12 (iii) For taxable years beginning in two thousand twenty the following
13 rates shall apply:

| | | |
|----|--------------------------------------|--|
| 14 | If the New York taxable income is: | The tax is: |
| 15 | Not over \$8,500 | 4% of the New York taxable income |
| 16 | Over \$8,500 but not over \$11,700 | \$340 plus 4.5% of excess over |
| 17 | | \$8,500 |
| 18 | Over \$11,700 but not over \$13,900 | \$484 plus 5.25% of excess over |
| 19 | | \$11,700 |
| 20 | Over \$13,900 but not over \$21,400 | \$600 plus 5.9% of excess over |
| 21 | | \$13,900 |
| 22 | Over \$21,400 but not over \$80,650 | \$1,042 plus 6.09% of excess over |
| 23 | | \$21,400 |
| 24 | Over \$80,650 but not over \$215,400 | \$4,650 plus 6.41% of excess over |
| 25 | | \$80,650 |
| 26 | Over \$215,400 but not over | \$13,288 plus 6.85% of excess |
| 27 | \$1,077,550 | over \$215,400 |
| 28 | Over \$1,077,550 <u>but not over</u> | \$72,345 plus 8.82% of excess over |
| 29 | <u>\$5,000,000</u> | \$1,077,550 |
| 30 | <u>Over \$5,000,000</u> | <u>\$418,305 plus 10.9% of excess over</u> |
| 31 | | <u>\$5,000,000</u> |

32 (iv) For taxable years beginning in two thousand twenty-one the
33 following rates shall apply:

| | | |
|----|--------------------------------------|--|
| 34 | If the New York taxable income is: | The tax is: |
| 35 | Not over \$8,500 | 4% of the New York taxable income |
| 36 | Over \$8,500 but not over \$11,700 | \$340 plus 4.5% of excess over |
| 37 | | \$8,500 |
| 38 | Over \$11,700 but not over \$13,900 | \$484 plus 5.25% of excess over |
| 39 | | \$11,700 |
| 40 | Over \$13,900 but not over \$21,400 | \$600 plus 5.9% of excess over |
| 41 | | \$13,900 |
| 42 | Over \$21,400 but not over \$80,650 | \$1,042 plus 5.97% of excess over |
| 43 | | \$21,400 |
| 44 | Over \$80,650 but not over \$215,400 | \$4,579 plus 6.33% of excess over |
| 45 | | \$80,650 |
| 46 | Over \$215,400 but not over | \$13,109 plus 6.85% of excess |
| 47 | \$1,077,550 | over \$215,400 |
| 48 | Over \$1,077,550 <u>but not over</u> | \$72,166 plus 8.82% of excess over |
| 49 | <u>\$5,000,000</u> | \$1,077,550 |
| 50 | <u>Over \$5,000,000</u> | <u>\$418,126 plus 10.9% of excess over</u> |
| 51 | | <u>\$5,000,000</u> |

52 § 4. Section 171-a of the tax law is amended by adding a new subdivi-
53 sion 3 to read as follows:

54 3. Notwithstanding subdivision one of this section or any other
55 provision of law to the contrary, eighty-five percent of any revenue
56 derived from an increase in the taxes imposed on income over five

1 million dollars pursuant to section six hundred one of this chapter
2 attributable to the difference in the rate of such taxes for taxable
3 year two thousand twenty and the rate of such taxes for taxable year two
4 thousand nineteen and the difference in the rate of such taxes for taxa-
5 ble year two thousand twenty-one and the rate of such taxes for taxable
6 year two thousand nineteen shall be deposited in the state lottery fund,
7 created pursuant to section ninety-two-c of the state finance law, as
8 such taxes are received. The remaining fifteen percent of such derived
9 revenue shall be deposited in the supplemental public higher education
10 fund, created pursuant to section seventy-eight-c of the state finance
11 law. The amount for administrative costs shall be determined by the
12 commissioner to represent reasonable costs of the department in adminis-
13 tering, collecting, determining and distributing such taxes. Of the
14 total revenue collected or received under such sections of this chapter,
15 the comptroller shall retain in his or her hands such amount as the
16 commissioner may determine to be necessary for refunds or reimbursements
17 under such sections of this chapter out of which amount the comptroller
18 shall pay any refunds or reimbursements to which taxpayers shall be
19 entitled under provisions of such sections. The commissioner and the
20 comptroller shall maintain a system of accounts showing the amount of
21 revenue collected or received from each of the taxes imposed by such
22 sections.

23 § 5. Section 601 of the tax law is amended by adding a new subsection
24 (d-2) to read as follows:

25 (d-2) Alternative tax table benefit recapture. For taxable years two
26 thousand twenty and two thousand twenty-one for a taxpayer whose New
27 York taxable income is over \$5,000,000, there is hereby imposed a
28 supplemental tax in addition to the tax imposed under subsections (a),
29 (b), (c) and (d-1) of this section for the purpose of recapturing the
30 benefit of the tax tables contained in such subsections. During these
31 taxable years, any reference in this chapter to subsection (d) of this
32 section shall be read as a reference to this subsection.

33 (1) For resident married individuals filing joint returns and resident
34 surviving spouses, the supplemental tax shall be an amount equal to the
35 sum of the tax table benefit in subparagraph (A) of this paragraph
36 multiplied by the respective fraction in such subparagraph.

37 (A) The tax table benefit is the difference between (i) the amount of
38 taxable income set forth in the tax table in paragraph one of subsection
39 (a) of this section not subject to the 10.9 percent rate of tax for the
40 taxable year multiplied by such rate and (ii) the dollar denominated tax
41 for such amount of taxable income set forth in the tax table applicable
42 to the taxable year in paragraph one of subsection (a) of this section
43 less the sum of the tax table benefits in subparagraphs (A), (B) and (C)
44 of paragraph one of subsection (d-1) of this section. The fraction for
45 this subparagraph is computed as follows: the numerator is the lesser of
46 fifty thousand dollars or the excess of New York adjusted gross income
47 for the taxable year over five million dollars and the denominator is
48 fifty thousand dollars. Provided, however, this subparagraph shall not
49 apply to taxpayers who are not subject to the 10.9 percent tax rate.

50 (B) Provided, however, the total tax prior to the application of any
51 tax credits shall not exceed the highest rate of tax set forth in the
52 tax tables in subsection (a) of this section multiplied by the taxpay-
53 er's taxable income.

54 (2) For resident heads of households, the supplemental tax shall be an
55 amount equal to the sum of the tax table benefit described in subpara-

1 graph (A) of this paragraph multiplied by the respective fraction in
2 such subparagraph.

3 (A) The tax table benefit is the difference between (i) the amount of
4 taxable income set forth in the tax table in paragraph one of subsection
5 (b) of this section not subject to the 10.9 percent rate of tax for the
6 taxable year multiplied by such rate and (ii) the dollar denominated tax
7 for such amount of taxable income set forth in the tax table applicable
8 to the taxable year in paragraph one of subsection (b) of this section
9 less the sum of the tax table benefits in subparagraphs (A) and (B) of
10 paragraph two of subsection (d-1) of this section. The fraction for this
11 subparagraph is computed as follows: the numerator is the lesser of
12 fifty thousand dollars or the excess of New York adjusted gross income
13 for the taxable year over five million dollars and the denominator is
14 fifty thousand dollars. Provided, however, this subparagraph shall not
15 apply to taxpayers who are not subject to the 10.9 percent tax rate.

16 (B) Provided, however, the total tax prior to the application of any
17 tax credits shall not exceed the highest rate of tax set forth in the
18 tax tables in subsection (b) of this section multiplied by the taxpay-
19 er's taxable income.

20 (3) For resident unmarried individuals, resident married individuals
21 filing separate returns and resident estates and trusts, the supple-
22 mental tax shall be an amount equal to the sum of the tax table benefits
23 described in subparagraph (A) of this paragraph multiplied by the
24 respective fractions in such subparagraph.

25 (A) The tax table benefit is the difference between (i) the amount of
26 taxable income set forth in the tax table in paragraph one of subsection
27 (c) of this section not subject to the 10.9 percent rate of tax for the
28 taxable year multiplied by such rate and (ii) the dollar denominated tax
29 for such amount of taxable income set forth in the tax table applicable
30 to the taxable year in paragraph one of subsection (c) of this section
31 less the sum of the tax table benefits in subparagraphs (A) and (B) of
32 paragraph three of subsection (d-1) of this section. The fraction for
33 this subparagraph is computed as follows: the numerator is the lesser of
34 fifty thousand dollars or the excess of New York adjusted gross income
35 for the taxable year over five million dollars and the denominator is
36 fifty thousand dollars. Provided, however, this subparagraph shall not
37 apply to taxpayers who are not subject to the 10.9 percent tax rate.

38 (B) Provided, however, the total tax prior to the application of any
39 tax credits shall not exceed the highest rate of tax set forth in the
40 tax tables in subsection (c) of this section multiplied by the taxpay-
41 er's taxable income.

42 § 6. Section 92-c of the state finance law is amended by adding a new
43 subdivision 3-a to read as follows:

44 3-a. Moneys in such fund deposited pursuant to the provisions of
45 subdivision three of section one hundred seventy-one-a of the tax law
46 shall be appropriated or transferred only for the general support of
47 public schools.

48 § 7. The state finance law is amended by adding a new section 78-c to
49 read as follows:

50 § 78-c. Supplemental public higher education fund. 1. There is hereby
51 established in the joint custody of the state comptroller and the
52 commissioner of taxation and finance a fund to be known as the "supple-
53 mental public higher education fund".

54 2. Such fund shall consist of the revenues received by the department
55 of taxation and finance, pursuant to the provisions of subdivision three
56 of section one hundred seventy-one-a of the tax law, and all other

1 moneys appropriated, credited, or transferred thereto from any other
2 fund or source pursuant to law. Nothing in this section shall prevent
3 the state from soliciting and receiving grants, gifts or bequests for
4 the purposes of the fund as defined in this section and depositing them
5 into the fund according to law.

6 3. Moneys of the fund shall be distributed equally to the state
7 university of New York and the city university of New York for addi-
8 tional operating support, as appropriated by the legislature.

9 § 8. Notwithstanding any law, rule or regulation to the contrary, any
10 moneys collected pursuant to subdivision 3 of section 171-a of the tax
11 law and appropriated for the general support of public schools shall not
12 diminish the amount of school aid appropriated for any given school
13 year. Such collected moneys shall be additional funding. For the
14 purposes of this section, "amount of school aid" shall mean the amount
15 appropriated pursuant to the state budget for the previous school year.

16 § 9. Notwithstanding any law, rule or regulation to the contrary, any
17 moneys collected pursuant to subdivision 3 of section 171-a of the tax
18 law and appropriated for additional operating support of the state
19 university of New York and the city university of New York shall not
20 diminish the amount of operating support for the state university of New
21 York and the city university of New York appropriated for any given
22 academic year. Such collected moneys shall be additional funding. For
23 the purposes of this section, "operating support" shall mean the amount
24 appropriated pursuant to the state budget for the previous academic
25 year.

26 § 10. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after January 1, 2020 and
28 shall apply to taxable years on and after such date.