STATE OF NEW YORK

3150

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. EPSTEIN, GOTTFRIED, CARROLL, DARLING -- Multi-Sponsored by -- M. of A. RODRIGUEZ -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to personal income tax rates and in relation to directing revenue generated from certain taxes to be deposited to the credit of the New York city housing authority and the division of housing and community renewal

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

Section 1. Subparagraph (B) of paragraph 1 of subsection (a) of section 601 of the tax law is amended by adding a new clause (ix) to read as follows:

(ix) For taxable years beginning after two thousand twenty-one, the following rates shall apply:

If the New York taxable income is:	**The tax is:**
Over $1,000,000 but not over $5,000,000	**$66,578 plus 8.82% of excess over $1,000,000**
Over $5,000,000 but not over $10,000,000	**$419,378 plus 9.32% of excess over $5,000,000**
Over $10,000,000 but not over $100,000,000	**$885,378 plus 9.82% of excess over $10,000,000**
Over $100,000,000	**$9,723,378 plus 10.32% of excess over $100,000,000**

§ 2. Subparagraph (B) of paragraph 1 of subsection (b) of section 601 of the tax law is amended by adding a new clause (ix) to read as follows:

(ix) For taxable years beginning after two thousand twenty-one, the following rates shall apply:

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

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If the New York taxable income is:	The tax is:
Over $1,000,000 but not over $5,000,000	$67,017 plus 8.82% of excess over $1,000,000
Over $5,000,000 but not over $10,000,000	$419,817 plus 9.32% of excess over $5,000,000
Over $10,000,000 but not over $100,000,000	$885,817 plus 9.82% of excess over $10,000,000
Over $100,000,000	$9,723,817 plus 10.32% of excess over $100,000,000

§ 3. Subparagraph (B) of paragraph 1 of subsection (c) of section 601 of the tax law is amended by adding a new clause (ix) to read as follows:

(ix) For taxable years beginning after two thousand twenty-one, the following rates shall apply:

If the New York taxable income is:	The tax is:
Over $1,000,000 but not over $5,000,000	$67,391 plus 8.82% of excess over $1,000,000
Over $5,000,000 but not over $10,000,000	$420,191 plus 9.32% of excess over $5,000,000
Over $10,000,000	$886,191 plus 9.82% of excess over $10,000,000
Over $100,000,000	$9,724,191 plus 10.32% of excess over $100,000,000

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

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

(1) For resident married individuals filing joint returns and resident surviving spouses, the supplemental tax shall be an amount equal to the sum of the tax table benefits described in subparagraphs (A), (B), (C) and (D) of this paragraph multiplied by their respective fractions in such subparagraphs.

(A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (a) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (a) of this section less the sum of tax table benefits in subparagraphs (A), (B) and (C) of paragraph one of subsection (d-1) of this section. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million dollars and the denominator is fifty thousand dollars.

(B) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (a) of this section not subject to the 9.32 percent rate of tax for the taxable year multiplied by such

rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of paragraph one of subsection (d-1) of this section and such tax table benefit in subparagraph (A) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars. Provided, however, this subparagraph shall not apply to taxpayers who are not subject to the 9.32 percent tax rate.

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (a) of this section not subject to the 9.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of paragraph (B) of paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of paragraph one of subsection (d-1) of this section and such tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over ten million dollars and the denominator is fifty thousand dollars. Provided, however, this subparagraph shall not apply to taxpayers who are not subject to the 9.82 percent tax rate.

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (a) of this section not subject to the 10.32 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of paragraph one of subsection (d-1) of this section and such tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one hundred million dollars and the denominator is fifty thousand dollars.

(E) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (a) of this section multiplied by the taxpayer's taxable income.

(2) For resident heads of households, the supplemental tax shall be an amount equal to the sum of the tax table benefits described in subparagraphs (A), (B), (C) and (D) of this paragraph multiplied by their respective fractions in such subparagraphs.

(A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in

clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of paragraph two of subsection (d-1) of this section. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million dollars and the denominator is fifty thousand dollars.

(B) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section not subject to the 9.32 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of paragraph two of subsection (d-1) of this section and such tax table benefit in subparagraph (A) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars. Provided, however, this subparagraph shall not apply to taxpayers who are not subject to the 9.32 percent tax rate.

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section not subject to the 9.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of paragraph two of subsection (d-1) of this section and such tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over ten million dollars and the denominator is fifty thousand dollars.

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section not subject to the 10.32 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of paragraph two of subsection (d-1) of this section and such tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one hundred million dollars and the denominator is fifty thousand dollars.

(E) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (b) of this section multiplied by the taxpayer's taxable income.

(3) For resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts, the supplemental tax shall be an amount equal to the sum of the tax table benefits described in subparagraphs (A), (B), (C) and (D) of this paragraph multiplied by their respective fractions in such subparagraphs.

(A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section less the sum of tax table benefits in subparagraphs (A) and (B) of paragraph three of subsection (d-1) of this section. The fraction is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million dollars and the denominator is fifty thousand dollars.

(B) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section not subject to the 9.32 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of paragraph three of subsection (d-1) of this section and such tax table benefit in subparagraph (A) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars. Provided, however, this subparagraph shall not apply to taxpayers who are not subject to the 9.32 percent tax rate.

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section not subject to the 9.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of paragraph three of subsection (d-1) of this section and such tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over ten million dollars and the denominator is fifty thousand dollars.

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section not subject to the 10.32 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in clause (ii) of subparagraph (B) of paragraph one of subsection (c) of this section less the sum of the tax table benefits in subparagraphs (A)

and (B) of paragraph three of subsection (d-1) of this section and such tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one hundred million dollars and the denominator is fifty thousand dollars.

(E) Provided, however, the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax tables in subsection (c) of this section multiplied by the taxpayer's taxable income.

§ 5. Subsection (f) of section 614 of the tax law, as amended by section 11 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(f) Adjusted standard deduction. For taxable years beginning after two thousand [~~seventeen~~] twenty-one, the standard deductions set forth in this section shall be the amounts set forth in this section adjusted by the cost of living adjustment prescribed in section six hundred one-a of this part for tax years two thousand thirteen [~~through two thousand seventeen~~] and thereafter.

§ 6. Section 171-a of the tax law, as separately amended by chapters 481 and 484 of the laws of 1981, is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding subdivision one of this section or any other provision of law to the contrary, the taxes imposed pursuant to clause (ix) of subparagraph (B) of paragraph one of subsection (a), clause (ix) of subparagraph (B) of paragraph one of subsection (b), and clause (ix) of subparagraph (B) of paragraph one of subsection (c) of section six hundred one of this chapter, reduced by an amount for administrative costs, shall be deposited, as such taxes are received, as follows: (a) eighty percent of the revenue shall be deposited to the credit of the New York city housing authority; and (b) twenty percent of the revenue shall be deposited to the credit of the division of housing and community renewal for the purposes of construction, improvement, and preservation of public housing authorities outside the city of New York. The amount for administrative costs shall be determined by the commissioner to represent reasonable costs of the department of taxation and finance in administering, collecting, determining and distributing such taxes. Of the total revenue collected or received under such sections of this chapter, the comptroller shall retain in his hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such clauses of such section of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under provisions of such sections. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such sections.

§ 7. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2022.