# STATE OF NEW YORK

4595

2021-2022 Regular Sessions

# IN ASSEMBLY

February 4, 2021

Introduced by M. of A. KELLES -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the imposition of additional tax on certain business income and on business income included in an individual's New York taxable income

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

Section 1. The tax law is amended by adding two new sections 209-N and 608 to read as follows:

**§ 209-N. Additional tax. 1. There is imposed an additional tax on a taxpayer's business income base, as defined in section two hundred ten of this article, at a rate equal to the difference between (i) the rate of tax imposed in subparagraph (b) of paragraph one of section 11 of the Internal Revenue Code (26 U.S. Code § 11(1)(b)), as in effect for the year two thousand sixteen, and (ii) the current rate of tax imposed in paragraph (b) of section 11 of the Internal Revenue Code (26 U.S. Code § 11(1)(b)).**

**2. The additional tax under this section shall be administered, and penalties shall be imposed, under the same provisions of this article as the tax imposed under section two hundred nine of this article.**

**§ 608. Additional tax. 1. There is imposed an additional tax upon the amount of an individual's New York taxable income that corresponds to any deduction taken pursuant to section 199A of the Internal Revenue Code (26 U.S. Code § 199A), or any successor provision thereto. This section shall not apply to a taxpayer with a federal taxable income below the threshold amount, as defined in section 199A(e) of the Internal Revenue Code, plus fifty thousand dollars for single filers or one hundred thousand dollars in the case of a joint return.**

**2. The rate of such additional tax shall be equal to the highest federal income tax rates in effect for the taxable year that would apply to the amount deducted under section 199A of the Internal Revenue Code**

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

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(26 U.S. Code § 199A), or any successor provision thereto, but for the application of such section.

3. The amount of an individual's New York taxable income that corresponds to the amount of any deduction taken pursuant to section 199A of the Internal Revenue Code (26 U.S. Code § 199A) is the amount that bears the same relationship to the taxpayer's total New York taxable income as the amount deducted under section 199A of the Internal Revenue Code (26 U.S. Code § 199A) bears to the taxpayer's total federal taxable income as determined without regard to such deduction.

4. The additional tax under this section shall be administered, and penalties shall be imposed, in the same manner as the other taxes imposed by this article.

§ 2. This act shall take effect immediately and shall apply to tax year 2021.