

# 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:

1 Section 1. The tax law is amended by adding two new sections 209-N and  
2 608 to read as follows:

3 § 209-N. Additional tax. 1. There is imposed an additional tax on a  
4 taxpayer's business income base, as defined in section two hundred ten  
5 of this article, at a rate equal to the difference between (i) the rate  
6 of tax imposed in subparagraph (b) of paragraph one of section 11 of the  
7 Internal Revenue Code (26 U.S. Code § 11(1)(b)), as in effect for the  
8 year two thousand sixteen, and (ii) the current rate of tax imposed in  
9 paragraph (b) of section 11 of the Internal Revenue Code (26 U.S. Code §  
10 11(1)(b)).

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

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

22 2. The rate of such additional tax shall be equal to the highest  
23 federal income tax rates in effect for the taxable year that would apply  
24 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.

LBD07723-01-1

1 (26 U.S. Code § 199A), or any successor provision thereto, but for the  
2 application of such section.

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

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

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