

# STATE OF NEW YORK

8221--A

2021-2022 Regular Sessions

## IN ASSEMBLY

August 25, 2021

Introduced by M. of A. BYRNE -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to enacting the "Invest in New Yorkers Act"; and to amend the tax law, in relation to the effectiveness and fairness of the personal income tax rate by eliminating the state's current tax recapture system which unfairly penalizes people who work and earn more money moving them into a higher tax bracket

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "Invest in New Yorkers Act".

3 § 2. The opening paragraph of subsection (d) of section 601 of the tax  
4 law, as amended by section 1 of part R of chapter 63 of the laws of  
5 2003, is amended to read as follows:

6 For taxable years beginning after nineteen hundred ninety and before  
7 January first, two thousand twenty-two, there is hereby imposed a  
8 supplemental tax in addition to the tax imposed under subsections (a),  
9 (b) and (c) of this section for the purpose of recapturing the benefit  
10 of the tax tables contained in such subsections or section six hundred  
11 ninety-nine of this article, as the case may be. The supplemental tax  
12 shall be an amount equal to the sum of the tax table benefits in para-  
13 graphs one, two and three of this subsection multiplied by their respec-  
14 tive fractions in such paragraphs provided, however, that paragraph two  
15 of this subsection shall not apply to taxpayers that are not subject to  
16 the second highest rate of tax.

17 § 3. The opening paragraph of subsection (d-1) of section 601 of the  
18 tax law, as amended by section 4 of part TT of chapter 60 of the laws of  
19 2016, is amended to read as follows:

20 Notwithstanding the provisions of subsection (d) of this section, for  
21 taxable years beginning after two thousand eleven and before January

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

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1 first, two thousand twenty-two, there is hereby imposed a supplemental  
2 tax in addition to the tax imposed under subsections (a), (b) and (c) of  
3 this section for the purpose of recapturing the benefit of the tax  
4 tables contained in such subsections. During these taxable years, any  
5 reference in this chapter to subsection (d) of this section shall be  
6 read as a reference to this subsection.

7 § 4. The opening paragraph of paragraph 1 of subsection (d-1) of  
8 section 601 of the tax law, as amended by section 5 of part TT of chap-  
9 ter 60 of the laws of 2016, is amended to read as follows:

10 For resident married individuals filing joint returns and resident  
11 surviving spouses, the supplemental tax shall be an amount equal to the  
12 sum of the tax table benefits described in subparagraphs (A), (B), (C)  
13 and (D) of this paragraph multiplied by their respective fractions in  
14 such subparagraphs. Furthermore, in making the calculations described in  
15 these subparagraphs in taxable years beginning after tax year two thou-  
16 sand seventeen and before January first, two thousand twenty-two, the  
17 applicable tax rates specified in subparagraph (B) of paragraph one of  
18 subsection (a) of this section shall be substituted for the rates refer-  
19 enced in these subparagraphs.

20 § 5. Subparagraph (D) of paragraph 1 of subsection (d-1) of section  
21 601 of the tax law, as amended by section 4 of part A of chapter 59 of  
22 the laws of 2021, is amended to read as follows:

23 (D) The tax table benefit is the difference between (i) the amount of  
24 taxable income set forth in the tax table in paragraph one of subsection  
25 (a) of this section not subject to the 8.82 percent rate of tax for the  
26 taxable year multiplied by such rate and (ii) the dollar denominated tax  
27 for such amount of taxable income set forth in the tax table applicable  
28 to the taxable year in paragraph one of subsection (a) of this section  
29 less the sum of the tax table benefits in subparagraphs (A), (B) and (C)  
30 of this paragraph. The fraction for this subparagraph is computed as  
31 follows: the numerator is the lesser of fifty thousand dollars or the  
32 excess of New York adjusted gross income for the taxable year over two  
33 million dollars and the denominator is fifty thousand dollars. This  
34 subparagraph shall apply only to taxable years beginning on or after  
35 January first, two thousand twelve and before January first, two thou-  
36 sand [~~twenty-one and for tax years beginning on or after January first,~~  
37 ~~two thousand twenty-eight~~] twenty-two.

38 § 6. Subparagraph (E) of paragraph 1 of subsection (d-1) of section  
39 601 of the tax law, as amended by section 4 of part A of chapter 59 of  
40 the laws of 2021, is amended to read as follows:

41 (E) The tax table benefit is the difference between (i) the amount of  
42 taxable income set forth in the tax table in paragraph one of subsection  
43 (a) of this section not subject to the 9.65 percent rate of tax for the  
44 taxable year multiplied by such rate and (ii) the dollar denominated tax  
45 for such amount of taxable income set forth in the tax table applicable  
46 to the taxable year in paragraph one of subsection (a) of this section  
47 less the sum of the tax table benefits in subparagraphs (A), (B), and  
48 (C) of this paragraph. The fraction for this subparagraph is computed as  
49 follows: the numerator is the lesser of fifty thousand dollars or excess  
50 of New York adjusted gross income for the taxable year over two million  
51 dollars and the denominator is fifty thousand dollars. This subparagraph  
52 shall apply only to the taxable years beginning on or after January  
53 first, two thousand twenty-one and before January first, two thousand  
54 [~~twenty-eight~~] twenty-two.

§ 7. Subparagraph (F) of paragraph 1 of subsection (d-1) of section 601 of the tax law, as added by section 4 of part A of chapter 59 of the laws of 2021, is amended to read as follows:

(F) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 10.30 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 paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), (C) and (E) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand ~~twenty-eight~~ twenty-two.

§ 8. Subparagraph (G) of paragraph 1 of subsection (d-1) of section 601 of the tax law, as added by section 4 of part A of chapter 59 of the laws of 2021, is amended to read as follows:

(G) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 10.90 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 paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), (C), (E) and (F) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over twenty-five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand ~~twenty-eight~~ twenty-two.

§ 9. The opening paragraph of paragraph 2 of subsection (d-1) of section 601 of the tax law, as amended by section 6 of part TT of chapter 60 of the laws of 2016, is amended to read as follows:

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) and (C) of this paragraph multiplied by their respective fractions in such subparagraphs. Furthermore, in making the calculations described in these subparagraphs in taxable years beginning after tax year two thousand seventeen and before January first, two thousand twenty-two, the applicable tax rates specified in subparagraph (B) of paragraph one of subsection (b) of this section shall be substituted for the rates referenced in these subparagraphs.

§ 10. Subparagraph (C) of paragraph 2 of subsection (d-1) of section 601 of the tax law, as amended by section 5 of part A of chapter 59 of the laws of 2021, is amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in 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 paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of

1 this paragraph. The fraction for this subparagraph is computed as  
2 follows: the numerator is the lesser of fifty thousand dollars or the  
3 excess of New York adjusted gross income for the taxable year over one  
4 million five hundred thousand dollars and the denominator is fifty thou-  
5 sand dollars. This subparagraph shall apply only to taxable years begin-  
6 ning on or after January first, two thousand twelve and before January  
7 first, two thousand [~~twenty-one and for tax years beginning on or after~~  
8 ~~January first, two thousand twenty-eight~~] twenty-two.

9 § 11. Subparagraph (D) of paragraph 2 of subsection (d-1) of section  
10 601 of the tax law, as amended by section 5 of part A of chapter 59 of  
11 the laws of 2021, is amended to read as follows:

12 (D) The tax table benefit is the difference between (i) the amount of  
13 taxable income set forth in the tax table in paragraph one of subsection  
14 (a) of this section not subject to the 9.65 percent rate of tax for the  
15 taxable year multiplied by such rate and (ii) the dollar denominated tax  
16 for such amount of taxable income set forth in the tax table applicable  
17 to the taxable year in paragraph one of subsection (a) of this section  
18 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
19 this paragraph. The fraction for this subparagraph is computed as  
20 follows: the numerator is the lesser of fifty thousand dollars or excess  
21 of New York adjusted gross income for the taxable year over one million  
22 five hundred thousand dollars and the denominator is fifty thousand  
23 dollars. This subparagraph shall apply only to the taxable years begin-  
24 ning on or after January first, two thousand twenty-one and before Janu-  
25 ary first, two thousand [~~twenty-eight~~] twenty-two.

26 § 12. Subparagraph (E) of paragraph 2 of subsection (d-1) of section  
27 601 of the tax law, as added by section 5 of part A of chapter 59 of the  
28 laws of 2021, is amended to read as follows:

29 (E) The tax table benefit is the difference between (i) the amount of  
30 taxable income set forth in the tax table in paragraph one of subsection  
31 (a) of this section not subject to the 10.30 percent rate of tax for the  
32 taxable year multiplied by such rate and (ii) the dollar denominated tax  
33 for such amount of taxable income set forth in the tax table applicable  
34 to the taxable year in paragraph one of subsection (a) of this section  
35 less the sum of the tax table benefits in subparagraphs (A), (B) and (D)  
36 of this paragraph. The fraction for this subparagraph is computed as  
37 follows: the numerator is the lesser of fifty thousand dollars or excess  
38 of New York adjusted gross income for the taxable year over five million  
39 dollars and the denominator is fifty thousand dollars. This subparagraph  
40 shall apply only to the taxable years beginning on or after January  
41 first, two thousand twenty-one and before January first, two thousand  
42 [~~twenty-eight~~] twenty-two.

43 § 13. Subparagraph (F) of paragraph 2 of subsection (d-1) of section  
44 601 of the tax law, as added by section 5 of part A of chapter 59 of the  
45 laws of 2021, is amended to read as follows:

46 (F) The tax table benefit is the difference between (i) the amount of  
47 taxable income set forth in the tax table in paragraph one of subsection  
48 (a) of this section not subject to the 10.90 percent rate of tax for the  
49 taxable year multiplied by such rate and (ii) the dollar denominated tax  
50 for such amount of taxable income set forth in the tax table applicable  
51 to the taxable year in paragraph one of subsection (a) of this section  
52 less the sum of the tax table benefits in subparagraphs (A), (B), (D)  
53 and (E) of this paragraph. The fraction for this subparagraph is  
54 computed as follows: the numerator is the lesser of fifty thousand  
55 dollars or excess of New York adjusted gross income for the taxable year  
56 over twenty-five million dollars and the denominator is fifty thousand

1 dollars. This subparagraph shall apply only to the taxable years begin-  
2 ning on or after January first, two thousand twenty-one and before Janu-  
3 ary first, two thousand [~~twenty-eight~~] twenty-two.

4 § 14. The opening paragraph of paragraph 3 of subsection (d-1) of  
5 section 601 of the tax law, as amended by section 7 of part TT of chap-  
6 ter 60 of the laws of 2016, is amended to read as follows:

7 For resident unmarried individuals, resident married individuals  
8 filing separate returns and resident estates and trusts, the supple-  
9 mental tax shall be an amount equal to the sum of the tax table benefits  
10 described in subparagraphs (A), (B) and (C) of this paragraph multiplied  
11 by their respective fractions in such subparagraphs. Furthermore, in  
12 making the calculations described in these subparagraphs in taxable  
13 years beginning after tax year two thousand seventeen and before January  
14 first, two thousand twenty-one, the applicable tax rates specified in  
15 subparagraph (B) of paragraph one of subsection (c) of this section  
16 shall be substituted for the rates referenced in these subparagraphs.

17 § 15. Subparagraph (C) of paragraph 3 of subsection (d-1) of section  
18 601 of the tax law, as amended by section 6 of part A of chapter 59 of  
19 the laws of 2021, is amended to read as follows:

20 (C) The tax table benefit is the difference between (i) the amount of  
21 taxable income set forth in the tax table in paragraph one of subsection  
22 (c) of this section not subject to the 8.82 percent rate of tax for the  
23 taxable year multiplied by such rate and (ii) the dollar denominated tax  
24 for such amount of taxable income set forth in the tax table applicable  
25 to the taxable year in paragraph one of subsection (c) of this section  
26 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
27 this paragraph. The fraction for this subparagraph is computed as  
28 follows: the numerator is the lesser of fifty thousand dollars or the  
29 excess of New York adjusted gross income for the taxable year over one  
30 million dollars and the denominator is fifty thousand dollars. This  
31 subparagraph shall apply only to taxable years beginning on or after  
32 January first, two thousand twelve and before January first, two thou-  
33 sand [~~twenty-one and for tax years beginning on or after January first,~~  
34 ~~two thousand twenty-eight~~] twenty-two.

35 § 16. Subparagraph (D) of paragraph 3 of subsection (d-1) of section  
36 601 of the tax law, as amended by section 6 of part A of chapter 59 of  
37 the laws of 2021, is amended to read as follows:

38 (D) The tax table benefit is the difference between (i) the amount of  
39 taxable income set forth in the tax table in paragraph one of subsection  
40 (a) of this section not subject to the 9.65 percent rate of tax for the  
41 taxable year multiplied by such rate and (ii) the dollar denominated tax  
42 for such amount of taxable income set forth in the tax table applicable  
43 to the taxable year in paragraph one of subsection (a) of this section  
44 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
45 this paragraph. The fraction for this subparagraph is computed as  
46 follows: the numerator is the lesser of fifty thousand dollars or excess  
47 of New York adjusted gross income for the taxable year over one million  
48 five hundred thousand dollars and the denominator is fifty thousand  
49 dollars. This subparagraph shall apply only to the taxable years begin-  
50 ning on or after January first, two thousand twenty-one and before Janu-  
51 ary first, two thousand [~~twenty-eight~~] twenty-two.

52 § 17. Subparagraph (E) of paragraph 3 of subsection (d-1) of section  
53 601 of the tax law, as added by section 6 of part A of chapter 59 of the  
54 laws of 2021, is amended to read as follows:

55 (E) The tax table benefit is the difference between (i) the amount of  
56 taxable income set forth in the tax table in paragraph one of subsection

(a) of this section not subject to the 10.30 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 paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (D) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand ~~twenty-eight~~ twenty-two.

§ 18. Subparagraph (F) of paragraph 3 of subsection (d-1) of section 601 of the tax law, as added by section 6 of part A of chapter 59 of the laws of 2021, is amended to read as follows:

(F) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 10.90 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 paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B), (D) and (E) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or excess of New York adjusted gross income for the taxable year over twenty-five million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to the taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand ~~twenty-eight~~ twenty-two.

§ 19. This act shall take effect immediately.