STATE OF NEW YORK

2522

2021-2022 Regular Sessions

IN SENATE

January 21, 2021

Introduced by Sen. RIVERA -- 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

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 a new section 601-b to read as follows:

§ 601-b. Additional tax on low-taxed investment income. (a) There is hereby imposed, in addition to the tax imposed under section six hundred one of this article, an additional tax on a New York resident's low-taxed investment income.

(b) Low-taxed investment income shall mean the amount of an individual's New York taxable income attributable to long-term capital gain, dividends, or any other type of income taxed under the preferential rates of section 1(h) of the internal revenue code, or any successor provision thereto.

(c)(1) The additional tax imposed under this section shall be equal to (i) the difference between (A) the applicable federal income tax rate that would be imposed on an individual's low-taxed investment income if it were subject to the federal income tax rates imposed on ordinary income under section 1 of the internal revenue code and (B) the applicable federal income tax rate imposed at the preferential rates under section 1(h) of the internal revenue code, multiplied by (ii) the amount of an individual's low-taxed investment income, as defined in subsection (b) of this section.

(2) The additional tax under paragraph one of this subsection shall be multiplied by the phase-in fraction to determine the amount due under this section. The phase-in fraction is computed as follows: the numerator is the lesser of (i) an individual's New York taxable income in excess of the applicable amount defined in subsection (d) of this

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

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section or (ii) fifty thousand dollars, and the denominator is fifty thousand dollars.

(d) This section shall not apply to the following persons:

(1) In the case of resident married individuals filing joint returns, if New York taxable income is not more than two hundred fifty thousand dollars.

(2) In the case of a resident head of household, an individual whose New York taxable income is not more than two hundred thousand dollars.

(3) In the case of resident unmarried individuals, resident married individuals filing separate returns, and resident estates and trusts, if New York taxable income is not more than one hundred fifty thousand dollars.

(e) This section shall be administered, and penalties imposed, in the same manner as the tax imposed under section six hundred one of this article.

(f) The department may adopt rules and regulations as necessary to implement the provisions of this section.

§ 2. This act shall take effect immediately.