

# STATE OF NEW YORK

3215

2021-2022 Regular Sessions

## IN SENATE

January 28, 2021

Introduced by Sens. MAYER, STAVISKY, BIAGGI, BRESLIN, GOUNARDES, HOYLMAN, MYRIE, PARKER, RAMOS, SANDERS, SERRANO -- 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; to amend the state finance law, in relation to providing additional funding for the general support of public schools; and to amend the state finance law, in relation to creating the supplemental public higher education fund

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

1 Section 1. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1  
2 of subsection (a) of section 601 of the tax law, as amended by section 1  
3 of part P of chapter 59 of the laws of 2019, are amended to read as  
4 follows:  
5 (iii) For taxable years beginning in two thousand twenty the following  
6 rates shall apply:  
7 If the New York taxable income is: The tax is:  
8 Not over \$17,150 4% of the New York taxable income  
9 Over \$17,150 but not over \$23,600 \$686 plus 4.5% of excess over  
10 \$17,150  
11 Over \$23,600 but not over \$27,900 \$976 plus 5.25% of excess over  
12 \$23,600  
13 Over \$27,900 but not over \$43,000 \$1,202 plus 5.9% of excess over  
14 \$27,900  
15 Over \$43,000 but not over \$161,550 \$2,093 plus 6.09% of excess over  
16 \$43,000  
17 Over \$161,550 but not over \$323,200 \$9,313 plus 6.41% of excess over  
18 \$161,550  
19 Over \$323,200 but not over \$19,674 plus 6.85% of excess

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

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1	\$2,155,350	\$323,200 over
2	Over \$2,155,350 <u>but not over</u>	\$145,177 plus 8.82% of excess over
3	<u>\$5,000,000</u>	\$2,155,350
4	<u>Over \$5,000,000</u>	<u>\$396,076 plus 10.9% of excess over</u>
5		<u>\$5,000,000</u>

6 (iv) For taxable years beginning in two thousand twenty-one the  
 7 following rates shall apply:

8	If the New York taxable income is:	The tax is:
9	Not over \$17,150	4% of the New York taxable income
10	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
11		\$17,150
12	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
13		\$23,600
14	Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over
15		\$27,900
16	Over \$43,000 but not over \$161,550	\$2,093 plus 5.97% of excess over
17		\$43,000
18	Over \$161,550 but not over \$323,200	\$9,170 plus 6.33% of excess over
19		\$161,550
20	Over \$323,200 but not over	\$19,403 plus 6.85% of excess
21	\$2,155,350	over \$323,200
22	Over \$2,155,350 <u>but not over</u>	\$144,905 plus 8.82% of excess over
23	<u>\$5,000,000</u>	\$2,155,350
24	<u>Over \$5,000,000</u>	<u>\$395,803 plus 10.9% of excess over</u>
25		<u>\$5,000,000</u>

26 § 2. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1 of  
 27 subsection (b) of section 601 of the tax law, as amended by section 2 of  
 28 part P of chapter 59 of the laws of 2019, are amended to read as  
 29 follows:

30	(iii) For taxable years beginning in two thousand twenty the following	
31	rates shall apply:	
32	If the New York taxable income is:	The tax is:
33	Not over \$12,800	4% of the New York taxable income
34	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over \$12,800
35	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
36		\$17,650
37	Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over \$20,900
38	Over \$32,200 but not over \$107,650	\$1,568 plus 6.09% of excess over
39		\$32,200
40	Over \$107,650 but not over \$269,300	\$6,162 plus 6.41% of excess over
41		\$107,650
42	Over \$269,300 but not over	\$16,524 plus 6.85% of
43	\$1,616,450	excess over \$269,300
44	Over \$1,616,450 <u>but not over</u>	\$108,804 plus 8.82% of excess over
45	<u>\$5,000,000</u>	\$1,616,450
46	<u>Over \$5,000,000</u>	<u>\$407,233 plus 10.9% of excess over</u>
47		<u>\$5,000,000</u>

48 (iv) For taxable years beginning in two thousand twenty-one the  
 49 following rates shall apply:

50	If the New York taxable income is:	The tax is:
51	Not over \$12,800	4% of the New York taxable income
52	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
53		\$12,800
54	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
55		\$17,650
56	Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over

1		\$20,900
2	Over \$32,200 but not over \$107,650	\$1,568 plus 5.97% of excess over
3		\$32,200
4	Over \$107,650 but not over \$269,300	\$6,072 plus 6.33% of excess over
5		\$107,650
6	Over \$269,300 but not over	\$16,304 plus 6.85% of
7	\$1,616,450	excess over \$269,300
8	Over \$1,616,450 <u>but not over</u>	\$108,584 plus 8.82% of excess over
9	<u>\$5,000,000</u>	\$1,616,450
10	<u>Over \$5,000,000</u>	<u>\$407,013 plus 10.9% of excess over</u>
11		<u>\$5,000,000</u>

12 § 3. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1 of  
 13 subsection (c) of section 601 of the tax law, as amended by section 3 of  
 14 part P of chapter 59 of the laws of 2019, are amended to read as  
 15 follows:

16 (iii) For taxable years beginning in two thousand twenty the following  
 17 rates shall apply:

18	If the New York taxable income is:	The tax is:
19	Not over \$8,500	4% of the New York taxable income
20	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
21		\$8,500
22	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
23		\$11,700
24	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
25		\$13,900
26	Over \$21,400 but not over \$80,650	\$1,042 plus 6.09% of excess over
27		\$21,400
28	Over \$80,650 but not over \$215,400	\$4,650 plus 6.41% of excess over
29		\$80,650
30	Over \$215,400 but not over	\$13,288 plus 6.85% of excess
31	\$1,077,550	over \$215,400
32	Over \$1,077,550 <u>but not over</u>	\$72,345 plus 8.82% of excess over
33	<u>\$5,000,000</u>	\$1,077,550
34	<u>Over \$5,000,000</u>	<u>\$418,305 plus 10.9% of excess over</u>
35		<u>\$5,000,000</u>

36 (iv) For taxable years beginning in two thousand twenty-one the  
 37 following rates shall apply:

38	If the New York taxable income is:	The tax is:
39	Not over \$8,500	4% of the New York taxable income
40	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
41		\$8,500
42	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
43		\$11,700
44	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
45		\$13,900
46	Over \$21,400 but not over \$80,650	\$1,042 plus 5.97% of excess over
47		\$21,400
48	Over \$80,650 but not over \$215,400	\$4,579 plus 6.33% of excess over
49		\$80,650
50	Over \$215,400 but not over	\$13,109 plus 6.85% of excess
51	\$1,077,550	over \$215,400
52	Over \$1,077,550 <u>but not over</u>	\$72,166 plus 8.82% of excess over
53	<u>\$5,000,000</u>	\$1,077,550
54	<u>Over \$5,000,000</u>	<u>\$418,126 plus 10.9% of excess over</u>
55		<u>\$5,000,000</u>

§ 4. Section 171-a of the tax law 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, eighty-five percent of any revenue derived from an increase in the taxes imposed on income over five million dollars pursuant to section six hundred one of this chapter attributable to the difference in the rate of such taxes for taxable year two thousand twenty and the rate of such taxes for taxable year two thousand nineteen and the difference in the rate of such taxes for taxable year two thousand twenty-one and the rate of such taxes for taxable year two thousand nineteen shall be deposited in the state lottery fund, created pursuant to section ninety-two-c of the state finance law, as such taxes are received. The remaining fifteen percent of such derived revenue shall be deposited in the supplemental public higher education fund, created pursuant to section seventy-eight-c of the state finance law. The amount for administrative costs shall be determined by the commissioner to represent reasonable costs of the department 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 or her hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such sections 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.

§ 5. 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 two thousand twenty and two thousand twenty-one for a taxpayer whose New York taxable income is over five million dollars, there is hereby imposed a supplemental tax in addition to the tax imposed under subsections (a), (b), (c) and (d-1) 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 benefit in subparagraph (A) of this paragraph multiplied by the respective fraction in such subparagraph.

(A) 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 10.9 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 (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 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 10.9 percent tax rate.

(B) 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

1 tax tables in subsection (a) of this section multiplied by the taxpay-  
2 er's taxable income.

3 (2) For resident heads of households, the supplemental tax shall be an  
4 amount equal to the sum of the tax table benefit described in subpara-  
5 graph (A) of this paragraph multiplied by the respective fraction in  
6 such subparagraph.

7 (A) The tax table benefit is the difference between (i) the amount of  
8 taxable income set forth in the tax table in paragraph one of subsection  
9 (b) of this section not subject to the 10.9 percent rate of tax for the  
10 taxable year multiplied by such rate and (ii) the dollar denominated tax  
11 for such amount of taxable income set forth in the tax table applicable  
12 to the taxable year in paragraph one of subsection (b) of this section  
13 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
14 paragraph two of subsection (d-1) of this section. The fraction for this  
15 subparagraph is computed as follows: the numerator is the lesser of  
16 fifty thousand dollars or the excess of New York adjusted gross income  
17 for the taxable year over five million dollars and the denominator is  
18 fifty thousand dollars. Provided, however, this subparagraph shall not  
19 apply to taxpayers who are not subject to the 10.9 percent tax rate.

20 (B) Provided, however, the total tax prior to the application of any  
21 tax credits shall not exceed the highest rate of tax set forth in the  
22 tax tables in subsection (b) of this section multiplied by the taxpay-  
23 er's taxable income.

24 (3) For resident unmarried individuals, resident married individuals  
25 filing separate returns and resident estates and trusts, the supple-  
26 mental tax shall be an amount equal to the sum of the tax table benefits  
27 described in subparagraph (A) of this paragraph multiplied by the  
28 respective fractions in such subparagraph.

29 (A) 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 (c) of this section not subject to the 10.9 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 (c) of this section  
35 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
36 paragraph three of subsection (d-1) of this section. The fraction for  
37 this subparagraph is computed as follows: the numerator is the lesser of  
38 fifty thousand dollars or the excess of New York adjusted gross income  
39 for the taxable year over five million dollars and the denominator is  
40 fifty thousand dollars. Provided, however, this subparagraph shall not  
41 apply to taxpayers who are not subject to the 10.9 percent tax rate.

42 (B) Provided, however, the total tax prior to the application of any  
43 tax credits shall not exceed the highest rate of tax set forth in the  
44 tax tables in subsection (c) of this section multiplied by the taxpay-  
45 er's taxable income.

46 § 6. Section 92-c of the state finance law is amended by adding a new  
47 subdivision 3-a to read as follows:

48 3-a. Moneys in such fund deposited pursuant to the provisions of  
49 subdivision three of section one hundred seventy-one-a of the tax law  
50 shall be appropriated or transferred only for the general support of  
51 public schools.

52 § 7. The state finance law is amended by adding a new section 78-c to  
53 read as follows:

54 § 78-c. Supplemental public higher education fund. 1. There is hereby  
55 established in the joint custody of the state comptroller and the

1 commissioner of taxation and finance a fund to be known as the "supple-  
2 mental public higher education fund".

3 2. Such fund shall consist of the revenues received by the department  
4 of taxation and finance, pursuant to the provisions of subdivision three  
5 of section one hundred seventy-one-a of the tax law, and all other  
6 moneys appropriated, credited, or transferred thereto from any other  
7 fund or source pursuant to law. Nothing in this section shall prevent  
8 the state from soliciting and receiving grants, gifts or bequests for  
9 the purposes of the fund as defined in this section and depositing them  
10 into the fund according to law.

11 3. Moneys of the fund shall be distributed equally to the state  
12 university of New York and the city university of New York for addi-  
13 tional operating support, as appropriated by the legislature.

14 § 8. Notwithstanding any law, rule or regulation to the contrary, any  
15 moneys collected pursuant to subdivision 3 of section 171-a of the tax  
16 law and appropriated for the general support of public schools shall not  
17 diminish the amount of school aid appropriated for any given school  
18 year. Such collected moneys shall be additional funding. For the  
19 purposes of this section, "amount of school aid" shall mean the amount  
20 appropriated pursuant to the state budget for the previous school year.

21 § 9. Notwithstanding any law, rule or regulation to the contrary, any  
22 moneys collected pursuant to subdivision 3 of section 171-a of the tax  
23 law and appropriated for additional operating support of the state  
24 university of New York and the city university of New York shall not  
25 diminish the amount of operating support for the state university of New  
26 York and the city university of New York appropriated for any given  
27 academic year. Such collected moneys shall be additional funding. For  
28 the purposes of this section, "operating support" shall mean the amount  
29 appropriated pursuant to the state budget for the previous academic  
30 year.

31 § 10. This act shall take effect immediately and shall be deemed to  
32 have been in full force and effect on and after January 1, 2020 and  
33 shall apply to taxable years on and after such date.