

STATE OF NEW YORK

3352

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

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

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:

1 Section 1. The tax law is amended by adding a new section 601-b to
2 read as follows:

3 § 601-b. Additional tax on low-taxed investment income. (a) There is
4 hereby imposed, in addition to the tax imposed under section six hundred
5 one of this article, an additional tax on a New York resident's low-
6 taxed investment income.

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

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

21 (2) The additional tax under paragraph one of this subsection shall be
22 multiplied by the phase-in fraction to determine the amount due under
23 this section. The phase-in fraction is computed as follows: the numera-
24 tor is the lesser of (i) an individual's New York taxable income in
25 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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1 section or (ii) fifty thousand dollars, and the denominator is fifty
2 thousand dollars.

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

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

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

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

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

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

18 § 2. This act shall take effect immediately.