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:

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

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

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

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

Notwithstanding the provisions of subsection (d) of this section, for 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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first, two thousand twenty-two, there is hereby imposed a supplemental tax in addition to the tax imposed under subsections (a), (b) and (c) 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.

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

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 benefits described in subparagraphs (A), (B), (C) and (D) 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 (a) of this section shall be substituted for the rates referenced in these subparagraphs.

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

(D) 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 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 (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. 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 two million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-one and for tax years beginning on or after January first, two thousand twenty-eight~~] twenty-two.

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

(E) 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 9.65 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 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 two 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.

§ 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

this paragraph. 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 one million five hundred thousand dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-one and for tax years beginning on or after January first, two thousand twenty-eight~~] twenty-two.

§ 11. Subparagraph (D) 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:

(D) 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 9.65 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) and (B) 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 one million five hundred thousand 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.

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

(E) 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) 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.

§ 13. Subparagraph (F) of paragraph 2 of subsection (d-1) of section 601 of the tax law, as added by section 5 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.

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

For resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts, 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-one, the applicable tax rates specified in subparagraph (B) of paragraph one of subsection (c) of this section shall be substituted for the rates referenced in these subparagraphs.

§ 15. Subparagraph (C) of paragraph 3 of subsection (d-1) of section 601 of the tax law, as amended by section 6 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 (c) 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 (c) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. 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 one million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand [~~twenty-one and for tax years beginning on or after January first, two thousand twenty-eight~~] twenty-two.

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

(D) 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 9.65 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) and (B) 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 one million five hundred thousand 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.

§ 17. Subparagraph (E) 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:

(E) 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) 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.