

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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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.