

# STATE OF NEW YORK

2576

2023-2024 Regular Sessions

## IN ASSEMBLY

January 26, 2023

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 imposing an additional tax on income attributable to long-term capital gain

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 low-taxed investment income.

6 (b) As used in this section, low-taxed investment income shall mean  
7 the amount of an individual's New York taxable income attributable to  
8 long-term capital gain, dividends, or any other type of income taxed  
9 under the rates of section 1(h) of the internal revenue code, or any  
10 successor provision thereto.

11 (c) The additional tax imposed under this section shall be equal to:

12 (1) in the case of a resident married individual who makes a single  
13 return jointly with the individual's spouse under subsection (b) of  
14 section six hundred fifty-one of this article, and in the case of every  
15 resident surviving spouse:

16 (A) if New York taxable income is over five hundred thousand dollars,  
17 seven and one-half percent of New York taxable income from long-term  
18 capital gain, which tax shall be phased in proportionally over the first  
19 fifty thousand dollars of New York taxable income in excess of five  
20 hundred thousand dollars; and

21 (B) if New York taxable income is over one million dollars, fifteen  
22 percent of New York taxable income from long-term capital gain, which  
23 tax shall be phased in proportionally, beginning with a phase-in frac-  
24 tion of fifty percent, over the first one hundred thousand dollars of  
25 New York taxable income in excess of one million dollars; and

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

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1 (2) in the case of a resident head of household:

2 (A) if New York taxable income is over five hundred thousand dollars,  
3 seven and one-half percent of New York taxable income from long-term  
4 capital gain, which tax shall be phased in proportionally over the first  
5 fifty thousand dollars of New York taxable income in excess of five  
6 hundred thousand dollars; and

7 (B) if New York taxable income is over one million dollars, fifteen  
8 percent of New York taxable income from long-term capital gain, which  
9 tax shall be phased in proportionally, beginning with a phase-in frac-  
10 tion of fifty percent, over the first one hundred thousand dollars of  
11 New York taxable income in excess of one million dollars; and

12 (3) in the case of a residential individual who is not a married indi-  
13 vidual or who makes a single return jointly with their spouse under  
14 subsection (b) of section six hundred fifty-one of this article or a  
15 resident head of household or a resident surviving spouse, and in the  
16 case of a resident estate and trust:

17 (A) if New York taxable income is over four hundred thousand dollars,  
18 seven and one-half percent of New York taxable income from long-term  
19 capital gain, which tax shall be phased in proportionally over the first  
20 fifty thousand dollars of New York taxable income in excess of four  
21 hundred thousand dollars; and

22 (B) if New York taxable income is over eight hundred thousand dollars,  
23 fifteen percent of New York taxable income from long-term capital gain,  
24 which tax shall be phased in proportionally, beginning with a phase-in  
25 fraction of fifty percent, over the first one hundred thousand dollars  
26 of New York taxable income in excess of eight hundred thousand dollars.

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

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

32 § 2. This act shall take effect immediately.