STATE OF NEW YORK

2162

2023-2024 Regular Sessions

IN SENATE

January 19, 2023

Introduced by Sens. RIVERA, BRESLIN, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, GIANARIS, GOUNARDES, HOYLMAN-SIGAL, JACKSON, LIU, MAY, MYRIE, PARKER, RAMOS, SALAZAR, SANDERS, SEPULVEDA, 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 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:

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

§ 601-b. Additional tax on low-taxed investment income. (a) There is hereby imposed, in addition to the tax imposed under section six hundred one of this article, an additional tax on low-taxed investment income.

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

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

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

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

(B) if New York taxable income is over one million dollars, fifteen percent of New York taxable income from long-term capital gain, which

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

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tax shall be phased in proportionally, beginning with a phase-in fraction of fifty percent, over the first one hundred thousand dollars of New York taxable income in excess of one million dollars; and

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.