

**S8329** MAYER No Same as

ON FILE: 05/11/20 Tax Law

TITLE....Relates to extending the top state income tax rate and provides for additional funding for the general support of public schools

05/11/20 REFERRED TO BUDGET AND REVENUE

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MAYER, STAVISKY

Amd §§601 & 171-a, Tax L; amd §92-c, add §78-c, St Fin L

Relates to extending the top state income tax rate for those that make \$5,000,000 or more and with such additional funds provides for additional school aid for the general support of public schools and for additional operating support for SUNY and CUNY.

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STATE OF NEW YORK

8329

IN SENATE

May 11, 2020

Introduced by Sens. MAYER, STAVISKY -- 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 extending the top state income tax rate; to amend the state finance law, in relation to providing additional funding for the general support of public schools; and to amend the state finance law, in relation to creating the supplemental public higher education fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1	Section 1. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1	
2	of subsection (a) of section 601 of the tax law, as amended by section 1	
3	of part P of chapter 59 of the laws of 2019, are amended to read as	
4	follows:	
5	(iii) For taxable years beginning in two thousand twenty the following	
6	rates shall apply:	
7	If the New York taxable income is:	The tax is:
8	Not over \$17,150	4% of the New York taxable income
9	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
10		\$17,150
11	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
12		\$23,600
13	Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over
14		\$27,900
15	Over \$43,000 but not over \$161,550	\$2,093 plus 6.09% of excess over
16		\$43,000
17	Over \$161,550 but not over \$323,200	\$9,313 plus 6.41% of excess over
18		\$161,550
19	Over \$323,200 but not over	\$19,674 plus 6.85% of excess
20	\$2,155,350	\$323,200 over
21	Over \$2,155,350 <u>but not over</u>	\$145,177 plus 8.82% of excess over
22	<u>\$5,000,000</u>	\$2,155,350
23	<u>Over \$5,000,000</u>	<u>\$396,076 plus 10.9% of excess over</u>
24		<u>\$5,000,000</u>

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

1 (iv) For taxable years beginning in two thousand twenty-one the  
2 following rates shall apply:

3 If the New York taxable income is:	The tax is:
4 Not over \$17,150	4% of the New York taxable income
5 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
6	\$17,150
7 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
8	\$23,600
9 Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over
10	\$27,900
11 Over \$43,000 but not over \$161,550	\$2,093 plus 5.97% of excess over
12	\$43,000
13 Over \$161,550 but not over \$323,200	\$9,170 plus 6.33% of excess over
14	\$161,550
15 Over \$323,200 but not over	\$19,403 plus 6.85% of excess
16 \$2,155,350	over \$323,200
17 Over \$2,155,350 <u>but not over</u>	\$144,905 plus 8.82% of excess over
18 <u>\$5,000,000</u>	\$2,155,350
19 <u>Over \$5,000,000</u>	<u>\$395,803 plus 10.9% of excess over</u>
20	<u>\$5,000,000</u>

21 § 2. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1 of  
22 subsection (b) of section 601 of the tax law, as amended by section 2 of  
23 part P of chapter 59 of the laws of 2019, are amended to read as  
24 follows:

25 (iii) For taxable years beginning in two thousand twenty the following  
26 rates shall apply:

27 If the New York taxable income is:	The tax is:
28 Not over \$12,800	4% of the New York taxable income
29 Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over \$12,800
30 Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
31	\$17,650
32 Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over \$20,900
33 Over \$32,200 but not over \$107,650	\$1,568 plus 6.09% of excess over
34	\$32,200
35 Over \$107,650 but not over \$269,300	\$6,162 plus 6.41% of excess over
36	\$107,650
37 Over \$269,300 but not over	\$16,524 plus 6.85% of
38 \$1,616,450	excess over \$269,300
39 Over \$1,616,450 <u>but not over</u>	\$108,804 plus 8.82% of excess over
40 <u>\$5,000,000</u>	\$1,616,450
41 <u>Over \$5,000,000</u>	<u>\$407,233 plus 10.9% of excess over</u>
42	<u>\$5,000,000</u>

43 (iv) For taxable years beginning in two thousand twenty-one the  
44 following rates shall apply:

45 If the New York taxable income is:	The tax is:
46 Not over \$12,800	4% of the New York taxable income
47 Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
48	\$12,800
49 Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
50	\$17,650
51 Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over
52	\$20,900
53 Over \$32,200 but not over \$107,650	\$1,568 plus 5.97% of excess over
54	\$32,200
55 Over \$107,650 but not over \$269,300	\$6,072 plus 6.33% of excess over

1		\$107,650
2	Over \$269,300 but not over	\$16,304 plus 6.85% of
3	\$1,616,450	excess over \$269,300
4	Over \$1,616,450 <u>but not over</u>	\$108,584 plus 8.82% of excess over
5	<u>\$5,000,000</u>	\$1,616,450
6	<u>Over \$5,000,000</u>	<u>\$407,013 plus 10.9% of excess over</u>
7		<u>\$5,000,000</u>

8 § 3. Clauses (iii) and (iv) of subparagraph (B) of paragraph 1 of  
9 subsection (c) of section 601 of the tax law, as amended by section 3 of  
10 part P of chapter 59 of the laws of 2019, are amended to read as  
11 follows:

12 (iii) For taxable years beginning in two thousand twenty the following  
13 rates shall apply:

14	If the New York taxable income is:	The tax is:
15	Not over \$8,500	4% of the New York taxable income
16	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
17		\$8,500
18	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
19		\$11,700
20	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
21		\$13,900
22	Over \$21,400 but not over \$80,650	\$1,042 plus 6.09% of excess over
23		\$21,400
24	Over \$80,650 but not over \$215,400	\$4,650 plus 6.41% of excess over
25		\$80,650
26	Over \$215,400 but not over	\$13,288 plus 6.85% of excess
27	\$1,077,550	over \$215,400
28	Over \$1,077,550 <u>but not over</u>	\$72,345 plus 8.82% of excess over
29	<u>\$5,000,000</u>	\$1,077,550
30	<u>Over \$5,000,000</u>	<u>\$418,305 plus 10.9% of excess over</u>
31		<u>\$5,000,000</u>

32 (iv) For taxable years beginning in two thousand twenty-one the  
33 following rates shall apply:

34	If the New York taxable income is:	The tax is:
35	Not over \$8,500	4% of the New York taxable income
36	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
37		\$8,500
38	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
39		\$11,700
40	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
41		\$13,900
42	Over \$21,400 but not over \$80,650	\$1,042 plus 5.97% of excess over
43		\$21,400
44	Over \$80,650 but not over \$215,400	\$4,579 plus 6.33% of excess over
45		\$80,650
46	Over \$215,400 but not over	\$13,109 plus 6.85% of excess
47	\$1,077,550	over \$215,400
48	Over \$1,077,550 <u>but not over</u>	\$72,166 plus 8.82% of excess over
49	<u>\$5,000,000</u>	\$1,077,550
50	<u>Over \$5,000,000</u>	<u>\$418,126 plus 10.9% of excess over</u>
51		<u>\$5,000,000</u>

52 § 4. Section 171-a of the tax law is amended by adding a new subdivi-  
53 sion 3 to read as follows:

54 3. Notwithstanding subdivision one of this section or any other  
55 provision of law to the contrary, eighty-five percent of any revenue  
56 derived from an increase in the taxes imposed on income over five

1 million dollars pursuant to section six hundred one of this chapter  
2 attributable to the difference in the rate of such taxes for taxable  
3 year two thousand twenty and the rate of such taxes for taxable year two  
4 thousand nineteen and the difference in the rate of such taxes for tax-  
5 able year two thousand twenty-one and the rate of such taxes for taxable  
6 year two thousand nineteen shall be deposited in the state lottery fund,  
7 created pursuant to section ninety-two-c of the state finance law, as  
8 such taxes are received. The remaining fifteen percent of such derived  
9 revenue shall be deposited in the supplemental public higher education  
10 fund, created pursuant to section seventy-eight-c of the state finance  
11 law. The amount for administrative costs shall be determined by the  
12 commissioner to represent reasonable costs of the department in adminis-  
13 tering, collecting, determining and distributing such taxes. Of the  
14 total revenue collected or received under such sections of this chapter,  
15 the comptroller shall retain in his or her hands such amount as the  
16 commissioner may determine to be necessary for refunds or reimbursements  
17 under such sections of this chapter out of which amount the comptroller  
18 shall pay any refunds or reimbursements to which taxpayers shall be  
19 entitled under provisions of such sections. The commissioner and the  
20 comptroller shall maintain a system of accounts showing the amount of  
21 revenue collected or received from each of the taxes imposed by such  
22 sections.

23 § 5. Section 601 of the tax law is amended by adding a new subsection  
24 (d-2) to read as follows:

25 (d-2) Alternative tax table benefit recapture. For taxable years two  
26 thousand twenty and two thousand twenty-one for a taxpayer whose New  
27 York taxable income is over \$5,000,000, there is hereby imposed a  
28 supplemental tax in addition to the tax imposed under subsections (a),  
29 (b), (c) and (d-1) of this section for the purpose of recapturing the  
30 benefit of the tax tables contained in such subsections. During these  
31 taxable years, any reference in this chapter to subsection (d) of this  
32 section shall be read as a reference to this subsection.

33 (1) For resident married individuals filing joint returns and resident  
34 surviving spouses, the supplemental tax shall be an amount equal to the  
35 sum of the tax table benefit in subparagraph (A) of this paragraph  
36 multiplied by the respective fraction in such subparagraph.

37 (A) The tax table benefit is the difference between (i) the amount of  
38 taxable income set forth in the tax table in paragraph one of subsection  
39 (a) of this section not subject to the 10.9 percent rate of tax for the  
40 taxable year multiplied by such rate and (ii) the dollar denominated tax  
41 for such amount of taxable income set forth in the tax table applicable  
42 to the taxable year in paragraph one of subsection (a) of this section  
43 less the sum of the tax table benefits in subparagraphs (A), (B) and (C)  
44 of paragraph one of subsection (d-1) of this section. The fraction for  
45 this subparagraph is computed as follows: the numerator is the lesser of  
46 fifty thousand dollars or the excess of New York adjusted gross income  
47 for the taxable year over five million dollars and the denominator is  
48 fifty thousand dollars. Provided, however, this subparagraph shall not  
49 apply to taxpayers who are not subject to the 10.9 percent tax rate.

50 (B) Provided, however, the total tax prior to the application of any  
51 tax credits shall not exceed the highest rate of tax set forth in the  
52 tax tables in subsection (a) of this section multiplied by the taxpay-  
53 er's taxable income.

54 (2) For resident heads of households, the supplemental tax shall be an  
55 amount equal to the sum of the tax table benefit described in subpara-

1 graph (A) of this paragraph multiplied by the respective fraction in  
2 such subparagraph.

3 (A) The tax table benefit is the difference between (i) the amount of  
4 taxable income set forth in the tax table in paragraph one of subsection  
5 (b) of this section not subject to the 10.9 percent rate of tax for the  
6 taxable year multiplied by such rate and (ii) the dollar denominated tax  
7 for such amount of taxable income set forth in the tax table applicable  
8 to the taxable year in paragraph one of subsection (b) of this section  
9 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
10 paragraph two of subsection (d-1) of this section. The fraction for this  
11 subparagraph is computed as follows: the numerator is the lesser of  
12 fifty thousand dollars or the excess of New York adjusted gross income  
13 for the taxable year over five million dollars and the denominator is  
14 fifty thousand dollars. Provided, however, this subparagraph shall not  
15 apply to taxpayers who are not subject to the 10.9 percent tax rate.

16 (B) Provided, however, the total tax prior to the application of any  
17 tax credits shall not exceed the highest rate of tax set forth in the  
18 tax tables in subsection (b) of this section multiplied by the taxpay-  
19 er's taxable income.

20 (3) For resident unmarried individuals, resident married individuals  
21 filing separate returns and resident estates and trusts, the supple-  
22 mental tax shall be an amount equal to the sum of the tax table benefits  
23 described in subparagraph (A) of this paragraph multiplied by the  
24 respective fractions in such subparagraph.

25 (A) The tax table benefit is the difference between (i) the amount of  
26 taxable income set forth in the tax table in paragraph one of subsection  
27 (c) of this section not subject to the 10.9 percent rate of tax for the  
28 taxable year multiplied by such rate and (ii) the dollar denominated tax  
29 for such amount of taxable income set forth in the tax table applicable  
30 to the taxable year in paragraph one of subsection (c) of this section  
31 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
32 paragraph three of subsection (d-1) of this section. The fraction for  
33 this subparagraph is computed as follows: the numerator is the lesser of  
34 fifty thousand dollars or the excess of New York adjusted gross income  
35 for the taxable year over five million dollars and the denominator is  
36 fifty thousand dollars. Provided, however, this subparagraph shall not  
37 apply to taxpayers who are not subject to the 10.9 percent tax rate.

38 (B) Provided, however, the total tax prior to the application of any  
39 tax credits shall not exceed the highest rate of tax set forth in the  
40 tax tables in subsection (c) of this section multiplied by the taxpay-  
41 er's taxable income.

42 § 6. Section 92-c of the state finance law is amended by adding a new  
43 subdivision 3-a to read as follows:

44 3-a. Moneys in such fund deposited pursuant to the provisions of  
45 subdivision three of section one hundred seventy-one-a of the tax law  
46 shall be appropriated or transferred only for the general support of  
47 public schools.

48 § 7. The state finance law is amended by adding a new section 78-c to  
49 read as follows:

50 § 78-c. Supplemental public higher education fund. 1. There is hereby  
51 established in the joint custody of the state comptroller and the  
52 commissioner of taxation and finance a fund to be known as the "supple-  
53 mental public higher education fund".

54 2. Such fund shall consist of the revenues received by the department  
55 of taxation and finance, pursuant to the provisions of subdivision three  
56 of section one hundred seventy-one-a of the tax law, and all other

1 moneys appropriated, credited, or transferred thereto from any other  
2 fund or source pursuant to law. Nothing in this section shall prevent  
3 the state from soliciting and receiving grants, gifts or bequests for  
4 the purposes of the fund as defined in this section and depositing them  
5 into the fund according to law.

6 3. Moneys of the fund shall be distributed equally to the state  
7 university of New York and the city university of New York for addi-  
8 tional operating support, as appropriated by the legislature.

9 § 8. Notwithstanding any law, rule or regulation to the contrary, any  
10 moneys collected pursuant to subdivision 3 of section 171-a of the tax  
11 law and appropriated for the general support of public schools shall not  
12 diminish the amount of school aid appropriated for any given school  
13 year. Such collected moneys shall be additional funding. For the  
14 purposes of this section, "amount of school aid" shall mean the amount  
15 appropriated pursuant to the state budget for the previous school year.

16 § 9. Notwithstanding any law, rule or regulation to the contrary, any  
17 moneys collected pursuant to subdivision 3 of section 171-a of the tax  
18 law and appropriated for additional operating support of the state  
19 university of New York and the city university of New York shall not  
20 diminish the amount of operating support for the state university of New  
21 York and the city university of New York appropriated for any given  
22 academic year. Such collected moneys shall be additional funding. For  
23 the purposes of this section, "operating support" shall mean the amount  
24 appropriated pursuant to the state budget for the previous academic  
25 year.

26 § 10. This act shall take effect immediately and shall be deemed to  
27 have been in full force and effect on and after January 1, 2020 and  
28 shall apply to taxable years on and after such date.



**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S8329

**SPONSOR:** MAYER

**TITLE OF BILL:**

An act to amend the tax law, in relation to extending the top state income tax rate; to amend the state finance law, in relation to providing additional funding for the general support of public schools; and to amend the state finance law, in relation to creating the supplemental public higher education fund

**PURPOSE OR GENERAL IDEA OF BILL:**

Establishes a new personal income tax bracket for filers earning over \$5,000,000 annually for a period of two years, the proceeds of which shall be dedicated to education funding to help address revenue losses due to the COVID-19 pandemic through a more equitable shared sacrifice for the benefit of all.

**SUMMARY OF PROVISIONS:**

Sections 1, 2 and 3 create a new high earner income tax bracket for filers who earn more than \$5,000,000 for fiscal years 2020 and 2021, with a flat tax rate of 10.90% for income in excess of \$5,000,000. This applies regardless of whether the filer is married filing jointly, a surviving spouse, a head of household, married filing separately, or unmarried.

Section 4 provides that 85% of new revenue generated by the increased tax rates be deposited in the state lottery fund and that 15% of new revenue generated by the increased tax rates be deposited in a new supplemental public higher education fund, requires the comptroller to maintain a system of accounts tracking revenue collected, and provides for certain other administrative actions with respect to such revenue.

Section 5 applies the high income bracket flat tax structure to the new tax bracket created by this bill.

Section 6 mandates that 85% of the revenue generated by the increased tax shall be appropriated for the general support of public schools.

Section 7 establishes the supplemental public higher education fund and provides that 15% of the revenue generated by the increased tax shall be distributed equally between SUNY and CUNY for additional operating support, as appropriated by the legislature.

Section 8 disallows diminishment of funding set forth in the state budget for the general support of public schools by reason of appropriation of revenue generated by this tax increase.

Section 9 disallows diminishment of funding set forth in the state budget for the operating support of SUNY and CUNY by reason of appropriation



of revenue generated by this tax increase.

Section 10 sets the effective date.

**JUSTIFICATION:**

The COVID-19 health emergency has cost New York State billions of dollars in revenue, and the fiscal aftershocks will continue for years to come. Among other critical state efforts, this unprecedented budget climate threatens existing education funding if the state does not find substantial new sources of support. Budget cuts such as these will hurt those who most depend on state-funded programs, and those who depend on them most are those New Yorkers who struggle to make ends meet.

As one additional source of revenue, this bill implements a modest, two-year tax rate increase on those personal income taxpayers who earn more than \$5,000,000 annually, and dedicates the revenue to public schools, SONY, and CUNY, for which cuts could have dramatic consequences. The \$5,000,000 threshold applies regardless of whether the tax filer is married filing jointly, a surviving spouse, a head of household, married filing separately, or unmarried. Like the rate for the existing highest earner tax bracket under which these high earners currently fall, this is a flat tax rate increase on all income. The rate increase also only applies for tax years 2020 and 2021. This structure is targeted to affect only the wealthiest New Yorkers and to provide a significant revenue boost for public schools, SUNY, and CUNY while the economic threat of cuts due to COVID-19 is the greatest.

In a time of crisis, sharing sacrifice among all is a fundamental principal of our democracy. To date, the predominant financial burden of COVID-19 has fallen on poor and middle-class New Yorkers, hundreds of thousands of whom have lost their jobs, their small businesses and their savings. In such a time, New York State should ensure that sacrifice is shared among those capable of paying, the wealthiest New Yorkers. Inequities existed prior to the advent of the coronavirus, but this terrible disease and its collateral effects have exacerbated them. Thousands of people have died, millions of New Yorkers have lost their jobs, hunger is rampant in those communities which are most hard-hit, and people from all over the country have come to New York to risk their lives to help those here who are in need. This bill requires the very small number of New Yorkers earning \$5,000,000 a year or more to do more to help for a limited period. Now is not the time to cut education, but to ensure that New York's students can recover educationally and emotionally from the toll of the pandemic.

Ultimately, this bill attempts to ensure that sacrifice in the face of the COVID-19 pandemic is shared more equally and proportionally among all New Yorkers, and that public schools, the great equalizer of our democracy, are funded adequately in the face of likely budget reductions.

**PRIOR LEGISLATIVE HISTORY:**

None

**FISCAL IMPLICATIONS:**

TBD

**EFFECTIVE DATE:**

This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2020, and shall apply to taxable years on and after such date.