New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-M-04(1)I
Income Tax
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Revised Summary of Personal Income Tax Legislative Changes Enacted in 2003

TSB-M-03(6)I, *Summary of Personal Income Tax Legislative Changes Enacted in 2003*, was issued on October 6, 2003. TSB-M-03(6)I contains brief summaries of the personal income tax changes that were part of the 2003-2004 New York State budget bill (Chapter 62 of the Laws of 2003) and the New York City budget bill (Chapter 63 of the Laws of 2003). On October 21, 2003, Governor Pataki signed into law Chapter 686 of the Laws of 2003, which, in part, makes technical corrections to Chapters 62 and 63. In order to provide taxpayers with a complete summary of Chapters 62, 63, and 686 in one document, TSB-M-03(6)I is being obsoleted and replaced by this revised summary.

For brief summaries of personal income tax legislation enacted in 2003 that was not part of Chapters 62, 63, and 686, see TSB-M-04(2)I.

New York State personal income tax

For tax years beginning in 2003, 2004, and 2005, the personal income tax rates are increased on certain taxable incomes. The increases were effectuated by creating two new tax brackets. The highest tax rate is now 7.7 percent for all taxpayers who have taxable incomes in excess of $500,000. The second highest tax rate is initially set at 7.5 percent for 2003 and decreases by .125 percent each year for tax years 2004 and 2005. For tax years beginning after 2005, the tax rates revert to the rates in effect for 2002 (i.e., the highest rate will be 6.85%). As a result of the amendments, the New York State personal income tax rates for tax years beginning in 2003 are as follows:

Married filing jointly and qualifying widow(er)

If the New York taxable income is:	The tax is:
Not over $16,000……..	4% of the New York taxable income
Over $16,000 but not over $22,000…..	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000…..	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000…..	$1,120 plus 5.9% of excess over $26,000
Over $40,000 but not over $150,000....	$1,946 plus 6.85% of excess over $40,000
Over $150,000 but not over $500,000..	$9,481 plus 7.5% of excess over $150,000
Over $500,000……..	$35,731 plus 7.7% of excess over $500,000

Single, married filing separately, and estates and trusts

If the New York taxable income is:	The tax is:
Not over $8,000……....	4% of the New York taxable income
Over $8,000 but not over $11,000….....	$320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000…..	$455 plus 5.25% of excess over $11,000
Over $13,000 but not over $20,000…..	$560 plus 5.9% of excess over $13,000
Over $20,000 but not over $100,000....	$973 plus 6.85% of excess over $20,000
Over $100,000 but not over $500,000..	$ 6,453 plus 7.5% of excess over $100,000
Over $500,000……..	$36,453 plus 7.7% of excess over $500,000

Head of household

If the New York taxable income is:	The tax is:
Not over $11,000……..	4% of the New York taxable income
Over $11,000 but not over $15,000…..	$440 plus 4.5% of excess over $11,000
Over $15,000 but not over $17,000…..	$620 plus 5.25% of excess over $15,000
Over $17,000 but not over $30,000…..	$725 plus 5.9% of excess over $17,000
Over $30,000 but not over $125,000....	$1,492 plus 6.85% of excess over $30,000
Over $125,000 but not over $500,000..	$8,000 plus 7.5% of excess over $125,000
Over $500,000……..	$36,125 plus 7.7% of excess over $500,000

(Tax Law sections 601(a), (b), and (c))

Tax benefit recapture

For tax years beginning on or after January 1, 2003, and before 2006, two additional levels of supplemental tax have been added to the tax table benefit recapture provisions which are intended to recapture the tax benefit a taxpayer receives from the tax rates that are below the highest rate in calculating taxes using the tax tables. These new temporary levels of supplemental taxes are imposed on: (1) resident individuals and estates and trusts that have New York adjusted gross incomes over $150,000 and with taxable incomes that are subject to the second highest rate of tax; and (2) resident individuals and estates and trusts that have New York adjusted gross incomes over $500,000.

(Tax Law section 601(d))

Underpayment of estimated tax

The Tax Law changes described in this memorandum may affect the amount of estimated tax that individuals, estates and trusts will be required to pay for 2003.

In order to avoid the penalty for underpayment of estimated tax for tax year 2003, the total amount of estimated tax and withholding tax paid must be:

- at least 90% (66 2/3% for farmers and fishermen) of the amount of income tax due as shown on your return for 2003 (or 90% of the tax due if no return was filed); or

- 100% of the tax shown on your return for 2002 (110% of that amount if you are not a farmer or a fisherman and the New York adjusted gross income shown on that return is more than $150,000 or, if married filing separately for 2003, more than $75,000). To qualify for this provision, you must have filed a return for 2002 and it must have been for a full 12-month year.

Further, the Tax Law now requires that, in determining whether 100% (or 110%, if applicable) of the tax shown on the 2002 return has been paid, taxpayers must recompute their 2002 tax using the 2003 tax rates and rules.

The new law also provides that an underestimation of tax penalty will not be imposed on any shortage in the April 15, 2003, installment that is attributable to the 2003 tax rate increases shown above. However, all subsequent installments must be adjusted to reflect these tax rate increases.

(Tax Law, section 685(c)(3)(B))

Use tax

A new line will be included on the personal income tax return for taxpayers to report unpaid sales and compensating use taxes imposed pursuant to Articles 28 and 29 of the Tax Law. These taxes apply in situations where New York State or local sales tax is not collected at the time a purchase of taxable property or a taxable service is made.

Modification for decoupling from federal bonus depreciation

Modifications to federal adjusted gross income are required for property placed in service on or after June 1, 2003, that qualified for the special bonus depreciation allowance created by the federal *Job Creation and Worker Assistance Act of 2002*, and enhanced by the federal *Jobs and Growth Tax Relief Reconciliation Act of 2003*, and for which this allowance was claimed for federal income tax purposes. These modifications apply to qualified property other than (1) qualified resurgence zone property, and (2) qualified New York Liberty Zone property described in Internal Revenue Code (IRC) section 1400L(b)(2) (without regard to subparagraph (C)(i) of such paragraph).

For tax years beginning on or after January 1, 2003, for property placed in service on or after June 1, 2003, in computing New York adjusted gross income, a taxpayer must add to federal adjusted gross income the amount of the depreciation deduction for qualified property

allowable under IRC section 167. Also, a taxpayer must subtract from federal adjusted gross income the depreciation deduction for qualified property allowable under IRC section 167 as if the property did not qualify for federal bonus depreciation provisions under IRC section 168(k)(2) (that is, the amount of depreciation that would have been allowed for federal income tax purposes if the property had been acquired on September 10, 2001).

Qualified resurgence zone property means qualified property described in IRC section 168(k)(2) substantially all of the use of which is in the resurgence zone in the active conduct of a trade or business by the taxpayer in the zone, and the original use in the zone commences with the taxpayer on or after January 1, 2003.

The *resurgence zone* means the area of New York County bounded on the south by a line running from the intersection of the Hudson River with the Holland tunnel, and running from there east to Canal Street, then running along the centerline of Canal Street to the intersection of the Bowery and Canal Street, running from there in a southeasterly direction diagonally across Manhattan Bridge Plaza, to the Manhattan Bridge and along the centerline of the Manhattan Bridge to the point where the centerline of the Manhattan Bridge would intersect with the easterly bank of the East River, and bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel and running from there north along West Avenue to the intersection of Clarkson Street then running east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

For tax years beginning on or after January 1, 2003, upon disposition of property to which the section 612(k) subtraction modification applies, a subtraction modification must be made to reflect the difference in depreciation allowable for federal and New York purposes.

These new modifications will apply only to tax years beginning after 2002, and only to property placed in service on or after June 1, 2003.

(Tax Law, sections 612(b)(8), 612(c)(16), 612(k), 612(l), and 612(m))

Modification for sport utility vehicle deduction

For tax years beginning on or after January 1, 2003, in determining New York adjusted gross income, taxpayers, except an eligible farmer, must add to federal adjusted gross income the amount deducted under IRC section 179 for a sport utility vehicle that weighs in excess of 6,000 pounds. IRC section 179 relates to an election to expense certain depreciable assets used in an active trade or business. An eligible farmer is a taxpayer who qualifies as an eligible farmer for purposes of the New York State farmers' school tax credit.

A related modification has been added to allow a subtraction for any recapture amount included in federal adjusted gross income pursuant to IRC section 179(d) attributable to the

federal deduction for a sport utility vehicle as described above. The modification may be made only for a vehicle for which the addition modification described above was made in the current year or a prior tax year.

Since the Tax Law does not contain a provision for depreciation for a sport utility vehicle in lieu of IRC section 179, amounts required to be added to federal adjusted gross income are not allowed as a deduction in computing New York adjusted gross income in subsequent years. As such, the IRC section 179 expense benefit is permanently lost in computing New York adjusted gross income.

Additionally, no modification was made to the Tax Law to adjust any gain or loss for federal income tax purposes upon the subsequent sale or disposition of the property subject to the addition modification. As such, no adjustment is made to the federal gain or loss in computing New York adjusted gross income.

For purposes of these modifications, a sport utility vehicle means any four wheeled passenger vehicle which is manufactured primarily for use on public streets, roads, and highways. However, such term does not include (1) any ambulance, hearse or combination ambulance-hearse used by the taxpayer directly in a trade or business; (2) any vehicle used by a taxpayer directly in the trade or business of transporting persons or property for compensation or hire; or (3) any truck, van, or motor home. A truck is defined as any vehicle that has a primary load carrying device or container attached, or is equipped with an open cargo area or covered box not readily accessible from the passenger compartment.

(Tax Law, sections 612(b)(36) and 612(c)(37))

Related party modifications

Addition for royalty payments made to a related member

For tax years beginning on or after January 1, 2003, in computing New York adjusted gross income, taxpayers are required to add to federal adjusted gross income royalty payments that are made during the tax year to a related member or members, to the extent deductible in calculating federal taxable income. However, royalty payments are not required to be added to federal adjusted gross income if, and to the extent:

- the taxpayer can show that the related member paid the amount to, or incurred the amount with respect to, a party that is not a related member, and the transaction was done for a valid business purpose, and the payments are made at arm's length, or
- the royalty payments are paid to, or are incurred with respect to, a related member organized under the laws of a country other than the United States, are subject to a comprehensive income tax treaty between such country and the United States, and are taxed in such country at a tax rate at least equal to that imposed by this state.

Subtraction for royalty payments received from a related member

For tax years beginning on or after January 1, 2003, in computing New York adjusted gross income, taxpayers may subtract from federal adjusted gross income royalty payments received, either directly or indirectly, by the taxpayer during the tax year from a related member or members, to the extent such payments are included in calculating the taxpayer's federal taxable income, and the payments were required to be added to federal adjusted gross income by the related member as described above.

Definitions

Related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation, or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations, or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under Articles 9, 9-A, 13, 22, 32, 33, or 33-A of the Tax Law.

Controlling interest means:

- in the case of a corporation, either 30% or more of the total combined voting power of all classes of stock of such corporation, or 30% or more of the capital, profits, or beneficial interest in such voting stock of such corporation, and
- in the case of a partnership, association, trust or other entity, 30% or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents, and any other similar types of intangible assets as determined by the commissioner, and includes amounts allowable as interest deductions under IRC section 163 to the extent such amounts are directly or indirectly for, related to, or in connection with the acquisition, use, maintenance or management, ownership, sale, exchange, or disposition of such intangible assets.

Valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, that changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

Disclosure of information

To facilitate administration of these provisions, the Tax Law was amended to grant the Commissioner of Taxation and Finance the authority to disclose to a taxpayer, or a taxpayer's related member, the information relating to any royalty payments paid, incurred or received by the taxpayer, or related member, to or from the other. Such information includes the treatment of such payments by the taxpayer, or the related member, in any report or return transmitted to the Commissioner under the Tax Law.

(Tax Law, sections 612(r) and 697(e))

Filing fees for limited liability companies and limited liability partnerships

Domestic and foreign limited liability companies that are treated as partnerships for federal income tax purposes, limited liability partnerships subject to Article 8-B of the Partnership Law and foreign limited liability partnerships, that have any income derived from New York sources, are required to file returns with the department and pay a filing fee with the return. Effective for tax years beginning on or after January 1, 2003, the prescribed filing and payment is now due within thirty days of the last day of the tax year.

In addition, effective for tax years beginning in 2003 and 2004, the filing fees imposed have been increased. The amount of the filing fee has been increased to $100 multiplied by the total number of members or partners of the limited liability company, limited liability partnership, or foreign limited liability partnership. The minimum amount of the fee has been increased to $500 and the maximum amount of the fee has been increased to $25,000.

Also, effective for tax years beginning in 2003 and 2004, single member limited liability companies that have income from New York State sources and are treated as disregarded entities for federal income tax purposes are subject to a return filing requirement and a filing fee. The fee is $100 for each entity. The return and payment are due within 30 days of the last day of the tax year.

(Tax Law, section 658(c))(3))

Estimated tax payments required by partnerships, limited liability companies, and New York S corporations

Effective for tax years ending after December 31, 2002, every partnership (other than a publicly traded partnership as defined in section 7704 of the IRC), limited liability company that is treated as a partnership for federal income tax purposes, and New York S corporation, that has income from New York sources, is required to pay estimated taxes on behalf of its C corporation partners or members, and nonresident individual partners, members, or shareholders on their distributive or pro rata share of the respective entity's income. Estimated tax for nonresident individual partners and shareholders means a partner's or shareholder's distributive share or pro rata share of the entity's income derived from New York sources for the year less the partner's

or shareholder's share of certain partnership related deductions allocated to New York State, multiplied by the highest rate of tax under section 601 of the Tax Law for the year (e.g., 7.7% for 2003). Estimated tax for corporate partners means a corporate partner's distributive share of the partnership's income derived from New York sources for the year multiplied by the highest rate of tax under section 210.1(a) of the Tax Law for the year (e.g., 7.5% for 2003). This amount is reduced by the partner's distributive share or shareholder's pro rata share of any allowable credits from the partnership or New York S corporation. For a fiscal-year partnership or New York S corporation, estimated tax payments must be based on the partner's or shareholder's distributive share of partnership or S corporation income for the fiscal year that ends in the calendar year.

The estimated tax payments required to be made by partnerships, limited liability companies, and S corporations are due on April 15, June 15, September 15, and January 15 of the next year. These entities can pay the entire amount due with the first payment (April 15), or pay in four equal installments. The payments must be made by these dates whether the partnership, limited liability company, or S corporation keeps it books on a calendar-year basis or a fiscal-year basis.

For the tax year 2003 estimated tax payments, the first payment of estimated tax by partnerships, limited liability companies and S corporations is due September 15, 2003. The payment due on September 15 must include the estimated tax that would have been due on April 15 and June 15, 2003, in addition to the amount due for September 15, 2003. However, the payments otherwise due for the periods ending on April 15 and June 15 do not have to be included in the September 15 payment if the entity receives written notification from the partner or shareholder that the individual or corporation has already complied with the New York tax filing and paying rules for those periods.

For purposes of this provision, New York source income means the New York source income of a nonresident individual who is a partner, member, or shareholder, as described in section 631 of the Tax Law, less the partner's, member's or shareholder's share of certain partnership related deductions allocated to New York State. These amounts include the partner's, member's or shareholder's share of the federal partnership deductions for medical insurance and contributions to IRA, Keogh, and Simplified Employee Pension (SEP) plans allocated to New York. These deductions are allocated to New York in the same manner as the partnership, limited liability company, or S corporation income is allocated to New York. For purposes of this provision, New York source income does not include any deductions that are required to be treated as itemized deductions on the partner's, member's, or shareholder's federal income tax return. Also, New York source income does not include the partner's federal deduction for one-half of the self-employment tax, since this deduction is not treated as a partnership deduction for federal income tax purposes. In general, this income is the sum of the items of income, gain, loss and deduction entering into an individual's federal adjusted gross income that are attributable to a business, trade, profession, or occupation carried on in New York State and any New York addition and subtraction modifications under sections 612(b) and 612(c) of the Tax Law that relate to income derived from New York sources. Partnerships, limited liability companies, and New York S corporations use this definition of New York

source income even when making estimated tax payments on behalf of partners or members who are C corporations.

Every partnership, limited liability company, or New York S corporation subject to these provisions will be required to file an information return to report and pay the amount of estimated tax paid on behalf of each partner, member, or shareholder who is a nonresident individual or a C corporation for federal income tax purposes. Within thirty days after the estimated tax is paid, the partnership, limited liability company, or New York S corporation must notify its partners, members, or shareholders of the amount of estimated tax paid on their behalf.

If a partnership, limited liability company, or New York S corporation does not pay the estimated tax, a penalty of $50 for each failure to pay on behalf of each nonresident partner, member or shareholder for whom the payment is required to be made is imposed pursuant to section 658(c)(4)(C)(i) of the Tax Law. If estimated tax is underpaid, the partnership, limited liability company, or New York S corporation may be subject to the underpayment of estimated tax penalty provided in section 658(c)(4)(C)(ii) and determined pursuant to section 685(c) of the Tax Law.

A refund or credit will be allowed to a partnership, limited liability company, or New York S corporation for an overpayment of estimated tax made by it only to the extent the overpayment is attributable to estimated tax paid on behalf of a partner, member or shareholder not subject to these provisions.

The Tax Law provides for an **automatic exception from the estimated tax provisions** for partners or shareholders as follows:

- Estimated tax payments are not required for any partner, member, or shareholder whose estimated tax required to be paid for the year by the partnership or New York S corporation is $300 or less; and

- Estimated tax payments are not required for any partner, member, or shareholder if the entity is authorized to file a group return, and the partner, member, or shareholder has elected to be included on the group return.

Additionally, the Tax Law authorizes the Commissioner of Taxation and Finance to **waive** the requirement that a partnership or New York S corporation make the estimated tax payments with respect to C corporations and nonresident individuals who meet certain conditions. Currently, the Commissioner has waived this requirement for a C corporation or a nonresident individual who certifies that:

- in the case of a C corporation, (1) the corporation is not subject to the taxes imposed under the New York State Tax Law Article 9, 9-A, 32, or 33 (tax-exempt corporations that are only subject to the tax on unrelated business income tax under New York State Tax Law, Article 13 still meet this condition); or (2) the corporation will comply, in its corporate capacity, with all New York State corporation estimated tax payment

provisions and tax return filing requirements to the extent they apply to the corporation for tax years 2003, 2004, and 2005);

- in the case of a nonresident individual, the nonresident individual will comply with the New York State personal income tax estimated tax payment provisions and tax return filing requirements, to the extent they apply to the nonresident individual, for tax years 2003, 2004, and 2005.

(Tax Law, sections 658(c)(4), 685(c) and 686(i))

Estimated tax on sale of real estate by nonresidents

Effective for sales or transfers of real property occurring on or after September 1, 2003, nonresident individuals, estates and trusts who sell or transfer certain real property located within New York State must pay estimated personal income tax. The amount of the estimated tax is determined by multiplying the amount of the gain, if any, for federal income tax purposes from the sale or transfer of the real property by the highest applicable rate of New York State personal income tax in effect for the tax year. The amount of the estimated personal income tax due must be paid to the recording officer at the time the deed is presented to be recorded.

Estimated personal income tax is not required to be paid by a nonresident:

- on the sale or transfer of a principal residence (within the meaning of IRC section 121),
- where the sale or transfer of the property is a result of a foreclosure or in lieu of a foreclosure with no additional consideration, or
- where the transferor or transferee is an agency or authority of the United States of America or of New York State, or the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or private mortgage insurance company.

The county clerk or recording officer is not allowed to record a deed unless the taxpayer has paid any estimated personal income tax due, or certifies that such taxpayer is exempt from these estimated personal income tax requirements.

For additional information, see TSB-M-03(2)R, (4)I and TSB-M-03(2.1)R, (4.1)I.

(Tax Law, section 663)

Minimum interest rate reduced

Section 697(j) of the Tax Law was amended to remove the fixed minimum interest rate payable on overpayments of tax. Previously, the minimum rate of interest payable on overpayments of tax was 6%. Under the new law, the rate is the sum of the federal short-term interest rate as provided under section 697(j)(3) of the Tax Law plus two percentage points. This

provision takes effect on October 1, 2003, for interest allowable and due on refunds or any other amounts that remain or become overpaid on or after October 1, 2003.

(Tax Law, section 697(j)(1))

New York City personal income tax

The New York City personal income tax rates for residents, imposed under section 11-1701(a) of the Administrative Code of the City of New York (the Code), and the 2.85% minimum income tax imposed under section 11-1702 of the Code have been extended to tax years beginning before 2006. The 14% additional tax imposed under section 11-1704.1 of the Code has been extended through 2005.

However, a new section 1304-D has been added to the Tax Law to authorize New York City to increase the rates of tax imposed for tax years beginning after 2002 and before 2006 by increasing the tax rate brackets and adding two new tax brackets. For the tax years these higher rates are imposed, the city cannot impose the rates contained in section 11-1701(a) of the Code or the 14% additional tax under section 11-1704.1 of the Code.

For tax years beginning in 2003 and before 2006, the highest tax bracket under section 1304-D is 4.45 percent for all taxpayers who have taxable incomes in excess of $500,000. The second highest bracket is set at 4.25 percent for tax years beginning in 2003 and decreases to 4.175 percent for tax years beginning in 2004 and 4.05 percent for tax years beginning in 2005. On June 30, 2003, New York City passed a local law to impose the tax rates contained in section 1304-D. Accordingly, the New York City personal tax rates for tax years beginning in 2003 are as follows:

Married filing jointly and qualifying widow(er)

If the city taxable income is:	The tax is:
Not over $21,600……..	2.907% of the city taxable income
Over $21,600 but not over $45,000…..	$628 plus 3.534% of excess over $21,600
Over $45,000 but not over $90,000…..	$1,455 plus 3.591% of excess over $45,000
Over $90,000 but not over $150,000….	$3,071 plus 3.648% of excess over $90,000
Over $150,000 but not over $500,000...	$5,260 plus 4.25% of excess over $150,000
Over $500,000……..	$20,135 plus 4.45% of excess over $500,000

Single, married filing separately, and estates and trusts

If the city taxable income is:	The tax is:
Not over $12,000……..	2.907% of the city taxable income
Over $12,000 but not over $25,000…..	$349 plus 3.534% of excess over $12,000
Over $25,000 but not over $50,000…..	$808 plus 3.591% of excess over $25,000

Over $50,000 but not over $100,000…	$1,706 plus 3.648% of excess over $50,000
Over $100,000 but not over $500,000..	$3,530 plus 4.25% of excess over $100,000
Over $500,000……..	$20,530 plus 4.45% of excess over $500,000

Head of household

If the city taxable income is:	The tax is:
Not over $14,400……..	2.907% of the city taxable income
Over $14,400 but not over $30,000…..	$419 plus 3.534% of excess over $14,400
Over $30,000 but not over $60,000…..	$970 plus 3.591% of excess over $30,000
Over $60,000 but not over $125,000…	$2,047 plus 3.648% of excess over $60,000
Over $125,000 but not over $500,000..	$4,418 plus 4.25% of excess over $125,000
Over $500,000……...	$20,356 plus 4.45% of excess over $500,000

(Tax Law sections 1301-A, 1304, 1304-B, and 1304-D; Administrative Code of the City of New York sections 11-1701(a), 11-1702, and 11-1704.1)

Tax table benefit recapture

For tax years beginning on or after January 1, 2003, and before 2006, a supplemental tax is added to recapture the tax benefit a taxpayer receives from the tax rates that are below the highest rate in calculating taxes using the city tax tables. The supplemental tax is imposed on: (1) New York City resident individuals and estates and trusts who have New York adjusted gross income over $150,000 with a taxable income subject to the second highest rate of tax; and (2) New York City resident individuals, estates and trusts who have New York adjusted gross income over $500,000. These supplemental taxes only apply to a tax year in which New York City imposes the personal income tax rates authorized under section 1304-D of the Tax Law.

(Tax Law section 1304-D(b))