



Legislation Details (With Text)

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**Title:** A Local Law to amend the administrative code of the city of New York, in relation to increasing personal income taxes and the imposition of a real property tax surcharge on certain class one properties.

**Sponsors:** David I. Weprin, Leroy G. Comrie, Jr., (by request of the Mayor)

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Int. No. 494

By Council Members Weprin and Comrie (by request of the Mayor)  
 A Local Law to amend the administrative code of the city of New York, in relation to increasing personal income taxes and the imposition of a real property tax surcharge on certain class one properties.

Be it enacted by the Council as follows:

Section 1. The opening paragraph of section 11-1701 of the administrative code of the city of New York, as amended by section 5 of Part H of a chapter of the laws of 2003 amending the tax law and other laws relating to the imposition of certain taxes in the city of New York, as proposed in legislative bill numbers S.4968 and A.8388, is amended to read as follows:

A tax is hereby imposed on the city taxable income of every city resident individual, estate and trust determined in accordance with the rates set forth in subdivision (a) of this section for taxable years beginning before two thousand six, and in accordance with the rates set forth in subdivision (b) of this section for taxable years beginning after two thousand five. Provided, however, that if, for any taxable year beginning

after two thousand five, the rates set forth in such subdivision (b) are rendered inapplicable and the rates set forth in such subdivision (a) are rendered applicable, then the tax for such taxable year shall be at the rates provided under subparagraph (A) of paragraphs one, two and three of such subdivision (a).

Notwithstanding the foregoing sentences, for taxable years beginning after two thousand two and before two thousand six, a tax is hereby imposed on the city taxable income of every city resident individual, estate and trust determined in accordance with the rates set forth in subdivision (g) of this section and in accordance with the provisions of subdivision (h) of this section. During any taxable year beginning after two thousand two and before two thousand six, in which the tax imposed pursuant to this section is determined in accordance with subdivisions (g) and (h) of this section, the rates set forth in subdivisions (a) and (b) of this section shall be inapplicable, and the tax imposed pursuant to section 11-1704.1 of this chapter shall be suspended.

§ 2. Section 11-1701 of the administrative code of the city of New York is amended by adding new subdivisions (g) and (h) to read as follows:

(g) Rate of tax. For taxable years beginning after two thousand two and before two thousand six, the tax imposed pursuant to this section shall be determined as follows:

(1) Resident married individuals filing joint returns and resident surviving spouses. The tax under this section for each taxable year on the city taxable income of every city resident married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this title and on the city taxable income of every city resident surviving spouse shall be determined in accordance with the following tables:

(A) For taxable years beginning in two thousand five:

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

<u>Over \$45,000 but not over \$90,000</u>	<u>\$1,455 plus 3.591% of excess over \$45,000</u>
<u>Over \$90,000 but not over \$150,000</u>	<u>\$3,071 plus 3.648% of excess over \$90,000</u>
<u>Over \$150,000 but not over \$500,000</u>	<u>\$5,260 plus 4.05% of excess over \$150,000</u>
<u>Over \$500,000</u>	<u>\$19,435 plus 4.45% of excess over \$500,000</u>

(B) For taxable years beginning in two thousand four:

<u>If the city taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$21,600</u>	<u>2.907% of the city taxable income</u>
<u>Over \$21,600 but not over \$45,000</u>	<u>\$628 plus 3.534% of excess over \$21,600</u>
<u>Over \$45,000 but not over \$90,000</u>	<u>\$1,455 plus 3.591% of excess over \$45,000</u>
<u>Over \$90,000 but not over \$150,000</u>	<u>\$3,071 plus 3.648% of excess over \$90,000</u>
<u>Over \$150,000 but not over \$500,000</u>	<u>\$5,260 plus 4.175% of excess over \$150,000</u>
<u>Over \$500,000</u>	<u>\$19,872 plus 4.45% of excess over \$500,000</u>

(C) For taxable years beginning in two thousand three:

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



<u>Not over \$14,400</u>	<u>2.907% of the city taxable income</u>
<u>Over \$14,400 but not over \$30,000</u>	<u>\$419 plus 3.534% of excess over \$14,400</u>
<u>Over \$30,000 but not over \$60,000</u>	<u>\$970 plus 3.591% of excess over \$30,000</u>
<u>Over \$60,000 but not over \$125,000</u>	<u>\$2,047 plus 3.648% of excess over \$60,000</u>
<u>Over \$125,000 but not over \$500,000</u>	<u>\$4,418 plus 4.25% of excess over \$125,000</u>
<u>Over \$500,000</u>	<u>\$20,356 plus 4.45% of excess over \$500,000</u>

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this title or a city resident head of household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) For taxable years beginning in two thousand five:

<u>If the city taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$12,000</u>	<u>2.907% of the city taxable income</u>
<u>Over \$12,000 but not over \$25,000</u>	<u>\$349 plus 3.534% of excess over \$12,000</u>
<u>Over \$25,000 but not over \$50,000</u>	<u>\$808 plus 3.591% of excess over \$25,000</u>
<u>Over \$50,000 but not over \$100,000</u>	<u>\$1,706 plus 3.648% of excess over \$50,000</u>
<u>Over \$100,000 but not over \$500,000</u>	<u>\$3,530 plus 4.05% of excess over \$100,000</u>
<u>Over \$500,000</u>	<u>\$19,730 plus 4.45% of excess over \$500,000</u>

(B) For taxable years beginning in two thousand four:

<u>If the city taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$12,000</u>	<u>2.907% of the city taxable income</u>
<u>Over \$12,000 but not over \$25,000</u>	<u>\$349 plus 3.534% of excess over \$12,000</u>
<u>Over \$25,000 but not over \$50,000</u>	<u>\$808 plus 3.591% of excess over \$25,000</u>
<u>Over \$50,000 but not over \$100,000</u>	<u>\$1,706 plus 3.648% of excess over \$50,000</u>
<u>Over \$100,000 but not over \$500,000</u>	<u>\$3,530 plus 4.175% of excess over \$100,000</u>
<u>Over \$500,000</u>	<u>\$20,230 plus 4.45% of excess over \$500,000</u>

(C) For taxable years beginning in two thousand three:

<u>If the city taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$12,000</u>	<u>2.907% of the city taxable income</u>
<u>Over \$12,000 but not over \$25,000</u>	<u>\$349 plus 3.534% of excess over \$12,000</u>
<u>Over \$25,000 but not over \$50,000</u>	<u>\$808 plus 3.591% of excess over \$25,000</u>
<u>Over \$50,000 but not over \$100,000</u>	<u>\$1,706 plus 3.648% of excess over \$50,000</u>
<u>Over \$100,000 but not over \$500,000</u>	<u>\$3,530 plus 4.25% of excess over \$100,000</u>
<u>Over \$500,000</u>	<u>\$20,530 plus 4.45% of excess over \$500,000</u>

(h) Tax table benefit recapture. For taxable years beginning after two thousand two and before two thousand six, there is hereby imposed a supplemental tax, in addition to the tax imposed under the opening paragraph of this section, for the purpose of recapturing the benefit of the tax tables contained in subdivision (g) of this section. The supplemental tax shall be an amount equal to the sum of the tax table benefits in paragraphs one and two of this subdivision multiplied by their respective fractions in such paragraphs provided,

however, that paragraph one of this subdivision shall not apply to taxpayers who are not subject to the second highest rate of tax.

(1) Resident married individuals filing joint returns, surviving spouses, resident heads of households, resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. (A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in subdivision (g) of this section not subject to the second highest rate of tax for the taxable year multiplied by such rate and (ii) the second highest dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in subdivision (g) of this section.

(B) The fraction is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one hundred fifty thousand dollars and the denominator is fifty thousand dollars.

(C) This paragraph shall only apply to taxable years beginning after two thousand two and before two thousand six.

(2) Resident married individuals filing joint returns, surviving spouses, resident heads of households, resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. (A) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in subdivision (g) of this section not subject to the highest rate of tax for the taxable year multiplied by such rate and (ii) the highest dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in subdivision (g) of this section less the sum of the tax table benefits in paragraph one of this subdivision.

(B) For such taxpayers with adjusted gross income over five hundred thousand dollars, the fraction is one. Provided, however, that the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax table in subdivision (g) of this section multiplied by the taxpayer's taxable income.

(C) This paragraph shall only apply to taxable years beginning after two thousand two and before two thousand six.

§ 3. Title 11 of the administrative code of the city of New York is amended by adding a new section 11-238 to read as follows:

§ 11-238 Real property tax surcharge on absentee landlords. a. Imposition of surcharge. A real property tax surcharge is hereby imposed on class one property, as defined in section eighteen hundred two of the real property tax law, excluding vacant land, that provides rental income and is not the primary residence of the owner or owners of such class one property, or the primary residence of the parent or child of such owner or owners, in an amount equal to twenty-five percent of the net real property taxes for fiscal years beginning on or after July first, two thousand three. As used in this section, “net real property tax” means the real property tax assessed on class one property after deduction for any exemption or abatement received pursuant to the real property tax law or this title.

b. Rental income, primary residence and/or relationship to owner or owners. The property shall be deemed to be the primary residence of the owner or owners thereof, if such property would be eligible to receive the real property tax exemption pursuant to section four hundred twenty-five of the real property tax law, regardless of whether such owner or owners has filed an application for, or the property is currently receiving, such exemption. Proof of primary residence and the resident’s or residents’ relationship to the owner or owners and the absence of rental income shall be in the form of a certification as required by the rules of the commissioner.

c. Rules. The department of finance shall have, in addition to any other functions, powers and duties which have been or may be conferred on it by law, the power to make and promulgate rules to carry out the purposes of this section, including, but not limited to, rules related to the timing, form and manner of any certification required to be submitted under this section.

d. Penalties. 1. Notwithstanding any provision of any general, special or local law to the



contrary, an owner or owners shall be personally liable for any taxes owed pursuant to this section whenever such owner or owners fail to comply with this section or the rules promulgated hereunder, or makes a false or misleading statement or omission and the commissioner determines that such act was due to the owner or owners' willful neglect, or that under such circumstances such act constituted a fraud on the department. The remedy provided herein for an action in personam shall be in addition to any other remedy or procedure for the enforcement of collection of delinquent taxes provided by general, special or local law.

2. If the commissioner should determine, within three years from the filing of an application or certification pursuant to this section, that there was a material misstatement on such application or certification, he or she shall impose a penalty tax against the property of five hundred dollars, in accordance with the rules promulgated hereunder.

e. Cessation of use. In the event that a property granted an exemption from taxation pursuant to this section ceases to be used as the primary residence of such owner or owners or his, her or their parent or child, or produces rental income, such owner or owners shall so notify the commissioner.

§ 4. This local law shall take effect immediately.