

STATE OF NEW YORK

5519

2009-2010 Regular Sessions

IN SENATE

May 13, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to the unincorporated business tax

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

1 Section 1. Paragraph 3 of subdivision (b) of section 11-503 of the
2 administrative code of the city of New York, as amended by chapter 481
3 of the laws of 1997, is amended to read as follows:

4 (3) For each taxable year beginning after nineteen hundred ninety-six
5 but before two thousand nine:

6 (A) if the tax computed under subdivision (a) of this section is one
7 thousand eight hundred dollars or less, a credit shall be allowed for
8 the entire amount of such tax;

9 (B) if the tax computed under subdivision (a) of this section exceeds
10 one thousand eight hundred dollars but is less than three thousand two
11 hundred dollars, a credit shall be allowed in the amount determined by
12 multiplying such tax by a fraction the numerator of which is three thou-
13 sand two hundred dollars minus the amount of such tax and the denomina-
14 tor of which is one thousand four hundred dollars; or

15 (C) if the tax computed under subdivision (a) of this section is three
16 thousand two hundred dollars or more, no credit shall be allowed.

17 § 2. Subdivision (b) of section 11-503 of the administrative code of
18 the city of New York is amended by adding a new paragraph 3-a to read as
19 follows:

20 (3-a) For each taxable year beginning after two thousand eight:

21 (A) if the tax computed under subdivision (a) of this section is three
22 thousand four hundred dollars or less, a credit shall be allowed for the
23 entire amount of such tax;

24 (B) if the tax computed under subdivision (a) of this section exceeds
25 three thousand four hundred dollars but is less than five thousand four

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

LBD11919-01-9

S. 5519

2

1 hundred dollars, a credit shall be allowed in the amount determined by
2 multiplying such tax by a fraction the numerator of which is five thou-
3 sand four hundred dollars minus the amount of such tax and the denomina-
4 tor of which is two thousand dollars; or

5 (C) if the tax computed under subdivision (a) of this section is five
6 thousand four hundred dollars or more, no credit shall be allowed.

7 § 3. Subdivision (a) of section 11-511 of the administrative code of
8 the city of New York, as amended by chapter 481 of the laws of 1997, is
9 amended to read as follows:

10 (a) Requirement of declaration. Except as provided in subdivision (j)
11 of this section, every unincorporated business shall make a declaration
12 of its estimated tax for the taxable year, containing such information
13 as the commissioner of finance may prescribe by regulations or instruc-
14 tion, if:

15 (1) for taxable years beginning after nineteen hundred eighty-six but
16 before nineteen hundred ninety-six, its unincorporated business taxable
17 income can reasonably be expected to exceed fifteen thousand dollars;

18 (2) for taxable years beginning in nineteen hundred ninety-six, its
19 unincorporated business taxable income can reasonably be expected to
20 exceed twenty thousand dollars; ~~and~~

21 (3) for taxable years beginning after nineteen hundred ninety-six but
22 before two thousand nine, its estimated tax can reasonably be expected
23 to exceed one thousand eight hundred dollars; and

24 (4) for taxable years beginning after two thousand eight, its esti-
25 ated tax can reasonably be expected to exceed three thousand four
26 hundred dollars.

27 § 4. Subdivision (a) of section 11-514 of the administrative code of
28 the city of New York, as amended by chapter 481 of the laws of 1997, is
29 amended to read as follows:

30 (a) General. On or before the fifteenth day of the fourth month
31 following the close of a taxable year, an unincorporated business income
32 tax return shall be made and filed, and the balance of any tax shown on
33 the face of such return, not previously paid as installments of esti-
34 mated tax, shall be paid:

35 (1) by or for every unincorporated business, for taxable years begin-
36 ning after nineteen hundred eighty-six but before nineteen hundred nine-
37 ty-seven, having unincorporated business gross income, determined for
38 purposes of this subdivision without any deduction for the cost of goods
39 sold or services performed, of more than ten thousand dollars, or having
40 any amount of unincorporated business taxable income;

41 (2) by or for every partnership, for taxable years beginning after
42 nineteen hundred ninety-six but before two thousand nine, having unin-
43 corporated business gross income, determined for purposes of this subdivi-
44 sion without any deduction for the cost of goods sold or services
45 performed, of more than twenty-five thousand dollars, or having unincor-
46 porated business taxable income of more than fifteen thousand dollars;
47 ~~and~~

48 (3) by or for every unincorporated business other than a partnership,
49 for taxable years beginning after nineteen hundred ninety-six but before
50 two thousand nine, having unincorporated business gross income, deter-
51 mined for purposes of this subdivision without any deduction for the
52 cost of goods sold or services performed, of more than seventy-five
53 thousand dollars, or having unincorporated business taxable income of
54 more than thirty-five thousand dollars; and

55 (4) by or for every unincorporated business, for taxable years begin-
56 ning after two thousand eight, having unincorporated business gross

S. 5519

3

1 income, determined for purposes of this subdivision without any
2 deduction for the cost of goods sold or services performed, of more than
3 ninety-five thousand dollars.

4 § 5. This act shall take effect immediately; provided, however that
5 sections one and two of this act shall be deemed to have been in full
6 force and effect on and after January 1, 2009.

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

BILL NUMBER: S5519

SPONSOR: KRUGER

TITLE OF BILL:

An act to amend the administrative code of the city of New York, in relation to the unincorporated business tax

SUMMARY OF PROVISIONS:

This bill would amend subdivision (b) of section 11-503 of the New York City Administrative Code by adding a new paragraph 3-a to provide that beginning with taxable years commencing in 2009, the credit that is applied to reduce an unincorporated business tax will apply if the annual tax totals less than \$5,400. The credit will completely offset an annual unincorporated business tax that does not exceed \$3,400. Bill sections three and four amend Sections 11-511 and 11-514 of the Administrative Code to simplify UBT filing requirements and modify requirements related to paying estimated unincorporated business taxes.

REASONS FOR SUPPORT:

The proposal is a small-business tax-relief measure designed to encourage the expansion of entrepreneurial enterprises during the current economic downturn.

Although the Unincorporated Business Tax (UBT) provides rough parity by taxing entities regardless of business form, it is particularly burdensome on small businesses. Many of these small businesses are sole proprietorships run by individuals who are New York City residents, and are thus also subject to the New York City Personal Income Tax on the same income. A 2007 state law limited the tax and this legislation would end or further reduce the tax for small businesses - and save each of them up to \$3,400. More than 80% of the firms benefiting from the bill are individual proprietors, many of them freelancers or other entrepreneurs starting their own businesses. Supporting their work can bolster the City's economy and help pull it through the current painful recession.

Currently, 32,500 firms in New York City pay the UBT. This bill would provide tax relief to half that population by effectively exempting nearly 11,000 firms with taxable incomes of \$100,000 or less from the UBT and providing partial tax relief to an additional 6,000 with taxable incomes between \$100,000 and \$150,000.

The bill also simplifies UBT filing requirements, and provides relief from the obligation to file UBT returns and to pay estimated taxes for those taxpayers whose gross income is sufficiently low that they are certain to have no tax liability.

The total annual fiscal impact to New York City would be approximately \$25 million. There is no state fiscal impact.

This law would be effective for taxes filed in calendar year 2009.

Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature.

STATE OF NEW YORK

8615

2009-2010 Regular Sessions

IN ASSEMBLY

May 29, 2009

Introduced by M. of A. FARRELL, COOK, KELLNER, ESPAILLAT, WRIGHT,
POWELL, BING -- Multi-Sponsored by -- M. of A. O'DONNELL -- read once
and referred to the Committee on Ways and Means

AN ACT to amend the administrative code of the city of New York, in
relation to the unincorporated business tax

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

1 Section 1. Paragraph 3 of subdivision (b) of section 11-503 of the
2 administrative code of the city of New York, as amended by chapter 481
3 of the laws of 1997, is amended to read as follows:

4 (3) For each taxable year beginning after nineteen hundred ninety-six
5 but before two thousand nine:

6 (A) if the tax computed under subdivision (a) of this section is one
7 thousand eight hundred dollars or less, a credit shall be allowed for
8 the entire amount of such tax;

9 (B) if the tax computed under subdivision (a) of this section exceeds
10 one thousand eight hundred dollars but is less than three thousand two
11 hundred dollars, a credit shall be allowed in the amount determined by
12 multiplying such tax by a fraction the numerator of which is three thou-
13 sand two hundred dollars minus the amount of such tax and the denomina-
14 tor of which is one thousand four hundred dollars; or

15 (C) if the tax computed under subdivision (a) of this section is three
16 thousand two hundred dollars or more, no credit shall be allowed.

17 § 2. Subdivision (b) of section 11-503 of the administrative code of
18 the city of New York is amended by adding a new paragraph 3-a to read as
19 follows:

20 (3-a) For each taxable year beginning after two thousand eight:

21 (A) if the tax computed under subdivision (a) of this section is three
22 thousand four hundred dollars or less, a credit shall be allowed for the
23 entire amount of such tax;

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

LBD11919-01-9

A. 8615

2

1 (B) if the tax computed under subdivision (a) of this section exceeds
2 three thousand four hundred dollars but is less than five thousand four
3 hundred dollars, a credit shall be allowed in the amount determined by
4 multiplying such tax by a fraction the numerator of which is five thou-
5 sand four hundred dollars minus the amount of such tax and the denomina-
6 tor of which is two thousand dollars; or

7 (C) if the tax computed under subdivision (a) of this section is five
8 thousand four hundred dollars or more, no credit shall be allowed.

9 § 3. Subdivision (a) of section 11-511 of the administrative code of
10 the city of New York, as amended by chapter 481 of the laws of 1997, is
11 amended to read as follows:

12 (a) Requirement of declaration. Except as provided in subdivision (j)
13 of this section, every unincorporated business shall make a declaration
14 of its estimated tax for the taxable year, containing such information
15 as the commissioner of finance may prescribe by regulations or instruc-
16 tion, if:

17 (1) for taxable years beginning after nineteen hundred eighty-six but
18 before nineteen hundred ninety-six, its unincorporated business taxable
19 income can reasonably be expected to exceed fifteen thousand dollars;

20 (2) for taxable years beginning in nineteen hundred ninety-six, its
21 unincorporated business taxable income can reasonably be expected to
22 exceed twenty thousand dollars; [and]

23 (3) for taxable years beginning after nineteen hundred ninety-six but
24 before two thousand nine, its estimated tax can reasonably be expected
25 to exceed one thousand eight hundred dollars; and

26 (4) for taxable years beginning after two thousand eight, its esti-
27 ated tax can reasonably be expected to exceed three thousand four
28 hundred dollars.

29 § 4. Subdivision (a) of section 11-514 of the administrative code of
30 the city of New York, as amended by chapter 481 of the laws of 1997, is
31 amended to read as follows:

32 (a) General. On or before the fifteenth day of the fourth month
33 following the close of a taxable year, an unincorporated business income
34 tax return shall be made and filed, and the balance of any tax shown on
35 the face of such return, not previously paid as installments of esti-
36 mated tax, shall be paid:

37 (1) by or for every unincorporated business, for taxable years begin-
38 ning after nineteen hundred eighty-six but before nineteen hundred nine-
39 ty-seven, having unincorporated business gross income, determined for
40 purposes of this subdivision without any deduction for the cost of goods
41 sold or services performed, of more than ten thousand dollars, or having
42 any amount of unincorporated business taxable income;

43 (2) by or for every partnership, for taxable years beginning after
44 nineteen hundred ninety-six but before two thousand nine, having unin-
45 corporated business gross income, determined for purposes of this subdivi-
46 sion without any deduction for the cost of goods sold or services
47 performed, of more than twenty-five thousand dollars, or having unincor-
48 porated business taxable income of more than fifteen thousand dollars;
49 [and]

50 (3) by or for every unincorporated business other than a partnership,
51 for taxable years beginning after nineteen hundred ninety-six but before
52 two thousand nine, having unincorporated business gross income, deter-
53 mined for purposes of this subdivision without any deduction for the
54 cost of goods sold or services performed, of more than seventy-five
55 thousand dollars, or having unincorporated business taxable income of
56 more than thirty-five thousand dollars; and

A. 8615

3

1 (4) by or for every unincorporated business, for taxable years begin-
2 ning after two thousand eight, having unincorporated business gross
3 income, determined for purposes of this subdivision without any
4 deduction for the cost of goods sold or services performed, of more than
5 ninety-five thousand dollars.

6 § 5. This act shall take effect immediately; provided, however that
7 sections one and two of this act shall be deemed to have been in full
8 force and effect on and after January 1, 2009.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A8615

SPONSOR: Farrell (MS)

TITLE OF BILL: An act to amend the administrative code of the city of New York, in relation to the unincorporated business tax

SUMMARY OF PROVISIONS:

This bill would amend subdivision (b) of section 11-503 of the New York City Administrative Code by adding a new paragraph 3-a to provide that beginning with taxable years commencing in 2009, the credit that is applied to reduce an unincorporated business tax will apply if the annual tax totals less than \$5,400. The credit will completely offset an annual unincorporated business tax that does not exceed \$3,400. Bill sections three and four amend Sections 11-511 and 11-514 of the Administrative Code to simplify UBT filing requirements and modify requirements related to paying estimated unincorporated business taxes.

JUSTIFICATION:

The proposal is a small-business tax-relief measure designed to encourage the expansion of entrepreneurial enterprises during the current economic downturn.

Although the Unincorporated Business Tax (UBT) provides rough parity by taxing entities regardless of business form, it is particularly burdensome on small businesses. Many of these small businesses are sole proprietorships run by individuals who are New York City residents, and are thus also subject to the New York City Personal Income Tax on the same income. A 2007 state law limited the tax and this legislation would end or further reduce the tax for small businesses - and save each of them up to \$3,400. More than 80% of the firms benefiting from the bill are individual proprietors, many of them freelancers or other entrepreneurs starting their own businesses. Supporting their work can bolster the City's economy and help pull it through the current painful recession.

Currently, 32,500 firms in New York City pay the UBT. This bill would provide tax relief to half that population by effectively exempting nearly 11,000 firms with taxable incomes of \$100,000 or less from the UBT and providing partial tax relief to an additional 6,000 with taxable incomes between \$100,000 and \$150,000.

The bill also simplifies UBT filing requirements, and provides relief from the obligation to file UBT returns and to pay estimated taxes for those taxpayers whose gross income is sufficiently low that they are certain to have no tax liability.

FISCAL IMPLICATIONS: The total annual fiscal impact to New York City would be approximately \$25 million. There is no state fiscal impact.

EFFECTIVE DATE: This law would be effective for taxes filed in calendar year 2009.
