

# STATE OF NEW YORK

7863

2017-2018 Regular Sessions

## IN ASSEMBLY

May 17, 2017

Introduced by M. of A. FARRELL -- 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 taxation of business corporations

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

1 Section 1. Section 11-640 of the administrative code of the city of  
2 New York is amended by adding a new subdivision (n) to read as follows:

3 (n) Transitional provisions relating to the enactment and implementa-  
4 tion of the federal Gramm-Leach-Bliley act.

5 (1) Notwithstanding anything to the contrary contained in this section  
6 other than subdivision (m) of this section, a corporation that was in  
7 existence before January first, two thousand seventeen and was subject  
8 to tax under subchapter two of this chapter for its last taxable year  
9 beginning before January first, two thousand seventeen, shall continue  
10 to be taxable under such subchapter for all taxable years beginning on  
11 or after January first, two thousand seventeen and before January first,  
12 two thousand twenty. The preceding sentence shall not apply to any taxa-  
13 ble year during which such corporation is a banking corporation  
14 described in paragraphs one through eight of subdivision (a) of this  
15 section. Notwithstanding anything to the contrary contained in this  
16 section other than subdivision (m) of this section, a banking corpo-  
17 ration or corporation that was in existence before January first, two  
18 thousand seventeen and was subject to tax under this subchapter for its  
19 last taxable year beginning before January first, two thousand seven-  
20 teen, shall continue to be taxable under this subchapter for all taxable  
21 years beginning on or after January first, two thousand seventeen and  
22 before January first, two thousand twenty only if the corporation is a  
23 banking corporation as defined in subdivision (a) of this section or the  
24 corporation satisfies the requirements for a corporation to elect to be  
25 taxable under this subchapter. Provided further, that nothing in this

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

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subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with subdivision (d) of this section.

For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this part for such taxable year. A corporation that was in existence before January first, two thousand seventeen but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand seventeen and before January first, two thousand twenty, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand seventeen if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand seventeen but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand seventeen and before January first, two thousand twenty, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand seventeen if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

(2) Notwithstanding anything to the contrary contained in this section other than subdivision (m) of this section, a corporation formed on or after January first, two thousand seventeen and before January first, two thousand twenty may elect to be subject to tax under this subchapter or under subchapter two of this chapter for its first taxable year beginning on or after January first, two thousand seventeen and before January first, two thousand twenty in which either (i) sixty-five percent or more of its voting stock is owned or controlled, directly or indirectly by a financial holding company, provided the corporation whose voting stock is so owned or controlled is principally engaged in activities that are described in section 4(k)(4) or 4(k)(5) of the federal bank holding company act of nineteen hundred fifty-six, as amended, and the regulations promulgated pursuant to the authority of such section or (ii) it is a financial subsidiary. An election under this paragraph may not be made by a corporation described in paragraphs one through eight of subdivision (a) of this section or in subdivision (e) of this section. In addition, an election under this paragraph may not be made by a corporation that is a party to a reorganization, as defined in subsection (a) of section 368 of the internal revenue code of 1986, as amended, of a corporation described in paragraph one of this subdivision if both corporations were sixty-five percent or more owned or controlled, directly or indirectly, by the same interests at the time of the reorganization.

An election under this paragraph must be made by the taxpayer on or before the due date for filing its return (determined with regard to extensions of time for filing) for the applicable taxable year. The election to be taxed under subchapter two of this chapter shall be made

1 by the taxpayer by filing the return required pursuant to subdivision  
2 one of section 11-605 of this chapter and the election to be taxed under  
3 this subchapter shall be made by the taxpayer by filing the return  
4 required pursuant to subdivision (a) of section 11-646 of this part. Any  
5 election made pursuant to this paragraph shall be irrevocable and shall  
6 apply to each subsequent taxable year beginning on or after January  
7 first, two thousand seventeen and before January first, two thousand  
8 twenty, provided that the stock ownership and activities requirements  
9 described in subparagraph (i) of this paragraph are met or such corpo-  
10 ration described in subparagraph (ii) of this paragraph continues as a  
11 financial subsidiary.

12 (3) For purposes of this subdivision, a financial subsidiary means a  
13 corporation (i) sixty-five percent or more of whose voting stock is  
14 owned or controlled, directly or indirectly by a banking corporation  
15 described in paragraph one, two or three of subdivision (a) of this  
16 section and (ii) is described in section 5136A(g) of the revised stat-  
17 utes of the United States or section 46 of the federal deposit insurance  
18 act. For purposes of this subchapter, the term "banking corporation"  
19 shall include a corporation electing to be taxed under this subchapter  
20 pursuant to paragraph two of this subdivision for so long as such  
21 election shall be in effect.

22 § 2. This act shall take effect immediately.