

# STATE OF NEW YORK

8451

2023-2024 Regular Sessions

## IN ASSEMBLY

December 29, 2023

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the timing of annual tax elections

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

1 Section 1. Subsection (c) of section 861 of the tax law, as amended by  
2 section 2 of subpart C of part J of chapter 59 of the laws of 2023, is  
3 amended to read as follows:

4 (c) [~~The~~] For taxable years beginning before January first, two thou-  
5 sand twenty-four, the annual election must be made on or before the due  
6 date of the first estimated payment under section eight hundred sixty-  
7 four of this article and will take effect for the current taxable year,  
8 and for taxable years beginning on or after January first, two thousand  
9 twenty-four, such election must be made by September fifteenth of the  
10 taxable year for which such election is being made. Only one election  
11 may be made during each calendar year. An election made under this  
12 section is irrevocable after the due date.

13 § 2. Subsection (b) of section 864 of the tax law is amended by adding  
14 a new paragraph 4 to read as follows:

15 (4) Without regard to paragraphs one and two of this subsection, if an  
16 election is made on or after March fifteenth and before June fifteenth  
17 of the taxable year for which such election is made, the electing part-  
18 nership or electing S corporation is required to make an estimated tax  
19 payment with such election that represents twenty-five percent of the  
20 required annual payment, and if an election is made on or after June  
21 fifteenth and before September fifteenth of the taxable year for which  
22 such election is made, the electing partnership or electing S corpo-  
23 ration is required to make an estimated tax payment with such election  
24 that represents fifty percent of such required annual payment.

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

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1 § 3. Subsection (c) of section 868 of the tax law, as amended by  
2 section 7 of subpart C of part J of chapter 59 of the laws of 2023, is  
3 amended to read as follows:

4 (c) [~~The annual election to be taxed pursuant to this article must be~~  
5 ~~made on or before the due date of the first estimated payment under~~  
6 ~~section eight hundred sixty-four of this chapter and will take effect~~  
7 ~~for the current taxable year.~~] Only one election to be taxed pursuant to

8 this article may be made during each calendar year. An election made  
9 under this section is irrevocable after such due date. To the extent an  
10 election made under section eight hundred sixty-one of this chapter is  
11 revoked or otherwise invalidated an election made under this section is  
12 automatically invalidated.

13 § 4. Subsection (b) of section 871 of the tax law is amended by adding  
14 a new paragraph 4 to read as follows:

15 (4) Without regard to paragraphs one and two of this subsection, if an  
16 election is made on or after March fifteenth and before June fifteenth  
17 of the taxable year for which such election is made, the electing part-  
18 nership or electing S corporation is required to make an estimated tax  
19 payment with such election that represents twenty-five percent of the  
20 required annual payment, and if an election is made on or after June  
21 fifteenth and before September fifteenth of the taxable year for which  
22 such election is made, the electing partnership or electing S corpo-  
23 ration is required to make an estimated tax payment with such election  
24 that represents fifty percent of such required annual payment.

25 § 5. This act shall take effect immediately.