

STATE OF NEW YORK

8451--A

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 -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, as added by section
14 1 of part C of chapter 59 of the laws of 2021, paragraph 3 as amended by
15 chapter 555 of the laws of 2022, is amended to read as follows:

16 (b) General. The estimated tax shall be paid as follows for an elect-
17 ing partnership and an electing S corporation:

18 (1) The estimated tax shall be paid in four [~~equal~~] installments on
19 March fifteenth, June fifteenth, September fifteenth and December
20 fifteenth in the calendar year prior to the year in which the due date
21 of the return required by this article falls.

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

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1 (2) Amount of required installment. (A) The amount of any required
2 installment shall be twenty-five percent of the required annual payment.

3 (B) In the case of any required installment, if the electing partner-
4 ship or the electing S corporation establishes that the annualized
5 income installment determined under subparagraph (B) of paragraph four
6 of subsection (c) of section six hundred eighty-five of this chapter is
7 less than the amount determined under subparagraph (A) of this para-
8 graph, the annualized income installment shall be the required install-
9 ment. Any reduction in a required installment resulting from the appli-
10 cation of this subparagraph shall be recaptured by increasing the amount
11 of the next required installment determined under this paragraph by the
12 amount of such reduction, and by increasing successive required install-
13 ments as necessary to effect full recapture.

14 (3) [~~Notwithstanding paragraph four of subsection (c) of section six~~
15 ~~hundred eighty-five of this chapter, the~~] The required annual payment is
16 the lesser of: (A) ninety percent of the tax shown on the return for the
17 taxable year; or (B) one hundred percent of the tax shown on the return
18 of the electing partnership or electing S corporation for the preceding
19 taxable year.

20 (4) Without regard to paragraphs one and two of this subsection, if an
21 election is made on or after March fifteenth and before June fifteenth
22 of the taxable year for which such election is made, the electing part-
23 nership or electing S corporation is required to make an estimated tax
24 payment with such election in an amount equal to the first required
25 installment and if an election is made on or after June fifteenth and
26 before September fifteenth of the taxable year for which such election
27 is made, the electing partnership or electing S corporation is required
28 to make an estimated tax payment with such election in an amount equal
29 to the sum of the first and second required installments.

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

33 (c) [~~The annual election to be taxed pursuant to this article must be~~
34 ~~made on or before the due date of the first estimated payment under~~
35 ~~section eight hundred sixty-four of this chapter and will take effect~~
36 ~~for the current taxable year.~~] Only one election to be taxed pursuant to
37 this article may be made during each calendar year. An election made
38 under this section is irrevocable after such due date. To the extent an
39 election made under section eight hundred sixty-one of this chapter is
40 revoked or otherwise invalidated an election made under this section is
41 automatically invalidated.

42 § 4. Subsection (b) of section 871 of the tax law, as added by section
43 1 of subpart B of part MM of chapter 59 of the laws of 2022, paragraph 3
44 as amended by chapter 555 of the laws of 2022, is amended to read as
45 follows:

46 (b) General. Except as provided in subsection (c) of this section, the
47 estimated tax shall be paid as follows for an electing city partnership
48 and an electing city resident S corporation:

49 (1) The estimated tax shall be paid in four [~~equal~~] installments on
50 March fifteenth, June fifteenth, September fifteenth and December
51 fifteenth in the calendar year prior to the year in which the due date
52 of the return required by this article falls.

53 (2) Amount of required installment. (A) The amount of any required
54 installment shall be twenty-five percent of the required annual payment.

55 (B) In the case of any required installment, if the electing city
56 partnership or the electing city resident S corporation establishes that

1 the annualized income installment determined under subparagraph (B) of
2 paragraph four of subsection (c) of section six hundred eighty-five of
3 this chapter is less than the amount determined under subparagraph (A)
4 of this paragraph, the annualized income installment shall be the
5 required installment. Any reduction in a required installment resulting
6 from the application of this subparagraph shall be recaptured by
7 increasing the amount of the next required installment determined under
8 this paragraph by the amount of such reduction, and by increasing
9 successive required installments as necessary to effect full recapture.

10 (3) [~~Without regard to paragraph four of subsection (c) of section six~~
11 ~~hundred eighty five of this chapter, the~~] The required annual payment is
12 the lesser of: (A) ninety percent of the tax shown on the return for the
13 taxable year; or (B) one hundred percent of the tax shown on the return
14 of the electing city partnership or electing city resident S corporation
15 for the preceding taxable year.

16 (4) Without regard to paragraphs one and two of this subsection, if an
17 election is made on or after March fifteenth and before June fifteenth
18 of the taxable year for which such election is made, the electing part-
19 nership or electing S corporation is required to make an estimated tax
20 payment with such election in an amount equal to the first required
21 installment, and if an election is made on or after June fifteenth and
22 before September fifteenth of the taxable year for which such election
23 is made, the electing partnership or electing S corporation is required
24 to make an estimated tax payment with such election in an amount equal
25 to the sum of the first and second required installments.

26 § 5. This act shall take effect immediately and shall apply to taxable
27 years beginning on or after January 1, 2024.