STATE OF NEW YORK

8115

IN SENATE

January 8, 2024

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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:

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

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

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

(4) Without regard to paragraphs one and two of this subsection, if an election is made on or after March fifteenth and before June fifteenth of the taxable year for which such election is made, the electing partnership or electing S corporation is required to make an estimated tax payment with such election that represents twenty-five percent of the required annual payment, and if an election is made on or after June fifteenth and before September fifteenth of the taxable year for which such election is made, the electing partnership or electing S corporation is required to make an estimated tax payment with such election that represents fifty percent of such required annual payment.

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

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

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

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

(4) Without regard to paragraphs one and two of this subsection, if an election is made on or after March fifteenth and before June fifteenth of the taxable year for which such election is made, the electing partnership or electing S corporation is required to make an estimated tax payment with such election that represents twenty-five percent of the required annual payment, and if an election is made on or after June fifteenth and before September fifteenth of the taxable year for which such election is made, the electing partnership or electing S corporation is required to make an estimated tax payment with such election that represents fifty percent of such required annual payment.

§ 5. This act shall take effect immediately.