STATE OF NEW YORK

625--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. SKOUFIS, FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee and committed to the Committee on Finance -- 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:

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 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~~] **September fifteenth** and will take effect for the current taxable year. Only one election may be made during each calendar year. An election made under this section is irrevocable after [~~the due date~~] **September fifteenth of the taxable year**.

§ 2. Subsection (b) of section 864 of the tax law, as added by section 1 of part C of chapter 59 of the laws of 2021, paragraph 3 as amended by chapter 555 of the laws of 2022, is amended to read as follows:

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

(1) [~~The estimated tax shall be paid~~] **For an election to be taxed pursuant to this article that is made on or before March fifteenth of the taxable year, the electing partnership or electing S corporation is required to make estimated tax payments** in four equal installments on March fifteenth, June fifteenth, September fifteenth and December fifteenth in the calendar year prior to the year in which the due date

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

LBD02020-03-5

of the return required by this article falls. The amount of each installment shall be twenty-five percent of the required annual payment.

(2) [~~The amount of any required installment shall be twenty-five percent of the required annual payment.~~] For an election to be taxed pursuant to this article that is made after March fifteenth but before June fifteenth in the taxable year, the electing partnership or electing S corporation is required to make an estimated tax payment with its election that represents twenty-five percent of the required annual payment. The electing partnership or electing S corporation shall further make payments on June fifteenth, September fifteenth, and December fifteenth in the calendar year prior to the year in which the due date of the return required by this article falls, which shall each represent twenty-five percent of the required annual payment.

(3) For an election to be taxed pursuant to this article that is made on or after June fifteenth but before September fifteenth in the taxable year, the electing partnership or electing S corporation is required to make an estimated tax payment with its election that represents fifty percent of the required annual payment. The electing partnership or electing S corporation shall further make payments on September fifteenth and December fifteenth in the calendar year prior to the year in which the due date of the return required by this article falls, which shall each represent twenty-five percent of the required annual payment.

(4) For an election to be taxed pursuant to this article that is made on September fifteenth in the taxable year, the electing partnership or electing S corporation is required to make an estimated tax payment with its election that represents seventy-five percent of the required annual payment. The electing partnership or electing S corporation shall further make a payment on December fifteenth in the calendar year prior to the year in which the due date of the return required by this article falls, which shall represent twenty-five percent of the required annual payment.

[~~(3)~~] (5) Notwithstanding paragraph four of subsection (c) of section six hundred eighty-five of this chapter, the required annual payment is the lesser of: (A) ninety percent of the tax shown on the return for the taxable year; or (B) one hundred percent of the tax shown on the return of the electing partnership or electing S corporation for the preceding taxable year.

§ 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:

(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~~] September fifteenth 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~~] September fifteenth of the taxable year. 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, as added by section 1 of subpart B of part MM of chapter 59 of the laws of 2022, paragraph 3 as amended by chapter 555 of the laws of 2022, is amended to read as follows:

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

(1) [~~The estimated tax shall be paid~~] For an election to be taxed pursuant to this article that is made on or before March fifteenth in the taxable year, the electing city partnership or electing city S corporation is required to make estimated tax payments in four equal installments on March fifteenth, June fifteenth, September fifteenth and December fifteenth in the calendar year prior to the year in which the due date of the return required by this article falls. The amount of each installment shall be twenty-five percent of the required annual payment.

(2) [~~The amount of any required installment shall be twenty-five percent of the required annual payment.~~] For an election to be taxed pursuant to this article that is made after March fifteenth but before June fifteenth in the taxable year, the electing city partnership or electing city S corporation is required to make an estimated tax payment with its election that represents twenty-five percent of the required annual payment. The electing city partnership or electing city S corporation shall further make payments on June fifteenth, September fifteenth, and December fifteenth in the calendar year prior to the year in which the due date of the return required by this article falls, which shall each represent twenty-five percent of the required annual payment.

(3) For an election to be taxed pursuant to this article that is made after June fifteenth but before September fifteenth in the taxable year, the electing city partnership or electing city S corporation is required to make an estimated tax payment with its election that represents fifty percent of the required annual payment. The electing city partnership or electing city S corporation shall further make payments on September fifteenth and December fifteenth in the calendar year prior to the year in which the due date of the return required by this article falls, which shall each represent twenty-five percent of the required annual payment.

(4) For an election to be taxed pursuant to this article that is made on September fifteenth in the taxable year, the electing city partnership or electing city S corporation is required to make an estimated tax payment with its election that represents seventy-five percent of the required annual payment. The electing city partnership or electing city S corporation shall further make a payment on December fifteenth in the calendar year prior to the year in which the due date of the return required by this article falls, which shall represent twenty-five percent of the required annual payment.

[~~(3)~~] (5) Without regard to paragraph four of subsection (c) of section six hundred eighty-five of this chapter, the required annual payment is the lesser of: (A) ninety percent of the tax shown on the return for the taxable year; or (B) one hundred percent of the tax shown on the return of the electing city partnership or electing city resident S corporation for the preceding taxable year.

§ 5. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2026.