



# S.8948 (Gounardes) / A.10080 (Stern)

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<p><b>BILL</b></p> <p><b>S.8948</b> <b>(Gounardes)/A.10080</b> <b>(Stern) at the request of</b> <b>the Governor</b></p>
<p><b>SUBJECT</b></p> <p><b>Pass Through Entity Tax</b></p>
<p><b>DATE</b></p> <p><b>May 03, 2022</b></p>
<p><b>SUPPORT</b></p>

The Business Council supports this legislation that would extend the election date for taxation under the Article 24-A “pass through entity tax” (PTET) from March 15 to September 15, 2022, for the 2022 tax year only.

This is a chapter amendment to provisions adopted in the FY 2023 state budget that (Chapter 59, Part MM) that created a new option to elect to be taxed under the PTET as a “resident S corporation,” if all of the entity’s shareholders are New York State residents, and to apply the PTET to all income of such entities. The Business Council supported these amendments, which addressed a shortcoming of the 2021 enactment of the PTET that limited its value to S-corporations with all New York resident taxpayers.

However, since this year’s budget amendments were not finalized until April 9, they came after the date that PTET elections needed to be made for the current tax year.

In extending the election date for the 2022 tax year to September 15, this legislation will better fulfill the legislative intent of making this more robust PTET mechanism available to eligible New York businesses for the 2022 tax year. It would allow taxpayers to fully assess the potential impact of the election on their business, and make a timely election.

Importantly, as was the case with the adoption of the PTET last year, this legislation restores federal deductibility of state taxes imposed on the business income of non-incorporated businesses but does not have an impact on state tax receipts.

This is a valuable technical correction to important amendments adopted as part of the FY 2023 state budget. We recommend its timely passage by the Senate and Assembly.