



# S.9009/A.10009 (Budget), Part H

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<b>BILL</b> S.9009/A.10009 (Budget), Part H
<b>SUBJECT</b> Pass Through Entity Tax Election Date
<b>DATE</b> February 17, 2026
<b>SUPPORT</b>

The Business Council supports this Executive Budget proposal that would modify the date by which an eligible taxpayer may make an election to be taxed under the pass-through entity tax (PTET) at both the state and New York City level.

Specifically, this proposal would allow a taxpayer to make the PTET election by September 15 of the tax year to which the election applies. Current law requires the election to be made by March 15 of the tax year. It also modifies the Tax Law to require a taxpayer that makes this election on or after March 15 to make the same estimated payments as if they made an earlier election, assuring no loss of revenues to the state.

We greatly appreciate the Administration’s support for this measure in the current budget, and in last year’s budget cycle as well. The Department of Tax and Finance is well able to accommodate this administrative change, as they did so on a temporary basis under provisions of the state’s FY 2023 that allowed an extended election period to accommodate taxpayers impacted by a technical amendment to the PTET law.

Importantly, both the state and city PTET are designed to be revenue neutral to New York State and New York City (and in fact the PTET should produce some net increase in tax revenues for both jurisdictions), although the mechanism can result in the shift of revenues from one fiscal year to another.

In extending the election date for the PTET election, this legislation will better fulfill the legislative intent of making the PTET mechanism available to eligible New York businesses. This will allow existing taxpayers more time to assess the impact of the election, and allow unincorporated businesses organized after March 15 of a tax year to take advantage of the PTET program for their first year in business. While it does not go as far as provisions of most states (some 33 states with PTET laws allow this election to be made with the filing of tax returns), it will still provide useful flexibility to business, including newly formed small businesses.

The PTET was adopted at the state level in 2021 and for New York City in 2022, for the purpose of restoring the federal deductibility of state taxes on business income paid under the personal income tax, such as for Sub-S corporations, partnerships and LLCs. Since then, this program has provided benefits to nearly 100,000 (mostly small) unincorporated businesses.

This limited amendment to the statute gives taxpayers more time to assess and make this annual election and provides access to the program to businesses created after March 15 of a given tax year. It is a useful technical correction to valuable tax reform that will benefit unincorporated New York businesses. The Business Council strongly supports its adoption as part of the state's FY 2027 budget.