



October 6, 2023

Kathleen D. Chase
Office of Counsel
Department of Taxation and Finance
W. A. Harriman Campus
Building 9, Room 200
Albany, NY 12227

Re: Corporate Tax Reform draft regulations

Dear Ms. Chase,

On behalf of the Committee on State and Local Taxation of the New York City Bar Association, we submit this letter regarding the Corporate Tax Regulations submitted for publication in the August 9, 2023 edition of the State Register.

We commend the Department of Taxation and Finance and you for your work on the important and enormous task of drafting the regulations. However, the fact that the legislation reforming New York’s corporate franchise tax laws was enacted effective in 2015 – but only now, eight years later, are the regulations being promulgated – raises issues of fairness to taxpayers.

During this 8-year period, taxpayers and tax professionals seeking to ensure the filing of correct tax returns were faced with statutory language, existing regulations that were promulgated under statutes subsequently revised effective in 2015, and “draft regulations” that came out in stages and different iterations over the years. This placed taxpayers and their advisors in an untenable position. The over 400 pages of explanations and examples contained in the current version of the regulations demonstrate that such guidance is essential to understanding the current law. Taxpayers should not face the prospect of being subjected to penalties for positions taken on returns filed in the 8-year period that were consistent with the prior regulations, the draft regulations released since 2015, or the newly promulgated regulations.

The Committee believes that it would be in the best interests of both taxpayers and the Department for the agency to provide that taxpayer compliance with the prior or newly promulgated regulations, as well as the draft regulations released by the Department since 2015,

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

be accepted as reasonable cause for the abatement of penalties for understatement of tax for tax years beginning in 2015 but before the formal adoption of the proposed regulations.

Respectfully,

Michael J. Hilkin

Michael J. Hilkin, Chair
State and Local Taxation Committee

Glenn Newman

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State and Local Taxation Committee

Contact

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