

**THE CITY OF NEW YORK
DEPARTMENT OF FINANCE**

NOTICE OF RULEMAKING

Pursuant to the power vested in me as Commissioner of Finance by sections 389(b) and 1043 of the New York New York City Charter and section 11-687(1) of the Administrative Code of the City of New York, I hereby promulgate the within amendment to the Rules Relating to the New York City Tax on Banking Corporations.

Andrew S. Eristoff /S/
Commissioner of Finance

Section 1. Subparagraph (iii) of paragraph 3 of subdivision (b) of Section 3-04 of Title 19 of the Compilation of the Rules of the City of New York Relating to the Banking Corporation Tax promulgated November 27, 1985 is amended to read as follows:

(iii) [A taxpayer which establishes an IBF during the taxable year or has utilized the IBF modification for the previous taxable year may utilize the IBF modification or elect to use the IBF formula allocation method for the current taxable year without obtaining the permission of the Commissioner of Finance. A taxpayer which has elected to use the IBF formula allocation method for the previous taxable year may elect to use the IBF formula allocation method or utilize the IBF modification for the current taxable year without obtaining the permission of the Commissioner of Finance. The taxpayer must make this election within 45 days after the commencement of its taxable year or within 45 days after it is established whichever is later. For taxable years beginning in 1985, this election must be made within 20 days after the close of its taxable year. The election is binding on the taxpayer for that taxable year and cannot thereafter be changed by the taxpayer. The election cannot be changed by the filing of an amended return.] The election to use the IBF formula allocation method for a taxable year is made with the filing of the return for such taxable year. Such election may be made or changed with the filing of an amended return for such taxable year. When a combined return is filed, the IBF election is made by the parent corporation included in such combined return and is binding on all corporations included in such combined return. Where the parent corporation is not included in the combined return, the IBF election shall be made for the corporations included in the combined return by their common parent and such election is binding on all corporations included in such return.

§2. This rule shall apply to taxable years beginning on or after January 1, 1999.

BASIS AND PURPOSE OF AMENDMENT

This amendment affects the portion of the Rules Relating to the New York City Tax on Banking Corporations governing the election by a taxpayer to use the international banking facility formula allocation method. This amendment eliminates the requirement that the election be made within 45 days after the beginning of the taxable year. Under the amendment, the election may be made on the original or made or changed on an amended return for the taxable year.

Andrew S. Eristoff /S/
Commissioner of Finance