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House File 2087 - Introduced

HOUSE FILE 2087

BY HITE

A BILL FOR

1 An Act relating to an entity-level taxation election for
2 pass-through entities and allowing a partner or shareholder
3 to claim a credit against the individual income tax.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 422.16C Pass-through entity —
2 election — entity-level tax — credit.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "Partnership" means the same as defined in section
6 422.25A, except a "partnership" does not include a pass-through
7 entity that is a publicly traded partnership as defined in
8 section 7704 of the Internal Revenue Code.

9 b. "Taxpayer" means a partnership or an S corporation.

10 2. a. Except as provided in paragraph "b", for tax years
11 ending on or after December 31, 2022, and beginning prior to
12 January 1, 2026, notwithstanding any other provision of law to
13 the contrary, a taxpayer may elect to apply the provisions of
14 this section.

15 b. The provision of this section only apply to tax years
16 for which the limitation on individual deductions applies under
17 section 164(b)(6) of the Internal Revenue Code.

18 3. a. A separate election shall be made for each tax year
19 on a form and at a time prescribed by the department. An
20 election shall be irrevocable once made.

21 b. If an election is made, a taxpayer shall not be required
22 to file a composite return pursuant to section 422.16B.

23 4. A taxpayer electing to apply the provisions of this
24 section shall be subject to tax in an amount equal to the
25 applicable tax rates under section 422.5A imposed against the
26 net income of the taxpayer for the taxable year.

27 5. a. For a taxable year in which a taxpayer made an
28 election under this section, for the partners or shareholders
29 of the taxpayer, the taxes imposed under this subchapter, less
30 the credits allowed under section 422.12, shall be reduced by
31 a credit equal to the ratio of the partner's or shareholder's
32 share of net income over the total net income multiplied by the
33 state tax liability actually paid by the taxpayer.

34 b. If the partner or shareholder of the taxpayer is itself a
35 partner or shareholder, the credit under this subsection shall

1 be allowed in accordance with the determination of income and
2 distributive share of income under sections 702 and 704 and
3 subchapter S of the Internal Revenue Code.

4 *c.* If the amount of credit allowed under this subsection
5 exceeds the tax liability of the partner or shareholder for the
6 tax year, the excess may be credited to the tax liability of
7 the partner or shareholder for the following five tax years or
8 until depleted, whichever occurs first.

9 6. A nonresident individual who is a partner or shareholder
10 of a taxpayer for a tax year in which an election is made under
11 this section shall not be required to file a tax return for
12 such tax year if the only source of income of the individual is
13 from a taxpayer making the election under this section and the
14 credit allowed to the partner or shareholder equals or exceeds
15 the tax liability of the partner or shareholder for the tax
16 imposed in the tax year the election is made.

17 7. *a.* A taxpayer making an election under this section
18 is liable for the entity-level tax imposed pursuant to this
19 section. If the electing taxpayer fails to timely pay the full
20 amount of the tax, the partners or shareholders shall be liable
21 to pay the unpaid tax.

22 *b.* Each partner's or shareholder's unpaid tax liability
23 shall be based on the ratio of the partner's or shareholder's
24 share of the net income of the taxpayer over the total net
25 income of the taxpayer.

26 8. For purposes of the credit allowed in this section, tax
27 paid by the taxpayer to another state which, as determined by
28 the department, is substantially similar to the tax imposed
29 in this section, shall be considered tax paid by the partner
30 or shareholder to the extent that the share of the income of
31 the partner or shareholder that is allocated and apportioned
32 to such other state bears to the total income of the taxpayer
33 allocated or apportioned to such other state.

34 9. For tax years where an election is made pursuant to this
35 section, the withholding requirements of section 422.16 do not

1 apply to the taxpayer.

2 10. The department shall adopt rules pursuant to chapter 17A
3 to administer this section.

4 Sec. 2. Section 422.85, Code 2022, is amended to read as
5 follows:

6 **422.85 Imposition of estimated tax.**

7 A taxpayer subject to the tax imposed by sections 422.16C,
8 422.33, and 422.60 shall make payments of estimated tax for the
9 taxable year if the amount of tax payable, less credits, can
10 reasonably be expected to be more than one thousand dollars for
11 the taxable year. For purposes of this subchapter, "*estimated*
12 *tax*" means the amount which the taxpayer estimates to be the tax
13 due and payable under subchapter II, III, or V of this chapter
14 for the taxable year.

15

EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to an entity-level taxation election for
19 pass-through entities and allows a partner or shareholder to
20 claim a credit against the individual income tax.

21 For tax years ending on or after December 31, 2022, and
22 beginning prior to January 1, 2026, a taxpayer (a partnership,
23 other than a publicly traded partnership, or a subchapter S
24 corporation), may elect to be subject to tax at the partnership
25 or S corporation level in an amount equal to the applicable
26 tax rates under Code section 422.5A imposed against the net
27 income of the taxpayer for the taxable year. Currently, the
28 net income of a partnership or S corporation passes through to
29 the partners or shareholders of the entity and is subject to
30 the individual income tax at the partner or shareholder level.

31 The bill only applies to tax years as long as the limitation
32 on individual deductions applies under section 164(b)(6) of the
33 Internal Revenue Code.

34 If an election is made, the partners or shareholders are
35 allowed a credit against the individual income tax equal to the

1 ratio of the partner's or shareholder's share of net income
2 over the total net income multiplied by the state tax liability
3 of the taxpayer.

4 If the amount of credit allowed under the bill exceeds the
5 tax liability of the partner or shareholder for the tax year,
6 the excess may be credited to the tax liability of the partner
7 or shareholder for the following five tax years or until
8 depleted, whichever occurs first.

9 The bill specifies that a taxpayer making an election is
10 liable for the entity-level tax imposed pursuant to the bill.
11 If the electing taxpayer fails to timely pay the full amount of
12 the tax, the bill requires the partners or shareholders to pay
13 the unpaid tax.

14 For tax years where an election is made, the withholding
15 requirements of Code section 422.16 do not apply. The bill
16 does require the taxpayer to make estimated tax payments
17 pursuant to Code section 422.85, if applicable.