

Georgia Code Section 48-7-21(b)(7)(C)

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(i) A Subchapter “S” corporation may annually make an irrevocable election, on its timely filed return under Code Section 48-7-51, to pay the tax levied by this chapter at the entity level for the taxable period covered by such return. Such election must be made on or before the due date for filing the applicable income tax return, including any extensions which have been granted.

(ii) Notwithstanding the provisions of subparagraph (B) of this paragraph, an electing Subchapter “S” corporation, with respect to a taxable period, shall pay an income tax equivalent to 5.75 percent of its net income as computed pursuant to this Code section, and allocated and apportioned pursuant to Code Section 48-7-31, for such taxable period, and such shareholders shall not recognize their respective share of the portion of income on which tax was actually paid pursuant to this subparagraph.

(iii) No electing Subchapter “S” corporation nor any of its shareholders shall be entitled to any credit under Code Section 48-7-28 with respect to such tax so paid or any deduction for such income under subsection (d) of Code Section 48-7-27; provided, however, that such electing Subchapter “S” corporation shall otherwise be eligible for credits provided by this chapter and shall be considered an “other entity” for purposes of Code Sections 48-7-29.16, 48-7-29.20, and 48-7-29.21.

(iv) The election under this subparagraph shall have no impact on the determination of the basis of the shareholders of an electing Subchapter “S” corporation in such shareholders’ stock and indebtedness of such electing Subchapter “S” corporation, except that such shareholders’ pro rata share of the tax paid or accrued by such electing Subchapter “S” corporation pursuant to such election shall be taken into account in determining such basis.

(v) In computing the net income that is subject to taxation, the electing Subchapter “S” corporation shall not be allowed any deduction for taxes that are based on or measured by gross or net income or any other variant thereof.

(vi) This subsection shall only apply to a Subchapter “S” corporation that is 100 percent directly owned and controlled by persons eligible to be shareholders of an “S” corporation under Section 1361 of the Internal Revenue Code of 1986, as amended.

(vii) As used in this subparagraph, the term:

(I) “Electing Subchapter ‘S’ corporation” means, with respect to a taxable period, a Subchapter “S” corporation that has made the election under this subparagraph with respect to such taxable period.

(II) “Subchapter ‘S’ corporation” means an entity subject to taxation under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986 and the regulations thereunder.

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