

the superintendent's designee of a community college, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the president of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, appointed by the speaker after consultation with the majority and minority leaders of the house of representatives from their respective parties. Not more than five of the voting members shall be from the same political party. Of the nine voting members, one member shall represent a nonprofit organization involved in workforce development services, four members shall represent employers, and four members shall represent nonsupervisory employees. Of the members appointed by the governor to represent nonsupervisory employees, two members shall be from statewide labor organizations, one member shall be an employee representative of a labor management council, and one member shall be a person with experience in worker training programs. The governor shall consider recommendations from statewide labor organizations for the members representing nonsupervisory employees. The governor shall appoint the nine voting members of the board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable in the area of workforce development.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 1997

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## CHAPTER 111

### TAXATION OF SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS

*H.F. 306*

**AN ACT** relating to the individual income tax by extending the special method of computation of tax for value-added S corporation shareholders to all S corporation shareholders and eliminating the refund limitation and including effective and retroactive applicability date provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 422.4, subsection 18, Code 1997, is amended by striking the subsection.

Sec. 2. Section 422.5, subsection 1, paragraph j, subparagraph (2), subparagraph subdivisions (a) and (c), Code 1997, are amended by striking the subparagraph subdivisions.

Sec. 3. Section 422.5, subsection 1, paragraph j, subparagraph (2), Code 1997, is amended to read as follows:

(2) The tax imposed upon the taxable income of a resident shareholder in ~~a value-added~~ an S corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state may be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting

amount by a fraction of which the resident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's total net income computed under section 422.7 is the denominator. If a resident shareholder has elected to take advantage of this subparagraph, and for the next tax year elects not to take advantage of this subparagraph, the resident shareholder shall not reelect to take advantage of this subparagraph for the three tax years immediately following the first tax year for which the shareholder elected not to take advantage of this subparagraph, unless the director consents to the reelection. This paragraph subparagraph also applies to individuals who are residents of Iowa for less than the entire tax year.

~~(a) In order for a resident shareholder in a value-added corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state, to claim the benefits of apportionment of income of the value-added S corporation, the taxpayer must completely fill out the return, determine the taxpayer's income tax liability without the benefit of apportionment of the value-added corporation's income, and pay the amount of tax owed. The taxpayer shall recompute the taxpayer's income tax liability, by applying the provisions of this subparagraph on a special return. This special return shall be filed under rules of the director and constitutes a claim for refund of the difference between the amount of tax the taxpayer paid as determined without the provisions of this subparagraph and the amount of tax determined with the provisions of this subparagraph.~~

~~(b) This subparagraph shall not affect the amount of the taxpayer's checkoff to the Iowa election campaign fund under section 56.18, the checkoff for the fish and game fund in section 456A.16, the credits from tax provided in sections 422.10, 422.11A, and 422.12 and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns.~~

~~(c) For any tax year, the aggregate amount of refund claims that shall be paid pursuant to this subparagraph shall not exceed five million dollars. If, for a tax year, the aggregate amount of refund claims filed pursuant to this subparagraph exceeds five million dollars, each claim for refund shall be paid on a pro rata basis so that the aggregate amount of refund claims does not exceed five million dollars. In the case where refund claims are not paid in full, the amount of the refund to which the taxpayer is entitled under this subparagraph is the pro rata amount that was paid and the taxpayer is not entitled to a refund of the unpaid portion and is not entitled to carry that amount forward or backward to another tax year. Taxpayers shall not use refunds as estimated payments for the succeeding tax year. Taxpayers whose tax years begin on January 1 must file their refund claims by October 31 of the calendar year following the end of their tax year to be eligible for refunds. Taxpayers whose tax years begin on a date other than January 1 must file their refund claims by the end of the tenth month following the end of their tax years to be eligible. The department shall determine on February 1 of the second succeeding calendar year if the total amount of claims for refund exceeds five million dollars for the tax year. Notwithstanding any other provision, interest shall not be due on any refund claims that are paid by the last day of February of the second succeeding calendar year. If the claim is not payable on February 1 of the second succeeding calendar year, because the taxpayer is a fiscal year filer, then the amount of the claim allowed shall be in the same ratio as the refund claims available on February 1 of the second succeeding calendar year. These claims shall be funded by moneys appropriated for payment of individual income tax refunds.~~

Sec. 4. Section 422.5, subsection 1, paragraph k, unnumbered paragraph 4, Code 1997, is amended to read as follows:

In the case of a resident, including a resident estate or trust, the state's apportioned share of the state alternative minimum tax is one hundred percent of the state alternative minimum tax computed in this subsection. In the case of a resident or part-year resident shareholder in a value-added an S corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and with-

out the state, a nonresident, including a nonresident estate or trust, or an individual, estate, or trust that is domiciled in the state for less than the entire tax year, the state's apportioned share of the state alternative minimum tax is the amount of tax computed under this subsection, reduced by the applicable credits in sections 422.10 through 422.12 and this result multiplied by a fraction with a numerator of the sum of state net income allocated to Iowa as determined in section 422.8, subsection 2, paragraph "a" or "b" as applicable, plus tax preference items, adjustments, and losses under subparagraph (1) attributable to Iowa and with a denominator of the sum of total net income computed under section 422.7 plus all tax preference items, adjustments, and losses under subparagraph (1). In computing this fraction, those items excludable under subparagraph (1) shall not be used in computing the tax preference items. Married taxpayers electing to file separate returns or separately on a combined return must allocate the minimum tax computed in this subsection in the proportion that each spouse's respective preference items, adjustments, and losses under subparagraph (1) bear to the combined preference items, adjustments, and losses under subparagraph (1) of both spouses.

Sec. 5. Section 422.8, subsection 2, paragraph b, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A resident's income allocable to Iowa is the income determined under section 422.7 reduced by items of income and expenses from ~~a subchapter an S corporation which is a value-added corporation~~ that carries on business within and without the state when those items of income and expenses pass directly to the shareholders under provisions of the Internal Revenue Code. These items of income and expenses are increased by the greater of the following:

Sec. 6. Section 422.8, subsection 6, Code 1997, is amended to read as follows:

6. If the resident or part-year resident is a shareholder of ~~a value-added an S~~ corporation which has in effect an election under subchapter S of the Internal Revenue Code, subsections 1 and 3 do not apply to any income taxes paid to another state or foreign country on the income from the ~~value-added~~ corporation which has in effect an election under subchapter S of the Internal Revenue Code.

Sec. 7. Section 2 of this Act applies retroactively to January 1, 1997, for tax years beginning on or after that date.

Sec. 8. This Act, except for section 2 of this Act, is effective January 1, 1998, and applies to tax years beginning on or after that date.

Approved May 2, 1997

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## CHAPTER 112

### SUPPLEMENTAL NEEDS TRUSTS FOR PERSONS WITH DISABILITIES

H.F. 492

AN ACT relating to supplemental needs trusts for persons with disabilities.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 634A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires: