

House File 352 - Enrolled

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AN ACT

RELATING TO AN ENTITY-LEVEL TAXATION ELECTION FOR PASS-THROUGH ENTITIES AND ALLOWING A PARTNER OR SHAREHOLDER TO CLAIM A CREDIT AGAINST THE INDIVIDUAL AND CORPORATE INCOME TAXES AND THE FRANCHISE TAX, AND INCLUDING EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 422.11, Code 2023, is amended to read as follows:

422.11 Franchise tax credit.

1. The taxes imposed under [this subchapter](#), less the credits allowed under [section 422.12](#), shall be reduced by a franchise tax credit. A taxpayer who is a shareholder in a financial institution, as defined in section 581 of the Internal Revenue Code, which has in effect for the tax year an election under subchapter S of the Internal Revenue Code, or is a member of a financial institution organized as a limited liability company under [chapter 524](#) that is taxed as a partnership for federal income tax purposes, shall compute the amount of the tax credit by recomputing the amount of tax under [this subchapter](#) by

reducing the taxable income of the taxpayer by the taxpayer's pro rata share of the items of income and expense of the financial institution and subtracting the credits allowed under [section 422.12](#). This recomputed tax shall be subtracted from the amount of tax computed under [this subchapter](#) after the deduction for credits allowed under [section 422.12](#). The resulting amount, which shall not exceed the taxpayer's pro rata share of the franchise tax paid by the financial institution, is the amount of the franchise tax credit allowed.

2. For a taxpayer making an election under section 422.16C that is also a financial institution subject to the franchise tax under subchapter V, the tax imposed under section 422.16C shall be reduced by a franchise tax credit equal to the amount of franchise tax paid by the taxpayer for the same year.

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

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

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

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

2. For tax years beginning on or after January 1, 2022, notwithstanding any other provision of law to the contrary, a taxpayer may elect to be subject to the provisions of this section. This section only applies to tax years for which the limitation on individual deductions applies under section 164(b)(6) of the Internal Revenue Code.

3. *a.* A separate election shall be made for each tax year on a form and at a time prescribed by the department. An election shall be irrevocable once made and shall be binding on the taxpayer and all partners or shareholders of the taxpayer.

b. If an election is made under this section, a taxpayer shall not be required to file a composite return for the same tax year pursuant to section 422.16B.

4. *a.* A taxpayer making an election under this section shall be subject to tax in an amount equal to the maximum rate

under section 422.5A, imposed against the taxable income of the taxpayer for the taxable year properly determined under this chapter and allocated and apportioned to the state under the rules adopted by the department. The tax shall be due with the taxpayer's return required under this chapter.

b. The tax under this section shall be reduced by the credit provided in subsection 5, paragraph "b", and the franchise tax credit in section 422.11, subsection 2, and the composite credit in section 422.16B, subsection 4. Any other tax credits shall not be claimed by the taxpayer against the tax imposed under this section. A net operating loss or other loss carryback or carryforward shall not be claimed by the taxpayer.

5. *a.* For a taxable year in which a taxpayer made an election under this section, for the partners or shareholders of the taxpayer, the taxes imposed under this subchapter, less the credits allowed under section 422.12, or the taxes imposed under subchapter III or V, as applicable, shall be reduced by a credit equal to the product of the following amounts:

(1) The ratio of the partner's or shareholder's share of the taxpayer's taxable income over the taxpayer's total taxable income multiplied by the state tax liability actually paid by the taxpayer.

(2) The difference between one hundred percent and the highest individual income tax rate in effect for the tax year.

b. If the taxpayer is itself a partner or shareholder of another taxpayer making an election under this section, the credit under this subsection shall be allowed.

c. Any credit in excess of the tax liability is refundable. In lieu of claiming a refund, the partner or shareholder may elect to have the overpayment shown on the partner's or shareholder's final, completed return credited to the tax liability for the following tax year.

6. A nonresident individual who is a partner or shareholder of a taxpayer for a tax year in which an election is made under this section shall not be required to file an individual income tax return under section 422.13 for such tax year if the only Iowa source income of the individual is from a taxpayer making the election under this section, the credit allowed to the partner or shareholder equals or exceeds the tax liability of

the partner or shareholder for the tax imposed in the tax year the election is made, and if the taxpayer files and pays the tax due under this section.

7. A taxpayer making an election under this section is liable for the entity-level tax imposed pursuant to this section, including applicable penalties and interest. This section shall not prohibit the department from assessing direct or indirect partners and shareholders for taxes owed in the event that the taxpayer fails to timely make any payment required by this section for any reason.

8. In addition to and not in lieu of any period of limitation provided in section 422.25, if a taxpayer files an amended return that requests a refund of tax previously paid within one year prior to the expiration of the department's applicable period of limitations in section 422.25, the department has one year from the date of receipt of the amended return to assess any direct or indirect partners and shareholders related to the reduction of any tax credit provided under subsection 5.

9. The department shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 3. Section 422.85, Code 2023, is amended to read as follows:

422.85 Imposition of estimated tax.

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

Sec. 4. ESTIMATED TAX PAYMENTS FOR TAX YEARS BEGINNING PRIOR TO EFFECTIVE DATE OF ACT. Notwithstanding sections 422.16 and 422.85, a taxpayer electing to apply the provisions of section 422.16C shall not be required to make estimated tax payments for a tax year beginning prior to the effective date of this Act.

Sec. 5. PENALTY AND INTEREST WAIVER RELATED TO TAX YEARS

ENDING PRIOR TO EFFECTIVE DATE OF ACT. Notwithstanding any provision of law to the contrary, the department may waive penalty and interest for a return filing or tax payment related to an election to be subject to the provisions of section 422.16C for a tax year ending prior to the effective date of this Act.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 7. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2022, for tax years beginning on or after that date.

PAT GRASSLEY
Speaker of the House

AMY SINCLAIR
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 352, Ninetieth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2023

KIM REYNOLDS
Governor