

# House Study Bill 5

## Conference Committee Text

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1 1 Section 1. Section 422.5, subsection 1, paragraph j, Code  
1 2 1995, is amended by adding the following new unnumbered  
1 3 paragraph:

1 4 NEW UNNUMBERED PARAGRAPH. The tax imposed upon the taxable  
1 5 income of a resident shareholder in a corporation which has in  
1 6 effect for the tax year an election under subchapter S of the  
1 7 Internal Revenue Code and carries on business within and  
1 8 without the state may be computed by reducing the amount  
1 9 determined pursuant to paragraphs "a" through "i" by the  
1 10 amounts of nonrefundable credits under this division and by  
1 11 multiplying this resulting amount by a fraction of which the  
1 12 resident's net income allocated to Iowa, as determined in  
1 13 section 422.8, subsection 2, paragraph "b", is the numerator  
1 14 and the resident's total net income computed under section  
1 15 422.7 is the denominator. This paragraph also applies to  
1 16 individuals who are residents of Iowa for less than the entire  
1 17 tax year.

1 18 Sec. 2. Section 422.5, subsection 1, paragraph k,  
1 19 unnumbered paragraph 4, Code 1995, is amended to read as  
1 20 follows:

1 21 In the case of a resident, including a resident estate or  
1 22 trust, the state's apportioned share of the state alternative  
1 23 minimum tax is one hundred percent of the state alternative  
1 24 minimum tax computed in this subsection. In the case of a  
1 25 resident or part year resident shareholder in a corporation  
1 26 which has in effect for the tax year an election under  
1 27 subchapter S of the Internal Revenue Code and carries on  
1 28 business within and without the state, nonresident, including  
1 29 a nonresident estate or trust, or an individual, estate, or  
1 30 trust that is domiciled in the state for less than the entire  
1 31 tax year, the state's apportioned share of the state  
1 32 alternative minimum tax is the amount of tax computed under  
1 33 this subsection, reduced by the applicable credits in sections  
1 34 422.10 through 422.12 and this result multiplied by a fraction  
1 35 with a numerator of the sum of state net income allocated to  
2 1 Iowa as determined in section 422.8, subsection 2, paragraph  
2 2 "a" or "b" as applicable, plus tax preference items,  
2 3 adjustments, and losses under subparagraph (1) attributable to  
2 4 Iowa and with a denominator of the sum of total net income  
2 5 computed under section 422.7 plus all tax preference items,  
2 6 adjustments, and losses under subparagraph (1). In computing  
2 7 this fraction, those items excludable under subparagraph (1)  
2 8 shall not be used in computing the tax preference items.  
2 9 Married taxpayers electing to file separate returns or  
2 10 separately on a combined return must allocate the minimum tax  
2 11 computed in this subsection in the proportion that each  
2 12 spouse's respective preference items, adjustments, and losses  
2 13 under subparagraph (1) bear to the combined preference items,  
2 14 adjustments, and losses under subparagraph (1) of both  
2 15 spouses.

2 16 Sec. 3. Section 422.7, Code 1995, is amended by adding the  
2 17 following new subsection:

2 18 NEW SUBSECTION. 32. Resident shareholders of a  
2 19 corporation which has an election in effect under subchapter S  
2 20 of the Internal Revenue Code shall add their proportionate  
2 21 share of a deemed distribution of current year income to the

2 22 extent that the salaries, wages, or other compensation for  
2 23 services performed by all shareholders does not equal ten  
2 24 percent of net income of the corporation computed in  
2 25 accordance with section 422.35 and considering items of income  
2 26 and expense which pass directly to the shareholders under  
2 27 provisions of the Internal Revenue Code before deduction of  
2 28 shareholders' salaries, wages, or other compensation for  
2 29 services performed. In addition there shall be added any cash  
2 30 or the value of any property distributions made to the extent  
2 31 they are made from income upon which Iowa income tax has not  
2 32 been paid as determined under rules of the director.

2 33 Sec. 4. Section [422.8](#), subsection 2, Code 1995, is amended  
2 34 to read as follows:

2 35 2. a. Nonresident's net income allocated to Iowa is the  
3 1 net income, or portion thereof, which is derived from a  
3 2 business, trade, profession, or occupation carried on within  
3 3 this state or income from any property, trust, estate, or  
3 4 other source within Iowa. However, income derived from a  
3 5 business, trade, profession, or occupation carried on within  
3 6 this state and income from any property, trust, estate, or  
3 7 other source within Iowa shall not include distributions from  
3 8 pensions, including defined benefit or defined contribution  
3 9 plans, annuities, individual retirement accounts, and deferred  
3 10 compensation plans or any earnings attributable thereto so  
3 11 long as the distribution is directly related to an  
3 12 individual's documented retirement and received while the  
3 13 individual is a nonresident of this state. If a business,  
3 14 trade, profession, or occupation is carried on partly within  
3 15 and partly without the state, only the portion of the net  
3 16 income which is fairly and equitably attributable to that part  
3 17 of the business, trade, profession, or occupation carried on  
3 18 within the state is allocated to Iowa for purposes of section  
3 19 422.5, subsection 1, paragraph "j", and section 422.13 and  
3 20 income from any property, trust, estate, or other source  
3 21 partly within and partly without the state is allocated to  
3 22 Iowa in the same manner, except that annuities, interest on  
3 23 bank deposits and interest-bearing obligations, and dividends  
3 24 are allocated to Iowa only to the extent to which they are  
3 25 derived from a business, trade, profession, or occupation  
3 26 carried on within the state.

3 27 b. A resident's income allocable to Iowa is the income  
3 28 determined under section 422.7 reduced by the net income or  
3 29 loss of a corporation which is fairly and equitably  
3 30 attributable without the state under section 422.33. For the  
3 31 purposes of this paragraph, "corporation" means a corporation  
3 32 which has in effect for the tax year an election under  
3 33 subchapter S of the Internal Revenue Code and carries on  
3 34 business partly within and partly without the state. This  
3 35 paragraph also applies to individuals who are residents of  
4 1 Iowa for less than the entire tax year.

4 2 Sec. 5. Section [422.8](#), Code 1995, is amended by adding the  
4 3 following new subsection:

4 4 NEW SUBSECTION. 6. If the resident or part year resident  
4 5 is a shareholder of a corporation which has in effect an  
4 6 election under subchapter S of the Internal Revenue Code,  
4 7 subsections 1 and 3 do not apply to any income taxes paid to  
4 8 another state or foreign country on the income from the  
4 9 corporation which has in effect an election under subchapter S  
4 10 of the Internal Revenue Code.

4 11 Sec. 6. This Act takes effect upon enactment and applies  
4 12 retroactively to January 1, 1995, for tax years beginning on  
4 13 or after that date.

4 14 EXPLANATION

4 15 Under current statutory provisions, a nonresident  
4 16 shareholder of a subchapter S corporation computes an amount  
4 17 of Iowa individual income tax on the nonresident's total  
4 18 income earned everywhere and then that amount of tax is

4 19 prorated to Iowa in the ratio of gross income from Iowa  
4 20 sources to total gross income.  
4 21 The bill taxes the income from a subchapter S corporation  
4 22 for a resident shareholder the same way as the income is taxed  
4 23 for a nonresident. An amount of Iowa individual income tax is  
4 24 computed on the total resident shareholder's total income  
4 25 everywhere and then the amount of tax is prorated to Iowa in  
4 26 the ratio of gross income everywhere reduced by the non-Iowa  
4 27 income of the subchapter S corporation to total income  
4 28 everywhere. The resident shareholder may still take an out-  
4 29 of-state tax credit on income other than income from the  
4 30 subchapter S corporation for taxes paid to another state.  
4 31 The bill applies retroactively to January 1, 1995, for tax  
4 32 years beginning on or after that date.  
4 33 LSB 1066YC 76  
4 34 mg/cf/24