

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Appropriations.

SB22-124 be amended as follows:

1 Amend the Finance Committee Report, dated February 23, 2022, page 1,  
2 strike lines 3 through 15 and substitute:

3 **""SECTION 1.** In Colorado Revised Statutes, 39-22-202, **add** (4)  
4 as follows:

5 **39-22-202. Resident partners - definition.** (4) FOR PURPOSES OF  
6 SECTION 39-22-108, EACH RESIDENT PARTNER IS CONSIDERED TO HAVE  
7 PAID A TAX ON EACH RESIDENT PARTNER IN AN AMOUNT EQUAL TO EACH  
8 RESIDENT PARTNER'S PRO RATA SHARE OF ANY NET INCOME TAX PAID BY  
9 THE PARTNERSHIP TO A STATE THAT DOES NOT MEASURE THE INCOME OF  
10 PARTNERS OF A PARTNERSHIP BY REFERENCE TO THE INCOME OF THE  
11 PARTNERSHIP. AS USED IN THIS SUBSECTION (4), "NET INCOME TAX"  
12 MEANS ANY TAX IMPOSED ON, OR MEASURED BY, A PARTNERSHIP'S NET  
13 INCOME.

14 **SECTION 2.** In Colorado Revised Statutes, 39-22-343, **amend**  
15 (1) as follows:

16 **39-22-343. Election.** (1) (a) Notwithstanding sections 39-22-201,  
17 39-22-302, and 39-22-322, and except as provided in subsection (2) of  
18 this section for income tax years commencing on or after ~~January 1, 2022~~  
19 JANUARY 1, 2018, an S corporation or partnership may annually elect to  
20 be subject to tax at the entity level for the taxable period.

21 (b) EXCEPT AS SET FORTH IN SUBSECTION (1)(c)(I) OF THIS  
22 SECTION, the S corporation or partnership shall make the election on the  
23 return filed by such S corporation or partnership under section 39-22-601.  
24 The filing of ~~such~~ A return FILED UNDER SECTION 39-22-601 OR  
25 SUBSECTION (1)(c)(I) OF THIS SECTION is binding on all electing  
26 pass-through entity owners.

27 (c) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
28 JANUARY 1, 2018, BUT PRIOR TO JANUARY 1, 2022, THE S CORPORATION  
29 OR PARTNERSHIP MUST MAKE THE ELECTION ON OR AFTER SEPTEMBER 1,  
30 2023, BUT BEFORE JULY 1, 2024, IN A COMPOSITE AMENDED TAX RETURN  
31 FOR ALL OF THE YEARS FOR WHICH THE ELECTION IS MADE THAT IS FILED  
32 ON BEHALF OF THE S CORPORATION OR PARTNERSHIP AND ALL OF THE  
33 ELECTING PASS-THROUGH ENTITY OWNERS. THE DEPARTMENT OF REVENUE  
34 SHALL ESTABLISH THE RETURN, WHICH SHALL NOT INCLUDE ANY CHANGES  
35 TO THE PAST RETURNS OTHER THAN THOSE THAT ARE DIRECTLY RELATED  
36 TO THE ELECTION. THE PROVISIONS OF SECTIONS 39-21-107 (2) AND  
37 39-21-108 (1) SHALL NOT APPLY TO THE PAYMENT OR REFUND OF THE TAX  
38 MADE PURSUANT TO THE RETURN.

39 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF AN S

1 CORPORATION OR PARTNERSHIP FILES A RETURN SPECIFIED IN SUBSECTION  
2 (1)(c)(I) OF THIS SECTION, NEITHER THE S CORPORATION OR PARTNERSHIP  
3 NOR THE ELECTING PASS-THROUGH ENTITY OWNERS SHALL INCUR ANY  
4 PENALTIES FOR FILING LATE NOR OWE INTEREST ON SUCH AMOUNTS, AND  
5 THE DEPARTMENT SHALL NOT BE REQUIRED TO PAY PENALTIES OR  
6 INTEREST ON ANY AMOUNTS OWED TO THE TAXPAYERS.

7 (III) NOTWITHSTANDING THE DATES PROVIDED IN SUBSECTION  
8 (1)(c)(I) OF THIS SECTION, THE DEPARTMENT SHALL HAVE ONE YEAR FROM  
9 THE DATE THE COMPOSITE AMENDED TAX RETURN IS FILED TO REVIEW THE  
10 RETURN AND MAKE A WRITTEN PROPOSED ADJUSTMENT IN ACCORDANCE  
11 WITH SECTION 39-21-103. THE DEPARTMENT MUST MAKE ANY  
12 ASSESSMENT WITHIN ONE YEAR AFTER A FINAL DETERMINATION IS MADE  
13 UNDER SECTION 39-21-103 (8). ANY FINAL DETERMINATION MADE AS  
14 SPECIFIED IN THIS SUBSECTION (1)(c)(III) MAY BE ENFORCED AT ANY TIME  
15 WITHIN SIX YEARS FROM THE DATE OF THE FINAL DETERMINATION."

16 Renumber succeeding sections accordingly.

17 Page 1, line 27, strike "section 39-22-606 (5)(c)(I)" and substitute  
18 "~~section 39-22-606 (5)(c)(I)~~ THE REQUIREMENT TO MAKE ESTIMATED  
19 PAYMENTS UNDER SECTION 39-22-606".

20 Page 3, strike lines 22 through 24 and substitute "IS AN AMOUNT EQUAL  
21 TO THE SHARE OF THE TAX IMPOSED PURSUANT TO SECTION 39-22-344 (1)  
22 ON THE ELECTING PASS-THROUGH ENTITY WITH RESPECT TO THE ELECTING  
23 PASS-THROUGH ENTITY OWNER'S INCOME."

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