

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 26, 2022

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

SB22-124 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the consent calendar:

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.

1 (c) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
2 JANUARY 1, 2018, BUT PRIOR TO JANUARY 1, 2022, THE S CORPORATION
3 OR PARTNERSHIP MUST MAKE THE ELECTION ON OR AFTER SEPTEMBER 1,
4 2023, BUT BEFORE JULY 1, 2024, IN A COMPOSITE AMENDED TAX RETURN
5 FOR ALL OF THE YEARS FOR WHICH THE ELECTION IS MADE THAT IS FILED
6 ON BEHALF OF THE S CORPORATION OR PARTNERSHIP AND ALL OF THE
7 ELECTING PASS-THROUGH ENTITY OWNERS. THE DEPARTMENT OF REVENUE
8 SHALL ESTABLISH THE RETURN, WHICH SHALL NOT INCLUDE ANY CHANGES
9 TO THE PAST RETURNS OTHER THAN THOSE THAT ARE DIRECTLY RELATED
10 TO THE ELECTION. THE PROVISIONS OF SECTIONS 39-21-107 (2) AND
11 39-21-108 (1) SHALL NOT APPLY TO THE PAYMENT OR REFUND OF THE TAX
12 MADE PURSUANT TO THE RETURN.

13 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF AN S
14 CORPORATION OR PARTNERSHIP FILES A RETURN SPECIFIED IN SUBSECTION
15 (1)(c)(I) OF THIS SECTION, NEITHER THE S CORPORATION OR PARTNERSHIP
16 NOR THE ELECTING PASS-THROUGH ENTITY OWNERS SHALL INCUR ANY
17 PENALTIES FOR FILING LATE NOR OWE INTEREST ON SUCH AMOUNTS, AND
18 THE DEPARTMENT SHALL NOT BE REQUIRED TO PAY PENALTIES OR
19 INTEREST ON ANY AMOUNTS OWED TO THE TAXPAYERS.

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

29 Renumber succeeding sections accordingly.

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

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

37 Page 4, after line 40 insert:

38 **"SECTION 8. Appropriation.** (1) For the 2022-23 state fiscal

1 year, \$550,447 is appropriated to the department of revenue. This
2 appropriation is from the general fund. To implement this act, the
3 department may use this appropriation as follows:

4 (a) \$364,306 for use by taxation services for personal services,
5 which amount is based on an assumption that the department will require
6 an additional 4.4 FTE;

7 (b) \$37,345 for use by taxation services for operating expense;

8 (c) \$135,000 for tax administration IT system (GenTax) support;

9 (d) \$12,800 for use by the executive director's office for personal
10 services; and

11 (e) \$996 for the purchase of document management services.

12 (2) For the 2022-23 state fiscal year, \$996 is appropriated to the
13 department of personnel. This appropriation is from reappropriated funds
14 received from the department of revenue under subsection (1)(e) of this
15 section. To implement this act, the department of personnel may use this
16 appropriation to provide document management services for the
17 department of revenue."

18 Renumber succeeding section accordingly.

19 Page 1 of the printed bill, line 102, strike "LEVEL." and substitute
20 "LEVEL, AND, IN CONNECTION THEREWITH, MAKING AN
21 APPROPRIATION."

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