

By: Representatives Lamar, Stamps, Boyd
(19th)

To: Ways and Means

HOUSE BILL NO. 1668

1 AN ACT TO AMEND SECTION 27-7-26, MISSISSIPPI CODE OF 1972,
2 WHICH ALLOWS PARTNERSHIPS, S CORPORATIONS OR SIMILAR PASS-THROUGH
3 ENTITIES TO ELECT TO BE TAXED AS AN ELECTING PASS-THROUGH ENTITY
4 FOR STATE INCOME TAX PURPOSES AND PAY INCOME TAX AT THE ENTITY
5 LEVEL, TO REVISE THE MANNER BY WHICH A PARTNERSHIP, S CORPORATION
6 OR SIMILAR PASS-THROUGH ENTITY MAY ELECT TO BE TAXED AS AN
7 ELECTING PASS-THROUGH ENTITY; TO PROVIDE THAT EACH OWNER, MEMBER,
8 PARTNER OR SHAREHOLDER OF AN ELECTING PASS-THROUGH ENTITY SHALL
9 REPORT HIS OR HER PRO RATA OR DISTRIBUTIVE SHARE OF THE INCOME OF
10 THE ELECTING PASS-THROUGH ENTITY IN COMPUTING SUCH TAXPAYER'S
11 GROSS INCOME TAX LIABILITY; TO REVISE THE METHOD OF DETERMINING
12 THE INCOME TAX CREDIT ALLOWED FOR EACH OWNER, MEMBER, PARTNER OR
13 SHAREHOLDER OF AN ELECTING PASS-THROUGH ENTITY; TO PROVIDE THAT IF
14 AN OWNER'S, MEMBER'S, PARTNER'S OR SHAREHOLDER'S INCOME TAX CREDIT
15 EXCEEDS HIS OR HER INCOME TAX LIABILITY, SUCH EXCESS SHALL BE
16 CARRIED FORWARD AS AN OVERPAYMENT OR REFUNDED AT THE ELECTION OF
17 SUCH PERSON; AND FOR RELATED PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 **SECTION 1.** Section 27-7-26, Mississippi Code of 1972, is
20 amended as follows:

21 27-7-26. (1) (a) For calendar year 2022, and for each
22 calendar year thereafter, any partnership, S corporation or
23 similar pass-through entity may elect to be taxed as an electing
24 pass-through entity and pay the tax imposed under this chapter at
25 the entity level. For the purposes of this section, the term



26 "electing pass-through entity" means a partnership, S corporation
27 or similar pass-through entity that has made an election pursuant
28 to this section.

29 (b) A partnership, S corporation or similar
30 pass-through entity desiring to be taxed as an electing
31 pass-through entity shall submit the appropriate form to the
32 Department of Revenue at any time during the tax year or on or
33 before the fifteenth day of the third month following the close of
34 that taxable year for which the entity elects to be taxed as an
35 electing pass-through entity. This election shall be binding for
36 that taxable year and all taxable years thereafter and shall not
37 be revoked unless the electing pass-through entity submits the
38 appropriate form to the department at any time during a subsequent
39 taxable year or on or before the fifteenth day of the third month
40 following the close of that taxable year for which the entity
41 elects to no longer be taxed as an electing pass-through entity.
42 Both the election to become an electing pass-through entity and
43 the revocation of that election shall be accomplished by a vote
44 satisfying such threshold required for taking official action as
45 may be specified within the entity's governing documents, within
46 the time prescribed in this subsection. If the entity's governing
47 documents do not contain any such provisions governing the
48 approval of official actions, such election shall be accomplished
49 by a vote by or written consent of the members of the governing
50 body of the entity, if the entity shall have a governing body, as



51 well as a vote by or written consent of the owners, members,
52 partners or shareholders holding greater than fifty percent (50%)
53 of the voting control of the entity, within the time prescribed in
54 this subsection.

55 (c) Each owner, member, partner or shareholder of an
56 electing pass-through entity shall report his or her pro rata or
57 distributive share of the income of the electing pass-through
58 entity * * * in computing such taxpayer's gross income tax
59 liability. Each owner, member, partner or shareholder of an
60 electing pass-through entity shall be allowed a credit against the
61 taxes imposed under this chapter in an amount equal to his or her
62 pro rata or distributive share of tax * * * due before application
63 of any entity-level credits by the electing pass-through entity
64 with respect to the corresponding taxable year. In the event an
65 owner's, member's, partner's or shareholder's credit shall exceed
66 his or her income tax liability, such excess shall be carried
67 forward to the following tax year as an overpayment or refunded at
68 the election of such person.

69 (2) The adjusted basis of the owners, members or partners of
70 an electing pass-through entity in their ownership interests in
71 the electing pass-through entity shall be calculated without
72 regard to the election under this section.

73 **SECTION 2.** This act shall take effect and be in force from
74 and after January 1, 2023.

