

By: Representatives Lamar, Boyd (19th)

To: Ways and Means

HOUSE BILL NO. 1668
(As Passed the House)

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 PROVIDE THAT ANY ADDITIONAL INCOME
12 TAX CREDITS GENERATED BY AN ELECTING PASS-THROUGH ENTITY SHALL
13 PASS THROUGH TO THE OWNERS, MEMBERS, PARTNERS, OR SHAREHOLDERS ON
14 A PRO-RATA BASIS AND MAY BE CLAIMED ON THE RETURNS OF THOSE
15 TAXPAYERS; TO PROVIDE THAT IF AN OWNER'S, MEMBER'S, PARTNER'S OR
16 SHAREHOLDER'S AGGREGATE INCOME TAX CREDITS EXCEED HIS OR HER
17 INCOME TAX LIABILITY, SUCH EXCESS SHALL BE CARRIED FORWARD AS AN
18 OVERPAYMENT OR REFUNDED AT THE ELECTION OF SUCH PERSON; TO PROVIDE
19 THAT ANY CARRYFORWARD LIMITATIONS APPLICABLE TO CREDITS GENERATED
20 BY THE PASS-THROUGH ENTITY, OTHER THAN THE CREDIT PROVIDED BY THIS
21 SECTION FOR INCOME TAXES PAID BY THE PASS-THROUGH ENTITY, SHALL
22 APPLY AT THE OWNER, MEMBER, PARTNER, OR SHAREHOLDER LEVEL; AND FOR
23 RELATED PURPOSES.

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

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

27 27-7-26. (1) (a) For calendar year 2022, and for each
28 calendar year thereafter, any partnership, S corporation or



29 similar pass-through entity may elect to be taxed as an electing
30 pass-through entity and pay the tax imposed under this chapter at
31 the entity level. For the purposes of this section, the term
32 "electing pass-through entity" means a partnership, S corporation
33 or similar pass-through entity that has made an election pursuant
34 to this section.

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



54 approval of official actions, such election shall be accomplished
55 by a vote by or written consent of the members of the governing
56 body of the entity, if the entity shall have a governing body, as
57 well as a vote by or written consent of the owners, members,
58 partners or shareholders holding greater than fifty percent (50%)
59 of the voting control of the entity, within the time prescribed in
60 this subsection.

61 (c) Each owner, member, partner or shareholder of an
62 electing pass-through entity shall report his or her pro rata or
63 distributive share of the income of the electing pass-through
64 entity * * * in computing such taxpayer's gross income tax
65 liability. Each owner, member, partner or shareholder of an
66 electing pass-through entity shall be allowed a credit against the
67 taxes imposed under this chapter in an amount equal to his or her
68 pro rata or distributive share of tax paid by the electing
69 pass-through entity with respect to the corresponding taxable
70 year. Any additional income tax credits generated by the electing
71 pass-through entity shall pass through to the owners, members,
72 partners, or shareholders on a pro-rata basis and may be claimed
73 on the returns of those taxpayers. In the event an owner's,
74 member's, partner's or shareholder's aggregate credits shall
75 exceed his or her income tax liability, such excess shall be
76 carried forward as an overpayment or refunded at the election of
77 such person. Any carryforward limitations applicable to credits
78 generated by the electing pass-through entity, other than the



79 credit provided by this section for income taxes paid by the
80 electing pass-through entity, shall apply at the owner, member,
81 partner, or shareholder level.

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

86 **SECTION 2.** This act shall take effect and be in force from
87 and after January 1, 2023, and shall be applicable to any income
88 tax returns the original due date of which are on or after such
89 date.

