

House Bill 412 (AS PASSED HOUSE AND SENATE)

By: Representatives Williamson of the 112<sup>th</sup> and Blackmon of the 146<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
2 income taxes, so as to provide that an election to pay income taxes at the entity level shall  
3 have no impact on the accounting or tax treatment of distributions for an electing  
4 pass-through entity; to repeal a limitation on the types of partnerships that may elect to pay  
5 income taxes at the entity level; to provide for related matters; to provide for an effective date  
6 and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,  
10 is amended by revising subsection (b) of Code Section 48-7-23, relating to taxation of  
11 partnerships, computation of net income, disallowance of charitable contributions, individual  
12 liability of partners, individual returns of distributive shares, taxable years, and elections, as  
13 follows:

14 "(b)(1) As used in this subsection, the term 'electing partnership' means, with respect to  
15 a taxable period, a partnership that has made the election pursuant to paragraph (2) of this  
16 subsection with respect to such taxable period.

17 (2) A partnership may annually make an irrevocable election, on its timely filed return  
18 under Code Section 48-7-53, to pay the tax levied by this chapter at the entity level for  
19 the taxable period covered by such return. Such election must be made on or before the  
20 due date for filing the applicable income tax return, including any extensions which have  
21 been granted.

22 (3) Notwithstanding subsection (a) of this Code section, an electing partnership with  
23 respect to a taxable period shall pay an income tax equivalent to 5.75 percent of its net  
24 income as computed pursuant to Code Section 48-7-23, and allocated and apportioned  
25 pursuant to Code Section 48-7-31, for such taxable period, and such partners shall not  
26 recognize their respective share of the portion of income on which tax was actually paid  
27 pursuant to this subsection.

28 (4) No electing partnership nor any of its partners shall be entitled to any credit under  
29 Code Section 48-7-28 with respect to such tax so paid or any deduction for such income  
30 under subsection (d) of Code Section 48-7-27; provided, however, that such electing  
31 partnership shall otherwise be eligible for credits provided by this chapter and shall be  
32 considered an 'other entity' for purposes of Code Sections 48-7-29.16, 48-7-29.20, and  
33 48-7-29.21.

34 (5) The election under this subsection shall have no impact on the determination of the  
35 basis of the partners of an electing partnership in their interests of such electing  
36 partnership, except that such partners' distributive share of the tax paid or accrued by such  
37 partnership pursuant to such election shall be taken into account in determining such  
38 basis.

39 (5.1) The election under this subsection shall have no impact on the accounting or tax  
40 treatment of distributions for an electing pass-through entity.

41 (6) In computing the net income that is subject to taxation, the electing partnership shall  
42 not be allowed any deduction for taxes that are based on or measured by gross or net  
43 income or any other variant thereof.

44 ~~(7) This subsection shall only apply to a partnership that is 100 percent directly owned~~  
45 ~~and controlled by persons eligible to be shareholders of an 'S' corporation under Section~~  
46 ~~1361 of the Internal Revenue Code of 1986, as amended."~~

47 **SECTION 2.**

48 This Act shall become effective on July 1, 2023, and shall be applicable to all taxable years  
49 beginning on or after January 1, 2023.

50 **SECTION 3.**

51 All laws and parts of laws in conflict with this Act are repealed.