Peter A. Cooper *Legislative Service Commission*

H.B. 84

123rd General Assembly
(As Introduced)

Reps. Haines, Taylor, Opfer, Allen, Sulzer, Willamowski

BILL SUMMARY

- Prevents certain S corporations and other pass-through entities from having to withhold and pay income taxes on behalf of nonresident shareholders.
- Exempts nonresidents who own a share of a farm that is organized as an S corporation or other kind of "pass-through entity" from having to pay estimated income taxes.

CONTENT AND OPERATION

Nonresident shareholders--tax payment requirements

(secs. 5733.40 and 5747.08)

Investors in S corporations and other kinds of "pass-through entities" doing business in Ohio are liable for Ohio income taxes on the income distributed to them from the business, whether the investors reside in Ohio or not.[1] Under recently enacted law, any pass-through entity that has at least one nonresident investor must pay a tax on account of nonresident investors; this tax essentially represents a withholding of the investor's Ohio income taxes, since the investor receives a tax credit for the taxes that the entity paid on account of the investor. An entity does not have to withhold taxes on behalf of nonresident investors if the entity files a single, combined income tax return for the investors and pays estimated income taxes on their behalf. (Sec. 5747.08.) But if the entity does file

[1] *A pass-through entity is a form of business organization that is not itself generally liable for taxes; instead, the individual owners of the organization are liable for taxes on their own individual shares of the income distributed to them from the organization. In Ohio, pass-through entities consist of S corporations, partnerships, and limited liability companies.*

a single return for the investors, the investors are not entitled to the personal exemptions or the $20 personal credit, and the income from the entity is taxed at the highest marginal tax rate.

Exemption from tax payment requirements for farm entities

(secs. 5733.40(I)(3)(b) and 5747.091)

The bill exempts pass-through entities that operate certain kinds of farming businesses from having to pay Ohio income taxes on account of certain qualifying nonresident investors. The businesses covered by the exemption are pass-through entities that are operated as farms, fruit farms, or vineyards. In order for the entity to be exempt from the tax payment requirements on account of a nonresident investor, the entity must distribute less than $70,000 to all of its investors (resident or nonresident), and the nonresident investor must satisfy both of the following requirements:

(1) The nonresident investor derives no taxable income from Ohio other than the investor's distributive share from that entity;

(2) The nonresident investor's distributive share from the entity is less than $50,000.

Estimated tax payments

(secs. 5747.09 and 5747.091)

Currently, a taxpayer is required to pay quarterly estimated taxes if the taxpayer's tax bill would exceed $300 after accounting for taxes withheld from the taxpayer's pay by an employer.

Under the bill, any nonresident investor in a pass-through entity that is exempted from the tax payment requirements and who satisfies both (1) and (2), above, is also exempted from the estimated tax payment requirements.

Effective date

(Section 3)

The bill applies to "taxable year" 2000.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-28-99	p. 116

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