

## **S.F. No. 263 – PPP loan forgiveness provisions; C-option corporation authorization (as proposed to be amended by the A-1 amendment)**

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This bill conforms to the CARES Act and Consolidated Appropriations Act (CAA) provisions that exclude forgiveness of Paycheck Protection Program (PPP) loans from gross income and allow deductions of business expenses paid for with forgiven PPP loans. The bill also provides an option for pass-through businesses to calculate and file tax in the same form as a corporation by electing “C-option corporation” status.

**Section 1. Internal Revenue Code.** Updates the definition of “Internal Revenue Code” in the tax administration chapter to reflect changes made in the CARES Act and the CAA to exclude forgiveness of PPP loans from gross income, and allow deductions of business expenses paid for with forgiven PPP loans. Effective for the same date the changes were effective for federal purposes.

**Section 2. Election to file as a C-option corporation.** Allows a qualifying entity (LLC, partnership, or S corp) the election to file and pay tax as a C-option corporation, whereby the entity would calculate tax liability under the same rules as the corporate franchise tax.

The election:

- may only be made by owners of at least 50 percent of the qualifying entity;
- must be made on or before the due date of the qualifying entity’s return as a C-option corporation; and
- is binding on all owners of the qualifying entity.

The election is binding for four years following the tax year of the election, and may only be revoked by owners with more than 50 percent interest and if the revocation is made on or before

the due date of the qualifying entity's return for the tax year. A qualifying entity revoking a C-option election before the four-year binding period is prohibited from making the election for the following four tax years. A qualifying entity may not have a partnership, LLC, or corporation as a member. The applicable tax rate for a C-option corporation is 9.85 percent. Effective beginning in tax year 2021.

**Section 3. C-option corporations.** Add C-option corporations to the definition of "taxpayer" in the tax administration chapter, thereby applying all provisions of that chapter to C-option corporations. Effective beginning in tax year 2021.

**Section 4. C-option corporation.** Adds C-option corporations to the definitions section of the income tax chapter. Effective beginning in tax year 2021.

**Section 5. Net income.** Updates the reference to Internal Revenue Code in the income and corporate franchise tax chapter for purposes of the calculating net income and reflect changes made in the CARES Act and the CAA to exclude forgiveness of PPP loans from gross income, and allow deductions of business expenses paid for with forgiven PPP loans. Effective for the same date the changes were effective for federal purposes.

**Section 6. Internal Revenue Code.** Updates the definition of "Internal Revenue Code" in the income and corporate franchise tax chapter to reflect changes made in the CARES Act and the CAA to exclude forgiveness of PPP loans from gross income, and allow deductions of business expenses paid for with forgiven PPP loans. Effective for the same date the changes were effective for federal purposes.

**Section 7. Income of partners, members, or shareholders.** Provides a subtraction for purposes of calculating income tax for partners, members, or shareholders of a qualifying entity in the amount of tax paid at the entity level by a C-option corporation. The amount of the subtraction for each partner, member, or shareholder is determined according to their pro-rata share of the C-option corporation's net income. Effective beginning in tax year 2021.

**Section 8. Schedules of rates for individuals, estates, and trusts.** Modifies the formula for calculating Minnesota nonresident individual income tax liability. The amount subtracted under section 7 is excluded from the formula used to determine the amount of a nonresident's federal adjusted gross income (FAGI) subject to Minnesota tax. Effective beginning in tax year 2021.

**Section 9. Credit for taxes paid to another state.** Allows a credit to resident partners, members, or shareholders of a qualifying entity electing to file as a C-option corporation in the amount of each partner, member, or shareholder's pro rata share of income tax paid to another state by the qualifying entity or on a composite return filed with another state on behalf of the qualifying entity's Minnesota partners, members, or shareholders. Effective beginning in tax year 2021.

**Section 10. Definitions.** Allows a subtraction for purposes of calculating alternative minimum tax (AMT) for the amount calculated in section 7. Effective beginning in tax year 2021.

**Section 11. Definitions.** Updates the reference to the Internal Revenue Code for purposes of calculating corporate AMT to reflect changes made in the CARES Act and the CAA to exclude forgiveness of PPP loans from gross income, and allow deductions of business expenses paid for with forgiven PPP loans. Effective for the same date the changes were effective for federal purposes.

**Section 12. Special rules for C-option corporations.** Provides specific rules for allocations of subtractions and credits for C-option corporations:

- Carryovers generated by a C-option corporation's subtraction or credit remaining after C-option status has terminated may not be used by individual partners, shareholders, or members.
- Nonrefundable credits are distributed to the C-option corporation.
- Refundable credits are distributed pro rata to individual partners, shareholders, or members of the C-option corporation.
- A credit carryover generated by a partner, shareholder, or member may be used by the C-option corporation.
- Refunds are distributed pro rata to the individual partners, shareholders, or members of the C-option corporation.
- C-option corporations must make estimated payments in the same manner as corporations. After a C-option election terminates, payment obligations are distributed to individual partners, shareholders, or members.

Effective beginning in tax year 2021.

**Section 13. Withholding by partnerships.** Exempts nonresident partners from withholding requirements if the partnership has elected to be taxed as a C-option corporation. Effective beginning in tax year 2021.

**Section 14. Withholding by S corporations.** Exempts nonresident S corps from withholding requirements if the S corp has elected to be taxed as a C-option corporation. Effective beginning in tax year 2021.

**Section 15. Internal Revenue Code.** Updates the reference to the Internal Revenue Code in the property tax refund chapter to reflect changes made in the CARES Act and the CAA to exclude forgiveness of PPP loans from gross income, and allow deductions of business expenses paid for with forgiven PPP loans. Effective for the same date the changes were effective for federal purposes.

**Section 16. Scope.** Updates the reference to the Internal Revenue Code in the estate tax chapter to reflect changes made in the CARES Act and the CAA to exclude forgiveness of PPP loans from gross income, and allow deductions of business expenses paid for with forgiven PPP loans. Effective for the same date the changes were effective for federal purposes.