



---

# HOWARD MARKLEIN

STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

**January 23, 2020**

**Assembly Committee on Ways and Means  
Testimony on Assembly Bill 753**

Good Morning!

Thank you Chair Macco and committee members for hearing Assembly Bill 753 (AB 753) that makes modifications to the tax treatment of tax-option corporations (S corporations) that elect to pay tax at the entity level.

Under current law, S corporations, partnerships, and limited liability companies (LLCs) are collectively referred to as pass-through entities (PTEs). 2017 Wisconsin Act 368 (Act 368) made changes to the tax treatment for PTEs that elect to be taxed at the entity level. Under Act 368, businesses may elect to be taxed at the entity level for taxable years beginning in 2018 for S corporations and for taxable years beginning in 2019 for all other PTEs. The different dates for when the changes would take effect was intentional in the legislation. However, there were some differences in tax treatment that were not intended. **AB 753 seeks to align the tax treatment for all PTEs that make the election to be taxed at the entity level.**

The Wisconsin Institute of Certified Public Accountants (WICPA) worked with the Wisconsin Department of Revenue (DOR) to ensure similar treatment for S corporations and partnerships that make the election to be taxed at the entity level. There are three main issues addressed by the bill: 1) capital gains exclusion; 2) excess capital loss deduction 3) interest for underpayment of estimated taxes.

Regarding the capital gains exclusion, the bill allows these corporations to exclude from tax 30 percent of the gains realized from the sale of assets held more than one year and the sale of all assets acquired from a decedent and 60 percent of the gains realized from the sale of farm assets held more than one year and the sale of all farm assets acquired from a decedent.

After netting capital gains and capital losses, a S corporation may use up to \$500 of the net loss to offset income. A loss in excess of \$500 may be carried forward to the next taxable year in which the corporation makes the election to pay tax at the entity level.

The remaining provision creates an exception from the requirement to pay interest on the underpayment of estimated taxes for corporations whose Wisconsin net income is less than \$250,000, and provides that these corporations, when making quarterly estimated tax payments,

compute the amount due using the standards applicable to taxpayers with net income of less than \$250,000, regardless of the corporation's actual net income.

This bill is supported by both WICPA and DOR.

Thank you again for hearing AB 753, and your timely action on this proposal.