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[HF 2679](#) – Law Firm Contract Attorneys, Tax Credit (LSB5550HV)  
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Fiscal Note Version – New

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## **Description**

[House File 2679](#) provides a deduction from the individual income tax or corporate income tax for certain income derived from indigent representation by an attorney. The amount of the deduction is equal to the difference between the total hours billed in the case multiplied by \$150, or multiplied by the actual hourly rate charged by the law firm, whichever is less, and the total hours billed in the case multiplied by the hourly rate in effect for the case in Iowa Code section [815.7](#). The Bill applies to a partner in a partnership, a shareholder of an S corporation, or a member of a limited liability company (LLC).

The Bill is retroactively effective to January 1, 2024, for tax years beginning on or after that date.

## **Background**

In the Bill, “eligible law firm” is defined as a law firm consisting of two or more attorneys that practice law in the firm for at least half of each tax year during which the law firm is engaged in an eligible case. An “eligible case” means an appointment on or after July 1, 2024, by an Iowa court of an eligible attorney to represent a person in a case in accordance with Iowa Code sections [814.11](#) and [815.10](#), which detail the law regarding an indigent’s right to counsel and the appointment of an attorney by a court, respectively. An “eligible attorney” is one who has been licensed to practice law in Iowa for less than five years.

Iowa Code section 815.7 is referenced in the Bill as the base hourly rate that an attorney who is appointed by a court in Iowa may be compensated at to represent indigent clients. 2023 Iowa Acts, [Senate File 562](#) (FY 2024 Justice System Appropriations Act), updated the hourly compensation an attorney could receive when appointed as an indigent defender to \$83 per hour for Class A felonies, \$78 per hour for Class B felonies, and \$73 per hour for all other cases.

## **Assumptions**

- The number of full-time attorneys eligible to represent indigent defense clients in the State is estimated at 5,000 based on an Iowa State Bar [article](#).
- According to the Iowa Office of the State Public Defender (SPD), under 600 contract attorneys provided services for Iowa’s indigent representation in 2023. In FY 2023, 71,482 claims were submitted to the Indigent Defense Fund at an average cost per claim of \$549.
- According to the Iowa State Bar Association [2023 Economic Survey](#), approximately 9.0% of members statewide have been practicing law for less than five years.
- Eligible attorneys would be appointed to an average aggregate of 28 Class A felony cases per tax year, 7,000 non-Class A felony cases per tax year, and 37,000 misdemeanor cases per tax year.
- The SPD sets fee limitations of 258 billable hours for Class A felonies, 56 billable hours for Class B felonies, between 20 and 30 billable hours for other felonies, and between 5 and 20 billable hours for misdemeanors. It is assumed in this **Fiscal Note** that Class A felonies will

average 240 billable hours, non-Class A felonies will average 35 billable hours, and misdemeanors will average 8 billable hours.

- The actual hourly billable rate charged by a law firm equals \$135 per hour in TY 2024, increasing by 2.0% annually due to inflation, with a maximum of \$150 per hour from the Bill. Statutory indigent defense rates defined for billable hourly rates are assumed.
- It is assumed that outside contracted law firms appointed to indigent defense cases would be structured as either an LLC partnership or an LLP. Under the structure of these partnerships, both federal taxable income and Iowa taxable income would be divided pro rata amongst partners, who will include this income under their own individual income tax returns.
- It is assumed that LLC partnerships and LLPs do not elect to utilize the Pass-Through Entity Tax (PTET).
- The entire fiscal impact of the Bill will be applied to the individual income tax with no fiscal impact to the corporate income tax.
- The marginal individual income tax rate per tax year is estimated below:
  - TY 2024 = 5.0%
  - TY 2025 = 4.7%
  - TY 2026 and after = 3.9%
- Due to eligible cases beginning on July 1, 2024, TY 2024 will realize 50.0% less in billable hours.
- The initial fiscal impact for claims under the Bill will occur in FY 2025 for TY 2024.
- The [income surtax for schools](#) is a local option tax that is based on a taxpayer's Iowa income tax liability. Law changes that lower Iowa income tax liability also lower the amount of income surtax owed by any taxpayer subject to the surtax. For this projection, the surtax is assumed to equal 2.5% of State individual income tax liability.

### **Fiscal Impact**

The proposed deductions from the individual income tax in HF 2679 are projected to decrease net individual income tax liability and State General Fund revenue by the following amounts:

- FY 2025 = \$816,000
- FY 2026 = \$1.6 million
- FY 2027 = \$1.4 million
- FY 2028 = \$1.4 million
- FY 2029 = \$1.5 million
- FY 2030 = \$1.6 million

The decrease in tax liability is also projected to decrease the statewide local option income surtax for schools by the following amounts:

- FY 2025 = \$20,000
- FY 2026 = \$40,000
- FY 2027 = \$35,000
- FY 2028 = \$36,000
- FY 2029 = \$38,000
- FY 2030 = \$40,000

**Sources**

Iowa Office of the State Public Defender  
American Bar Association  
Iowa State Bar Association  
Iowa Department of Revenue  
Legislative Services Agency analysis

/s/ Jennifer Acton

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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