

JAN 24 2007

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## A BILL FOR AN ACT

RELATING TO TAXES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The department of taxation shall develop and  
2 adopt rules pursuant to chapter 91, Hawaii Revised Statutes, for  
3 all nonresident taxpayers involved in pass-through entities,  
4 such as partnerships, s-corporations, and limited liability  
5 companies to ensure fair and equitable payment of state taxes.  
6 The rules shall not apply to trusts or estates.

7           The department of taxation shall report to the legislature  
8 no later than twenty days prior to the regular session of 2008,  
9 and annually thereafter, on:

- 10           (1) The status of the development or adoption of the  
11           rules;
- 12           (2) Any positive or negative consequences of the  
13           development of such rules; and
- 14           (3) Any proposed legislation to assist in the process of  
15           developing or adopting the rules.

16           As used in this section:



1 "Limited liability company" means a limited liability  
2 company organized under this chapter 428, Hawaii Revised  
3 Statutes.

4 "Nonresident" means residing in the state for a temporary  
5 or transitory purpose. Every individual who is in the state  
6 less than two hundred days of the taxable year in the aggregate  
7 shall be presumed to be a nonresident of the State. This  
8 presumption may be overcome by evidence satisfactory to the  
9 department of taxation that the individual maintains a permanent  
10 place of abode within the state and is in the state for other  
11 than a temporary or transitory purpose. No person shall be  
12 deemed to have gained or lost a residence simply because of the  
13 person's presence or absence in compliance with military or  
14 naval orders of the United States, or while engaged in aviation  
15 or navigation, or while a student at any institution of  
16 learning.

17 "Partnership" means an association of two or more persons  
18 to carry on as co-owners of a business for profit formed under  
19 section 425-109, Hawaii Revised Statutes, a predecessor law, or  
20 comparable law of another jurisdiction.

21 "S corporation" means a corporation, limited liability  
22 company, or other eligible entity that meets the United States

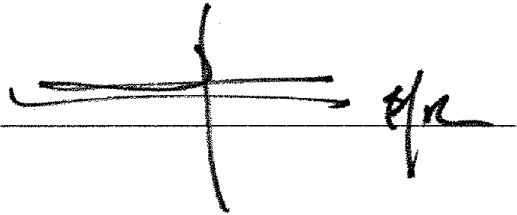


1 Internal Revenue Service requirements to be taxed under  
2 subchapter S of chapter 1 of the Internal Revenue Code.

3 SECTION 2. This Act shall take effect upon its approval.

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INTRODUCED BY:

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**Report Title:**

Taxes; Nonresident Withholdings

**Description:**

Requires the Department of Taxation to develop and adopt rules for all nonresident taxpayers involved in pass-through entities, such as partnerships, s-corporations, and limited liability companies to ensure fair and equitable payment of state taxes

