

SB 575

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SUBJECT: INCOME, Exclusion of certain business income

BILL NUMBER: SB 575

INTRODUCED BY: Tsutsui, 3 Democrats and 1 Republican

BRIEF SUMMARY: Adds a new section to HRS section 235-7 to exclude from state income taxation, the first \$50,000 received by a business in a taxable year beginning after December 31, 2010; provided that the business is either a: (1) corporation incorporated in the state under HRS chapter 414; or (2) pass-through entity that incurs ___% or more of its operational expenses in this state during the applicable tax year and is either: (a) a professional corporation registered under HRS chapter 415A; (b) a general partnership that is formed and registered under HRS chapter 425; (c) a limited partnership pursuant to HRS chapter 425E; (d) a limited liability company pursuant to HRS chapter 428; or (e) an S corporation that has made a valid election under section 1362(a) of the Internal Revenue Code.

EFFECTIVE DATE: Tax years beginning after December 31, 2010

STAFF COMMENTS: The proposed measure would exclude from state income taxation, the first \$50,000 received by a corporation or a “pass-through” entity. Since this measure would grant preferential tax treatment to a select group of taxpayers without regard to any excessive burden of taxes imposed on these taxpayers, this measure cannot be justified.

That said, one has to ask what this measure is trying to accomplish. If it is submitted to “help” businesses, then one needs to note that if a business has \$50,000 of taxable income that this measure proposes to exempt, then, it is a profitable operation, having generated profits that are now taxable under the state income tax. Lawmakers should be more concerned with businesses that are not showing a profit in these difficult economic times. Efforts should be made to insure that businesses can turn a profit after paying all of their expenses, expenses that are sometimes created by government.

As one business representative noted after the President addressed the national Chamber of Commerce to exhort business to spend and invest in jobs and new industries, “government has created uncertainty with numerous and complex regulations,” regulations which he noted are so complex and ambiguous that businesses must hire professionals to interpret and advise businesses on how to comply with them in order to stay in business. The same can be said of state laws and regulations, lawmakers have gone over the edge in recent years in their attempts to protect their constituents that little thought has been given to those who must comply with those laws and regulations. Add to that the lengthy permitting process and the unwillingness of civil servants to make a decision should it be the wrong decision and one has a dysfunctional business environment hampered by government itself.

Thus, the simplistic approach to “helping” businesses proposed in this bill fails to understand the challenges of doing business in Hawaii and being able to survive by making a profit. If it is a tax solution lawmakers want, then they should consider lowering the bottom tax rates which then would benefit all businesses both large and small.