
A BILL FOR AN ACT

RELATING TO PASS-THROUGH ENTITY TAXATION.

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

1 SECTION 1. The legislature finds that Act 50, Session Laws
2 of Hawaii 2023 (Act 50), allows certain pass-through entities to
3 elect to pay income taxes at the entity level. Act 50 was
4 intended to help Hawaii's small businesses by allowing taxpayers
5 to deduct Hawaii state income taxes paid on their federal income
6 tax returns. These deductions from federal taxable income were
7 eliminated through changes to the federal tax code in 2017,
8 which deprived Hawaii taxpayers of significant federal tax
9 benefits.

10 Under Act 50, the entity level tax was calculated by
11 applying the eleven per cent rate, Hawaii's highest individual
12 income tax rate, to the income to be distributed. Members then
13 receive a nonrefundable income tax credit that may not be
14 carried forward to a subsequent year if the credit exceeds their
15 tax liability. The high tax rate and inability to carry the
16 credit forward made it difficult for many small businesses to
17 benefit from Act 50.



1 The legislature further finds that many pass-through entity
2 members were unable to benefit from Act 50 as intended and that
3 Act 50 should be amended.

4 The purpose of this Act is to reduce the pass-through
5 entity level tax rate and allow the tax credit to be carried
6 forward to subsequent years to allow more small businesses to
7 benefit from the entity level tax election that Act 50 provided.

8 SECTION 2. Section 235-51.5, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsection (b) to read:

11 "(b) Notwithstanding any provision of law to the contrary,
12 the following tax is imposed on each electing pass-through
13 entity: the sum of all member's distributive shares and
14 guaranteed payments of Hawaii taxable income as calculated under
15 this chapter, multiplied by [~~the highest rate of tax applicable~~
16 ~~to the individual under section 235-51.7~~] nine per cent; provided
17 that the distributive shares and guaranteed payments of members
18 who are corporations, partnerships, S corporations, tax-exempt
19 entities, and other taxpayers designated by the department shall
20 not be included in the sum and shall not be subject to the tax
21 under this section. If the income calculated pursuant to this



1 subsection reflects a net loss for the electing pass-through
2 entity, the net loss may be carried forward to subsequent tax
3 years for as long as the electing pass-through entity elects to
4 be subject to the tax pursuant to this section until exhausted."

5 2. By amending subsection (e) to read:

6 "(e) Each member of an electing pass-through entity whose
7 distributive share or guaranteed payment of Hawaii taxable
8 income is subject to tax under this section shall be entitled to
9 a nonrefundable credit equal to the member's share of the tax
10 paid pursuant to this section. If the amount of the credit
11 authorized by this subsection exceeds the member's tax liability
12 imposed pursuant to this chapter, [~~the excess amount shall not~~
13 ~~be refundable to the member.~~] the excess of the credit over
14 liability may be used as a credit against the member's income
15 tax liability in subsequent years until exhausted. Any member
16 claiming a credit shall not be entitled to deduct from the
17 member's Hawaii state taxable income those amounts of Hawaii
18 state income taxes paid by the member on the member's
19 distributive share or guaranteed payment of income from the
20 electing pass-through entity."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act, upon its approval, shall apply to
4 taxable years beginning after December 31, 2023.

5

INTRODUCED BY: *Lisakitagawa*
JAN 16 2024



H.B. NO.

1620

Report Title:

Taxation; Pass-through Entity; Corporations; S Corporations;
Partnerships; Carry Forward

Description:

Reduces the pass-through entity level tax rate and allows the nonrefundable tax credit to be carried forward to subsequent years.

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