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# 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 and local taxes paid on their federal  
6 income tax returns. These deductions from federal taxable  
7 income were eliminated through changes to the federal tax code  
8 in 2017, which deprived Hawaii taxpayers of significant federal  
9 tax 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. The high tax  
13 rate and inability to carry the credit forward made it difficult  
14 for many small businesses to benefit from Act 50.

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



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

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

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

8           "(b) Notwithstanding any provision of law to the contrary,  
9 the following tax is imposed on each electing pass-through  
10 entity: the sum of all member's distributive shares and  
11 guaranteed payments of Hawaii taxable income as calculated under  
12 this chapter, multiplied by [~~the highest rate of tax applicable~~  
13 ~~to the individual under section 235-51,~~] nine per cent; provided  
14 that the distributive shares and guaranteed payments of members  
15 who are corporations, partnerships, S corporations, tax-exempt  
16 entities, and other taxpayers designated by the department shall  
17 not be included in the sum and shall not be subject to the tax  
18 under this section. If the income calculated pursuant to this  
19 subsection reflects a net loss for the electing pass-through  
20 entity, the net loss may be carried forward to subsequent tax



1 years for as long as the electing pass-through entity elects to  
2 be subject to the tax pursuant to this section until exhausted."

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

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

19 SECTION 3. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 3000, and  
2 shall apply to taxable years beginning after December 31, 2023.



**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. Effective 7/1/3000. (HD1)

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