
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), was intended to help Hawaii's small
3 businesses by allowing certain taxpayers to deduct Hawaii state
4 income taxes paid on their federal income tax returns. These
5 deductions from federal taxable income were eliminated through
6 changes to the federal tax code in 2017, which deprived Hawaii
7 taxpayers of significant federal tax benefits.

8 Under Act 50, the entity level tax is calculated by
9 applying the eleven per cent rate, the highest individual income
10 tax rate under section 235-51, Hawaii Revised Statutes, to the
11 income to be distributed. Members of the entity receive a
12 nonrefundable income tax credit that may not be carried forward
13 to a subsequent year if the credit exceeds the tax liability.
14 The high tax rate and inability to carry the credit forward made
15 it difficult for many small businesses to benefit from Act 50 as
16 originally intended.



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

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

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

9 "(b) Notwithstanding any provision of law to the contrary,
10 the following tax is imposed on each electing pass-through
11 entity: the sum of all member's distributive shares and
12 guaranteed payments of Hawaii taxable income as calculated under
13 this chapter, multiplied by [~~the highest rate of tax applicable~~
14 ~~to the individual under section 235-51.5;~~] nine per cent; provided
15 that the distributive shares and guaranteed payments of members
16 [~~who~~] that are corporations, partnerships, S corporations, tax-
17 exempt entities, and other taxpayers designated by the
18 department shall not be included in the sum and shall not be
19 subject to the tax under this section. If the income calculated
20 pursuant to this subsection reflects a net loss for the electing
21 pass-through entity, the net loss may be carried forward to



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

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

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

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



1 SECTION 4. This Act shall take effect on July 1, 2040, and
2 shall apply to taxable years beginning after December 31, 2023.



Report Title:

Taxation; Pass-through Entity; S Corporations; Partnerships; Tax Exempt Entities

Description:

For pass-through entities electing to pay Hawaii taxes at the entity level, reduces the pass-through entity level tax rate and allows the tax credit to be carried forward to subsequent years. Takes effect 7/1/2040. Applies to taxable years beginning after 12/31/2023. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

