

Honolulu, Hawaii
FEB 07, 2024

RE: H.B. No. 1803
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 1803 entitled:

"A BILL FOR AN ACT RELATING TO PASS-THROUGH ENTITY TAXATION,"

begs leave to report as follows:

The purpose of this measure is to, for purposes of pass-through entity taxation election:

- (1) Reduce the pass-through entity level tax rate; and
- (2) Allow the tax credit to carry forward into subsequent years.

Your Committee received testimony in support of this measure from C&Y CPAs LLC; Accuity LLP; Chamber of Commerce Hawaii; and Kapolei Chamber of Commerce. Your Committee received comments on this measure from the Department of Taxation; Grassroot Institute of Hawaii; and Tax Foundation of Hawaii.

Your Committee finds that, at the federal level, the Tax Cuts and Jobs Act capped the state and local tax (SALT) deduction for individuals at \$10,000 for the 2018-2025 tax years. The limit generally applies to any SALT liability, including tax on income received from a partnership or S corporation. This limit causes



the most hardship in states with higher income tax rates, which includes Hawaii.

Your Committee further finds that in 2020, the Internal Revenue Service announced in Notice 2020-75 that the \$10,000 cap on deductions claimed by pass-through entities would not apply if the state income tax was imposed directly on the entity, instead of the individual members of the entities.

In response, the State enacted Act 50, Session Laws of Hawaii 2023, which allowed entities to elect to be taxed at the entity level. However, Act 50 imposed a high tax rate and prevented the tax credit from carrying forward to subsequent years, which made it difficult for small businesses to benefit from Act 50 as intended. This measure will adjust the pass-through entity taxation election to reduce the burden on small businesses.

Your Committee has amended this measure by:

- (1) Changing the effective date to December 31, 3000, to encourage further discussion; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1803, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1803, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,

for 
MARK M. NAKASHIMA, Chair



