

JAN 23 2025

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. Section 235-51.5, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

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

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1 of taxes paid by an electing pass-through entity under this
2 section."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act, upon its approval, shall apply to
5 taxable years beginning after December 31, 2024.

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INTRODUCED BY:

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BY REQUEST

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Report Title:

Taxation; Pass-Through Entities; S Corporations; Partnerships

Description:

For taxable years beginning after December 31, 2024, requires all qualified members claiming a credit for pass-through entity taxation to adjust their income to include the qualified member's share of taxes paid by an electing pass-through entity.

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

JUSTIFICATION SHEET

SB. NO. 1465

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO PASS-THROUGH ENTITY TAXATION.

PURPOSE: To promote tax fairness by removing the double-benefit afforded to taxpayers claiming the pass-through entity taxation credit under section 235-51.5, Hawaii Revised Statutes (HRS).

MEANS: Amend section 235-51.5(e), HRS.

JUSTIFICATION: Currently, taxpayers claiming the pass-through entity (PTE) tax credit receive a double benefit in the form of the credit and a reduction to their taxable income from a PTE because the entity is permitted to deduct the PTE taxes paid on the member's behalf. Since the PTE credit is based on a qualified member's share of income before the deduction, the PTE credits are greater than the members' share of Hawaii income tax owed on the income. Requiring any qualified member claiming a PTE credit to add PTE taxes back to the qualified member's taxable income eliminates this double benefit and ensures the amounts used to calculate the member's income and PTE tax credit are consistent and do not confer a double benefit.

Impact on the public: This bill clarifies one of the most common practitioner questions regarding the PTE tax. It will impact persons claiming the PTE credit and practitioners who prepare taxes for those individuals and entities by requiring them to add PTE taxes back to the qualified member's taxable income.

Impact on the department and other agencies: This amendment will assist the Department in the administration of taxes.

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GENERAL FUND: Expected revenue gain of \$13.3 million in fiscal year 2026 and \$16.6 million in fiscal year 2027.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval, provided that it shall apply to taxable years beginning after December 31, 2024.