

2019 -- S 0564

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO TAXATION -- BUSINESS CORPORATION TAX

Introduced By: Senators McKenney, Lynch Prata, McCaffrey, Lombardi, and Archambault

Date Introduced: March 14, 2019

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-11 of the General Laws entitled "Business Corporation Tax" is
2 hereby amended by adding thereto the following section:

3 **44-11-2.3. Pass-through entities -- Election to pay state income tax at the entity level.**

4 (a) Definitions. As used in this section:

5 (1) "Election" means the annual election to be made by the pass-through entity by filing
6 the prescribed tax form and remitting the appropriate tax.

7 (2) "Net income" means the net ordinary income, net rental real estate income, other net
8 rental income, guaranteed payments, and other business income less specially allocated
9 depreciation and deductions allowed pursuant to § 179 of the United States Revenue Code (26
10 U.S.C. § 179), all of which would be reported on federal tax form schedules C and E. Net income
11 for purposes of this section does not include specially allocated investment income or any other
12 types of deductions.

13 (3) "Owner" means an individual who is a shareholder of an S Corporation; a partner in a
14 general partnership, a limited partnership, or a limited liability partnership; a member of a limited
15 liability company, a beneficiary of a trust; or a sole proprietor.

16 (4) "Pass-through entity" means a corporation that for the applicable tax year is treated as
17 an S Corporation under I.R.C. 1362(a) (26 U.S.C. § 1362(a)), or a general partnership, limited
18 partnership, limited liability partnership, trust, limited liability company or unincorporated sole
19 proprietorship that for the applicable tax year is not taxed as a corporation for federal tax

1 purposes under the state's regulations.

2 (5) "State tax credit" means the amount of tax paid by the pass-through entity at the entity
3 level which is passed through to an owner on a pro rata basis.

4 (b) Elections.

5 (1) For tax years beginning on or after January 1, 2019, a pass-through entity may elect to
6 pay the state tax at the entity level at the rate of five and ninety-nine hundredths percent (5.99%).

7 (2) If a pass-through entity elects to pay an entity tax under this subsection, the entity
8 shall not have to comply with the provisions of § 44-11-2.2 regarding withholding on non-
9 resident owners. In that instance, the entity shall not have to comply with the provisions of § 44-
10 11-2.2 regarding withholding on non-resident owners.

11 (c) Reporting.

12 (1) The pass-through entity shall report the pro rata share of the state income taxes paid
13 by the entity which sums will be allowed as a state tax credit for an owner on his or her personal
14 income tax return.

15 (2) The pass-through entity shall also report the pro rata share of the state income taxes
16 paid by the entity as an income (addition) modification to be reported by an owner on his or her
17 personal income tax returns.

18 (d) Net taxable income for purposes of this subsection shall be calculated in accordance
19 with § 44-11-2.4(a)(3), subject to applicable apportionment rules for businesses operating in
20 multiple states.

21 (e) State tax credit shall be the amount of tax paid by the pass-through entity, at the entity
22 level, which is passed through to the owners, on a pro rata basis.

23 (f) A similar type of tax imposed by another state on the owners' income paid at the state
24 entity level shall be deemed to be allowed as a credit for taxes paid to another jurisdiction in
25 accordance with the provisions of § 44-30-18.

26 (g) "Combined reporting" as set forth in § 44-11-4.1 shall not apply to reporting under
27 this section.

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would provide for a pass-through entity tax to shift the income tax liability from
2 an entity's owner to the entity itself. The tax would be deductible by the entity thereby helping to
3 offset the effect of the ten thousand dollar (\$10,000) limit on an individual's state and local tax
4 (SALT) deductions by reducing their share of overall allocable income.

5 To ensure against double taxation, the act would provide owners with a tax credit to
6 offset the tax on their share of the entity's after pass-through entity tax income.

7 This act would take effect upon passage.

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