

2021 -- H 5231

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO TAXATION -- BUSINESS CORPORATION TAX

Introduced By: Representatives Shekarchi, Edwards, Noret, McEntee, and Solomon

Date Introduced: January 29, 2021

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-11-2.3 of the General Laws in Chapter 44-11 entitled "Business  
2 Corporation Tax" is hereby amended to read as follows:

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~~ any shareholder of an S Corporation; ~~a~~ any  
14 partner in a general partnership, a limited partnership, or a limited-liability partnership; ~~a~~ any  
15 member of a limited-liability company, ~~a~~ any beneficiary of a trust; or a sole proprietor excluding  
16 tax-exempt owners including, but not limited to, nonprofit, IRA, 401(k) plans.

17 (4) "Pass-through entity" means a corporation that for the applicable tax year is treated as  
18 an S Corporation under I.R.C. 1362(a)(26 U.S.C. § 1362(a)), or a general partnership, limited  
19 partnership, limited-liability partnership, trust, limited-liability company or unincorporated sole

1 proprietorship that for the applicable tax year is not taxed as a corporation for federal tax purposes  
2 under the state's regulations.

3 (5) "State tax credit" means the amount of tax ~~paid by~~ shown on the pass-through ~~entity at~~  
4 ~~the entity level~~ entity's Pass-through Entity Election Tax Return that is passed through to an owner  
5 on a pro rata basis.

6 (b) Elections.

7 (1) For tax years beginning on or after January 1, 2019, a pass-through entity may elect to  
8 pay the state tax at the entity level at the rate of seven percent (7%) to the extent the pass-through  
9 entity is owned by a C corporation, and at the rate of five and ninety-nine hundredths percent  
10 (5.99%) for individuals, S corporations, LLCs, partnerships and trusts.

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

15 (c) Reporting.

16 (1) The pass-through entity shall report the pro rata share of the state income ~~tax~~ ~~taxes paid~~  
17 ~~by the entity~~ shown on the pass-through entity's Pass-through Entity Election Tax Return, which  
18 sums will be allowed as a state tax credit for an owner on ~~his or her~~ its personal income tax return.

19 (2) The pass-through entity shall add back into its income any amount deducted on the  
20 federal tax return as a Rhode Island pass-through entity tax ~~also report the pro rata share of the state~~  
21 ~~income taxes paid by the entity as an income (addition) modification to be reported by an owner~~  
22 ~~on his or her personal income tax returns.~~

23 (d) State tax credit shall be the amount of tax ~~paid by~~ shown on the pass-through ~~entity, at~~  
24 ~~the entity level,~~ entity's Pass-through Entity Election Tax Return, which is passed through to the  
25 owners, on a pro rata basis.

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

29 (f) "Combined reporting" as set forth in § 44-11-4.1 shall not apply to reporting under this  
30 section.

31 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 technical amendments to the existing Pass-through Entity Election
- 2 Tax statute to allow tax practitioners and the Rhode Island Division of Taxation to comply with the
- 3 provisions in practice.
- 4           This act would take effect upon passage.

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