

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 191

H.P. 124

House of Representatives, January 14, 2025

**An Act to Support Maine Businesses by Establishing a Pass-through
Entity Tax and Tax Credit**

Reference to the Committee on Taxation suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative HASENFUS of Readfield.

Cosponsored by Representative: DUCHARME of Madison, Senator: HICKMAN of Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 36 MRSA c. 814-A** is enacted to read:

3 **CHAPTER 814-A**

4 **PASS-THROUGH ENTITY TAX**

5 **§5186. Definitions**

6 As used in this chapter, unless the context otherwise indicates, the following terms
7 have the following meanings.

8 **1. Affected business entity.** "Affected business entity" means a partnership or an S
9 corporation, but does not include a publicly traded partnership, as defined in the Code,
10 Section 7704(b), that has agreed to file an annual return pursuant to section 5187 reporting
11 the name, address, social security number or federal employer identification number and
12 such other information required by the assessor of each member whose distributive share
13 of partnership income derived from or connected with sources within this State is more
14 than \$500.

15 **2. Electing pass-through entity.** "Electing pass-through entity" means a pass-through
16 entity that elects to pay taxes pursuant to section 5187.

17 **3. Member.** "Member" means:

18 A. A shareholder of an S corporation;

19 B. A partner in:

20 (1) A general partnership;

21 (2) A limited partnership; or

22 (3) A limited liability partnership; or

23 C. A member of a limited liability company that is treated as a partnership or an S
24 corporation for federal income tax purposes.

25 **4. Partnership.** "Partnership" has the same meaning as in the Code, Section
26 7701(a)(2) and federal regulations adopted pursuant to that section. "Partnership" includes
27 a limited liability company that is treated as a partnership for federal income tax purposes.

28 **5. Pass-through entity.** "Pass-through entity" has the same meaning as in section
29 5195, subsection 18.

30 **6. S corporation.** "S corporation" means a corporation or a limited liability company
31 that is treated as an S corporation for federal income tax purposes.

32 **7. Tax year.** "Tax year" means the tax year of an affected business entity for federal
33 income tax purposes.

34 **§5187. Pass-through entity taxation election**

35 **1. Election.** For tax years beginning on or after January 1, 2025, a partnership or S
36 corporation may elect to become an electing pass-through entity in a tax year. A separate
37 election must be made for each tax year.

1 **2. Imposition and calculation of tax.** Notwithstanding any provision of law to the
2 contrary, a tax is imposed on an electing pass-through entity. The tax is the sum of each
3 member's distributive share of Maine taxable income as calculated under this Part,
4 multiplied by the highest rate of tax applicable to the individual under section 5111.

5 **3. Carry-forward.** If the tax calculated pursuant to subsection 2 results in a net loss
6 for the electing pass-through entity, the net loss may not be carried forward to subsequent
7 tax years.

8 **4. Filing of return.** A nonresident individual who is a member of an electing pass-
9 through entity may not be required to file an income tax return pursuant to this chapter for
10 a tax year if the member's only source of Maine income for that tax year is from an electing
11 pass-through entity and the electing pass-through entity files and pays the tax due under
12 this chapter.

13 **5. Report of pro rata share.** An electing pass-through entity shall report to each of
14 its members, for each tax year, the member's pro rata share of the tax imposed pursuant to
15 this chapter.

16 **6. Report of credit.** A subsidiary pass-through entity shall report to a parent electing
17 pass-through entity the amount of the credit under this section the subsidiary allocates to
18 the parent electing pass-through entity.

19 **7. Treatment of indirect credit.** A parent electing pass-through entity may not claim
20 the credit under this section against the pass-through entity tax reported on its own return
21 but shall flow through the indirect credit to its members.

22 **8. Amount of credit.** A member of an electing pass-through entity is entitled to a
23 credit equal to 90% of the member's share of the tax paid pursuant to this chapter. If the
24 amount of the credit authorized by this subsection exceeds the member's tax liability
25 imposed pursuant to this chapter, the excess amount is refundable to the member. A
26 member claiming a credit pursuant to this subsection may not deduct from that member's
27 Maine taxable income those amounts of Maine income taxes paid by the member on that
28 member's distributive share of income from the electing pass-through entity.

29 **9. Effect of taxes paid in and credit from other jurisdictions.** A member that is
30 subject to the tax imposed by this chapter as a resident or part-year resident of the State is
31 entitled to a credit for the direct member's or indirect member's pro rata share of taxes paid
32 to another state or to the District of Columbia on income of any partnership or S corporation
33 of which the person is a member if the taxes paid to another state or to the District of
34 Columbia result from a tax that the director of taxation for that state or the District of
35 Columbia determines is substantially similar to the tax imposed pursuant to this chapter.
36 A credit must be calculated in a form and manner prescribed by that director of taxation
37 consistent with the provisions of this section. If the amount of the credit authorized by this
38 subsection exceeds the member's tax liability for the tax imposed pursuant to this chapter,
39 the excess amount is not refundable and may not carry forward.

40 **10. Timing.** An affected business entity that is required to file a return under this
41 chapter shall pay, on or before the 15th day of the 3rd month following the close of each
42 tax year, to the assessor the tax as determined under this chapter.

43 **§5188. Rules**

