

HB187 ENROLLED



1 HB187
2 A4UWQ77-2
3 By Representative Faulkner
4 RFD: Commerce and Small Business
5 First Read: 15-Feb-24



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1 Enrolled, An Act,

2 Relating to income taxes; to amend Section 40-18-24.4,
3 Code of Alabama 1975, to extend the due date for an Alabama
4 electing pass-through entity to make the election to be taxed
5 as an electing pass-through entity.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 40-18-24.4, Code of Alabama 1975, is
8 amended to read as follows:

9 "§40-18-24.4

10 (a) This section shall be known and may be cited as
11 the, "Alabama Electing Pass-Through Entity Tax Act."

12 (b) For the purposes of this section, "electing
13 pass-through entity" means any Alabama S corporation, as is
14 defined by Section 40-18-160, and any subchapter K entity, as
15 is defined by Section 40-18-1, that has made an election
16 pursuant to subsection (d) to pay Alabama income tax at the
17 rate prescribed in subsection (e).

18 (c) For tax years beginning on or after January 1,
19 2021, any Alabama S corporation, as defined in Section
20 40-18-160, and any subchapter K entity, as defined in Section
21 40-18-1, may elect to be taxed as an electing pass-through
22 entity.

23 (d) (1) For tax years beginning on or after January 1,
24 2021, through December 31, 2023, an~~An~~ electing pass-through
25 entity shall submit the appropriate form to the Department of
26 Revenue at any time during the tax year or on or before the
27 fifteenth day of the third month following the close of that
28 tax year for which the entity elects to be taxed as an



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29 electing pass-through entity. For tax years beginning on or
30 after January 1, 2024, an electing pass-through entity shall
31 submit the appropriate form to the Department of Revenue on or
32 before the due date for filing the applicable income tax
33 return, including any extensions which have been granted
34 following the close of that tax year for which the entity
35 elects to be taxed as an electing pass-through entity.

36 (2) This election shall be binding for that year and
37 all subsequent tax years and shall not be revoked unless the
38 electing pass-through entity submits the appropriate form to
39 the Department of Revenue at any time during a subsequent tax
40 year or on or before ~~the fifteenth day of the third month~~the
41 due dates provided in this subsection following the close of
42 that tax year for which the entity elects to no longer be
43 taxed as an electing pass-through entity. Both the election to
44 become an electing pass-through entity and the revocation of
45 that election shall be accomplished by a vote by or written
46 consent of the members of the governing body of the entity as
47 well as a vote by or written consent of the owners, members,
48 partners, or shareholders holding greater than 50 percent of
49 the voting control of the entity, within the time prescribed
50 above.

51 (3) For tax years beginning on or after January 1,
52 2025, the election or revocation shall be made on the timely
53 filed return, including any extensions which have been
54 granted.

55 (e) An electing pass-through entity shall pay a tax at
56 the highest marginal rate provided in Section 40-18-5,



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57 calculated in accordance with Section 40-18-24 or Section
58 40-18-161 and Section 40-18-162, as appropriate, and
59 apportioned in accordance with Chapter 27 of this title. An
60 electing pass-through entity shall be subject to Section
61 40-18-80.1 (estimated tax for corporations). In calculating
62 taxable income for the purposes of this subsection, Alabama
63 tax paid under this subsection shall not be deducted in
64 calculating Alabama taxable income.

65 (f) The owners, members, partners, or shareholders
66 shall not be liable for the tax otherwise imposed by Chapter
67 16 and this chapter of this title on their pro rata or
68 distributive shares of the electing pass-through entity's
69 income.

70 (g) The adjusted basis of the owners, members,
71 partners, or shareholders of an electing pass-through entity
72 in their stock or other ownership interests in the entity
73 shall be calculated without regard to the election under this
74 section.

75 (h) Notwithstanding anything in this chapter to the
76 contrary, neither the election by an electing pass-through
77 entity under this section nor its revocation of the election
78 shall be considered a liquidation or termination of the entity
79 or an otherwise taxable event.

80 (i) No refunds shall be granted or paid for tax years
81 ending before January 1, 2020, related to Act 2021-1.

82 (j) The Department of Revenue may adopt rules for the
83 implementation and administration of ~~Act 2021-1~~ this section."

84 Section 2. This act shall become effective immediately



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85 upon its passage and approval by the Governor, or its
86 otherwise becoming law.

