

DEPARTMENT OF TAXATION

Amendments to Chapter 18-235,
Hawaii Administrative Rules

_____, 2025

1. Section 18-235-201-01, Hawaii Administrative Rules, is repealed.

~~["§18-235-201-01 Pass-through entity election.~~

~~(a) An election for pass-through entity taxation must be made on or before the due date prescribed for the filing of the schedule for the taxable year as provided in section 18-235-201-05, including any extensions thereof.~~

~~(b) Failure to timely make an election on the form prescribed by the director shall constitute a waiver of the election of pass-through entity taxation for the taxable year."] [Eff 1/2/2025; R
(Auth: HRS §§231-10.7; §235-51.5) (Imp: HRS §235-51.5)~~

Historical note: §18-235-201-01 is based substantially upon §18-235-200-01. [Eff 2/16/24; R 1/2/2025]

2. Section 18-235-201-02, Hawaii Administrative Rules, is repealed.

~~["§18-235-201-02 Electronic filing. (a) All returns, schedules, statements, and other documents required to be filed under chapter 235, HRS, and chapter 18-235, HAR, shall be filed electronically by an electing pass-through entity for the taxable year in which an election for pass-through entity taxation is made.~~

~~(b) The date of filing shall be the date the return, schedule, statement, or other document is~~

~~successfully transmitted to the department in the form and manner prescribed by the director.~~

~~(c) Failure by an electing pass-through entity to electronically file as required in this section shall result in the cancellation of the election of pass-through entity taxation for the taxable year.~~

~~(d) The director may exempt any electing pass-through entity from the requirements in this section."]~~
[Eff 1/2/2025; R] (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS §235-51.5)

Historical note: §18-235-201-02 is based substantially upon §18-235-200-02. [Eff 2/16/24; R 1/2/2025]

3. Section 18-235-201-03, Hawaii Administrative Rules, is repealed.

~~["**§18-235-201-03 Electronic funds transfer.** (a) All payments required to be remitted by an electing pass-through entity under chapter 235, HRS, and chapter 18-235, HAR, shall be made by electronic funds transfer for the taxable year in which an election for pass-through entity taxation is made.~~

~~(b) The date of payment shall be the date the funds are deposited with the State.~~

~~(c) Failure by an electing pass-through entity to submit payment by electronic funds transfer as required in this section shall result in the cancellation of the election of pass-through entity taxation for the taxable year.~~

~~(d) The director may exempt any electing pass-through entity from the requirements in this section."]~~
[Eff 1/2/2025; R] (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS §235-51.5)

Historical note: §18-235-201-03 is based substantially upon §18-235-200-03. [Eff 2/16/24; R 1/2/2025]

4. Chapter 18-235-201-04, Hawaii Administrative Rules, is repealed.

~~["§18-235-201-04 — Estimated pass-through entity tax payments. — (a) — For tax year 2024, each electing pass-through entity shall transmit payment of the estimated tax for the current taxable year as follows:~~

- ~~(1) — One half of the estimated tax shall be paid on or before the twentieth day of the ninth month of the taxable year; and~~
- ~~(2) — One half of the estimated tax shall be paid on or before the twentieth day of the first month following the close of the taxable year.~~

~~(b) — For tax years beginning after December 31, 2024, each electing pass-through entity shall transmit payment of the estimated tax for the current taxable year as follows:~~

- ~~(1) — One quarter of the estimated tax shall be paid on or before the twentieth day of the fourth month of the taxable year;~~
- ~~(2) — One quarter of the estimated tax shall be paid on or before the twentieth day of the sixth month of the taxable year;~~
- ~~(3) — One quarter of the estimated tax shall be paid on or before the twentieth day of the ninth month of the taxable year; and~~
- ~~(4) — One quarter of the estimated tax shall be paid on or before the twentieth day of the first month following the close of the taxable year.~~

~~(c) — For purposes of this section, "estimated tax for the current taxable year" means the lesser of:~~

- ~~(1) — 100 per cent of the tax shown on the return for the taxable year or, if no return is filed, 100 per cent of the tax for the taxable year; or~~
- ~~(2) — 100 per cent of the tax shown on the return for the preceding taxable year;~~

~~provided that subsection (c) (2) shall not apply if the preceding taxable year was not a taxable year of 12 months or an election for pass-through entity taxation was not made for the preceding taxable year.~~

~~(d) — The penalties provided in section 235-97(f), HRS, shall apply to any underpayment of estimated tax~~

~~provided in this section."~~] [Eff 1/2/2025; R
] (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS §235-
51.5)

Historical note: §18-235-201-04 is based substantially
upon §18-235-200-04. [Eff 2/16/24; R 1/2/2025]

5. Section 18-235-201-05, Hawaii Administrative
Rules, is repealed.

~~["§18-235-201-05 — Pass-through entity tax
payment; schedule of pass-through entity tax paid.~~

~~(a) — Each electing pass-through entity shall file with
the department a schedule detailing each member's share
of the pass-through entity tax paid, on a form
prescribed by the director, on or before the twentieth
day of the fourth month following the close of the
taxable year. The schedule shall be accompanied by
payment of the balance of the tax for the taxable
year.~~

~~(b) — Each electing pass-through entity shall be
granted an automatic six-month extension for the
filing of the schedule; provided the conditions in
section 18-235-98, including payment of the properly
estimated tax liability on or before the due date
prescribed for the filing of the schedule in
subsection (a), are met.~~

~~(c) — Amendments to the schedule shall not be
allowed after the due date prescribed in this section,
including any extensions thereof.~~

~~(d) — The department may, in its discretion,
cancel the election for pass-through entity taxation
if an electing pass-through entity fails to file the
schedule within the time provided for in this section.~~

~~**Example 1:**~~

~~Partnership1, a calendar-year taxpayer,
pays the properly estimated tax liability on
April 20 following the close of the tax
year. On October 20, Partnership1 makes an
election for pass-through entity taxation~~

~~and files the required schedule. On November 1, Partnership1 discovers that there were additional distributive shares of income owed to its members for which it failed to report and pay PTE tax. Partnership1 will not owe additional pass-through entity tax on the additional distributive shares of income and may not amend the schedule of pass-through entity tax to report the additional distributive shares of income. Partnership1 must, however, report the additional distributive shares of income on its income tax return."]~~
[Eff 1/2/2025; R] (Auth: HRS
§§231-10.7; 235-51.5) (Imp: HRS §235-51.5)

Historical note: §18-235-201-05 is based substantially upon §18-235-200-05. [Eff 2/16/24; R 1/2/2025]

6. Section 18-235-201-06, Hawaii Administrative Rules, is repealed.

~~["**§18-235-201-06 Refund of pass-through entity tax.** Any claim for refund of the pass-through entity tax shall be filed by the electing pass-through entity, on a form prescribed by the director, on or before the due date prescribed for the filing of the schedule of pass-through entity tax provided in section 18-235-201-05, including any extensions thereof; provided that if the amount of pass-through entity tax paid by an electing pass-through entity exceeds the amount claimed on the schedule required to be filed under section 18-235-201-05, any claim for refund of the overpayment shall be filed within the time prescribed by section 235-111, HRS.~~

Example 1:

~~Partnership1, a calendar year taxpayer, pays \$25,000, the properly estimated tax liability, on April 20 following the close of the tax year. On October 20,~~

~~Partnership1 makes an election for pass-through entity taxation and files the required schedule, which details each member's share of the \$25,000 pass-through entity tax paid. On November 1, Partnership1 attempts to amend the schedule to decrease the amount of pass-through entity tax from \$25,000 to \$20,000 and requests a \$5,000 refund. Partnership1 may not amend the schedule and may not receive the \$5,000 refund, as the amended schedule and refund claim were not timely filed by October 20.~~

Example 2:

~~Partnership2, a calendar-year taxpayer, pays \$30,000, the properly estimated tax liability, on April 20 following the close of the tax year. On October 20, Partnership2 makes an election for pass-through entity taxation and files the required schedule. The schedule details each member's share of \$25,000 of the pass-through entity tax paid. On November 1, Partnership2 requests a refund of \$5,000 for the overpayment of pass-through entity tax paid. Partnership2 may receive a refund of \$5,000 because the refund claim was timely filed within the time prescribed by section 235-111, HRS.~~

Example 3:

~~Partnership3, a calendar-year taxpayer, makes estimated tax payments throughout the year and pays the properly estimated tax liability on April 20 following the close of the tax year. Partnership3 does not make an election for pass-through entity taxation. On November 1, Partnership3 requests a refund of the estimated tax payments made. Because~~

~~Partnership3 did not make an election for pass-through entity taxation, section 18-235-201-06, HAR, does not apply. Partnership3 may receive a refund of the estimated tax payments made, provided the request is made within the time prescribed by section 235-111, HRS."] [Eff 1/2/2025; R] (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS §235-51.5)~~

Historical note: §18-235-201-06 is based substantially upon §18-235-200-06. [Eff 2/16/24; R 1/2/2025]

7. Section 18-235-201-07, Hawaii Administrative Rules, is repealed.

~~**["§18-235-201-07 Pass-through entity tax credit; allowed.** (a) Each member of an electing pass-through entity whose distributive share or guaranteed payment of Hawaii taxable income is subject to the pass-through entity tax may claim a nonrefundable income tax credit equal to the member's share of pass-through entity taxes paid. For the purposes of this subsection, the amount of pass-through entity taxes paid does not include any amounts paid as penalties or interest.~~

~~(b) No credit may be claimed by any indirect member of an electing pass-through entity unless the direct member of the electing pass-through entity, of which the indirect member is a member, files a schedule detailing each member's share of the pass-through entity tax paid, on a form prescribed by the director, on or before the due date prescribed for the filing of the direct member's return under chapter 235, HRS, including any extensions.~~

~~(c) This section shall apply to taxable years beginning after December 31, 2022, but shall not apply to taxable years beginning after December 31, 2023.~~

Example 1:

~~For tax year 2023, PTE1, a pass-through entity whose members include Individual A, PTE2, and PTE3, makes an election for pass-through entity taxation, timely files the required schedule, and timely pays the pass-through entity tax. PTE2, a pass-through entity whose members include Individual B and Individual C, does not elect pass-through entity taxation and does not file a schedule detailing each member's share of the pass-through entity tax paid. PTE3, a pass-through entity whose members include Individual D and Individual E, does not elect pass-through entity taxation, but timely files a schedule detailing each member's share of the pass-through entity tax paid. Individual A may claim a credit or pass-through entity taxes paid by PTE1. Individual B and Individual C may not claim a credit for pass-through entity taxes paid by PTE1 because PTE2 did not file the required schedule. Individual D and Individual E may claim a credit for pass-through entity taxes paid by PTE1 because PTE3 filed the required schedule." [Eff 1/2/2025; R (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS § 235-51.5; Act 50, SLH 2024)~~

Historical note: §18-235-201-07 is based substantially upon §18-235-200-07. [Eff 2/16/24; R 1/2/2025]

8. Section 18-235-201-07.01, Hawaii Administrative Rules, is repealed.

~~["**§18-235-201-07.01 Pass-through entity tax credit; allowed.** (a) Each qualified member of an electing pass-through entity may claim a nonrefundable income tax credit equal to the qualified member's share of pass-through entity taxes paid. For the purposes of this subsection, the amount of pass-through entity taxes paid does not include any amounts paid as~~

~~penalties or interest.~~

~~(b) No credit may be claimed by a beneficiary of a trust or estate that is a qualified member of an electing pass-through entity unless the trust or estate files a schedule detailing each beneficiary's share of the pass-through entity tax paid, on a form prescribed by the director, on or before the due date prescribed for the filing of the trust's or estate's return under chapter 235, HRS, including any extensions.~~

~~(c) This section shall apply to taxable years beginning after December 31, 2023." [Eff 1/2/2025; R] (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS § 235-51.5; Act 50, SLH 2024)~~

Historical note: §18-235-201-07.01 is based substantially upon §18-235-200-07. [Eff 2/16/24; R 1/2/2025]

9. Section 18-235-201-08, Hawaii Administrative Rules, is repealed.

~~["**§18-235-201-08 Credit for substantially similar taxes paid to another state or to the District of Columbia.** A taxpayer claiming the credit for the pro rata share of taxes paid to another state or to the District of Columbia on income of any partnership or S corporation of which the taxpayer is a member shall attach to the taxpayer's income tax return for the taxable year a copy of the pass-through entity's tax return filed in the other state or District of Columbia and all available schedules showing the taxpayer's share of taxes paid." [Eff 1/2/2025; R] (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS § 235-51.5)~~

Historical note: §18-235-201-08 is based substantially upon §18-235-200-08. [Eff 2/16/24; R 1/2/2025]

10. Section 18-235-201-09, Hawaii Administrative Rules, is repealed.

~~["§18-235-201-09 Income tax credits; ordering of credit claims. In the offsetting of a taxpayer's income tax liability, tax credits shall be applied in the following order:~~

- ~~(1) Tax credits that may be refunded or paid to a taxpayer who has no income tax liability;~~
- ~~(2) Nonrefundable tax credits that may not be carried forward; and~~
- ~~(3) Nonrefundable tax credits that may be used as a credit against taxes in subsequent years until exhausted."] [Eff 1/2/2025; R] (Auth: HRS §§231-10.7; 235-51.5) (Imp: HRS §235-91.5)~~

Historical note: §18-235-201-09 is based substantially upon §18-235-200-09. [Eff 2/16/24; R 1/2/2025]

11. Chapter 18-235, Hawaii Administrative Rules, is amended by adding a new section 18-235-51.5-01 to read as follows:

"§18-235-51.5-01 Pass-through entity election.

(a) An election for pass-through entity taxation must be made on or before the due date prescribed for the filing of the schedule for the taxable year as provided in section 18-235-51.5-05, including any extensions thereof.

(b) Failure to timely make an election on the form prescribed by the director shall constitute a waiver of the election of pass-through entity taxation for the taxable year." [Eff] (Auth: HRS §§231-3(9), 235-51.5) (Imp: HRS §235-51.5)

12. Chapter 18-235, Hawaii Administrative Rules, is amended by adding a new section 18-235-51.5-02 to read as follows:

"§18-235-51.5-02 Electronic filing. (a) All returns, schedules, statements, and other documents

required to be filed under chapter 235, HRS, and chapter 18-235, HAR, shall be filed electronically by an electing pass-through entity for the taxable year in which an election for pass-through entity taxation is made.

(b) The date of filing shall be the date the return, schedule, statement, or other document is successfully transmitted to the department in the form and manner prescribed by the director.

(c) Failure by an electing pass-through entity to electronically file as required in this section shall result in the cancellation of the election of pass-through entity taxation for the taxable year.

(d) The director may exempt any electing pass-through entity from the requirements in this section."
[Eff] (Auth: HRS §§231-3(9), 235-51.5)
(Imp: HRS §§231-9.9(a), 235-51.5)

13. Chapter 18-235, Hawaii Administrative Rules, is amended by adding a new section 18-235-51.5-03 to read as follows:

"§18-235-51.5-03 Electronic funds transfer. (a) All payments required to be remitted by an electing pass-through entity under chapter 235, HRS, and chapter 18-235, HAR, shall be made by electronic funds transfer for the taxable year in which an election for pass-through entity taxation is made.

(b) The date of payment shall be the date the funds are deposited with the State.

(c) Failure by an electing pass-through entity to submit payment by electronic funds transfer as required in this section shall result in the cancellation of the election of pass-through entity taxation for the taxable year.

(d) The director may exempt any electing pass-through entity from the requirements in this section."
[Eff] (Auth: HRS §§231-3(9), 235-51.5)
(Imp: HRS §§231-9.9(a), 235-51.5)

14. Chapter 18-235, Hawaii Administrative Rules, is amended by adding a new section 18-235-51.5-04 to

read as follows:

"§18-235-51.5-04 Estimated pass-through entity tax payments. (a) For tax year 2024, each electing pass-through entity shall transmit payment of the estimated tax for the current taxable year as follows:

- (1) One-half of the estimated tax shall be paid on or before the twentieth day of the ninth month of the taxable year; and
- (2) One-half of the estimated tax shall be paid on or before the twentieth day of the first month following the close of the taxable year.

(b) For tax years beginning after December 31, 2024, each electing pass-through entity shall transmit payment of the estimated tax for the current taxable year as follows:

- (1) One-quarter of the estimated tax shall be paid on or before the twentieth day of the fourth month of the taxable year;
- (2) One-quarter of the estimated tax shall be paid on or before the twentieth day of the sixth month of the taxable year;
- (3) One-quarter of the estimated tax shall be paid on or before the twentieth day of the ninth month of the taxable year; and
- (4) One-quarter of the estimated tax shall be paid on or before the twentieth day of the first month following the close of the taxable year.

(c) For purposes of this section, "estimated tax for the current taxable year" means the lesser of:

- (1) 100 per cent of the tax shown on the return for the taxable year or, if no return is filed, 100 per cent of the tax for the taxable year; or
- (2) 100 per cent of the tax shown on the return for the preceding taxable year;

provided that subsection (c) (2) shall not apply if the preceding taxable year was not a taxable year of 12 months or an election for pass-through entity taxation was not made for the preceding taxable year.

(d) The penalties provided in section 235-97(f), HRS, shall apply to any underpayment of estimated tax provided in this section. [Eff] (Auth: HRS §§231-3(9), 235-51.5) (Imp: HRS §§235-51.5, 235-97(f))

15. Chapter 18-235, Hawaii Administrative Rules, is amended by adding a new section 18-235-51.5-05 to read as follows:

"§18-235-51.5-05 Pass-through entity tax payment; schedule of pass-through entity tax paid.

(a) Each electing pass-through entity shall file with the department a schedule detailing each member's share of the pass-through entity tax paid, on a form prescribed by the director, on or before the twentieth day of the fourth month following the close of the taxable year. The schedule shall be accompanied by payment of the balance of the tax for the taxable year.

(b) Each electing pass-through entity shall be granted an automatic six-month extension for the filing of the schedule; provided the conditions in section 18-235-98, including payment of the properly estimated tax liability on or before the due date prescribed for the filing of the schedule in subsection (a), are met.

(c) Amendments to the schedule shall not be allowed after the due date prescribed in this section, including any extensions thereof.

(d) The department may, in its discretion, cancel the election for pass-through entity taxation if an electing pass-through entity fails to file the schedule within the time provided for in this section.

Example 1:

Partnership1, a calendar-year taxpayer, pays the properly estimated tax liability on April 20 following the close of the tax year. On October 20, Partnership1 makes an election for pass-through entity taxation

and files the required schedule. On November 1, Partnership1 discovers that there were additional distributive shares of income owed to its members for which it failed to report and pay PTE tax. Partnership1 will not owe additional pass-through entity tax on the additional distributive shares of income and may not amend the schedule of pass-through entity tax to report the additional distributive shares of income. Partnership1 must, however, report the additional distributive shares of income on its income tax return."
[Eff] (Auth: HRS §§231-3(9), 235-51.5, 235-98) (Imp: HRS §§235-51.5, 235-98)

16. Chapter 18-235, Hawaii Administrative Rules, is amended by adding a new section 18-235-51.5-06 to read as follows:

"§18-235-51.5-06 Refund of pass-through entity tax. Any claim for refund of the pass-through entity tax shall be filed by the electing pass-through entity, on a form prescribed by the director, on or before the due date prescribed for the filing of the schedule of pass-through entity tax provided in section 18-235-51.5-05, including any extensions thereof; provided that if the amount of pass-through entity tax paid by an electing pass-through entity exceeds the amount claimed on the schedule required to be filed under section 18-235-51.5-05, any claim for refund of the overpayment shall be filed within the time prescribed by section 235-111, HRS.

Example 1:

Partnership1, a calendar year taxpayer, pays \$25,000, the properly estimated tax liability, on April 20 following the close of the tax year. On October 20, Partnership1 makes an election for pass-through entity taxation and files the

required schedule, which details each member's share of the \$25,000 pass-through entity tax paid. On November 1, Partnership1 attempts to amend the schedule to decrease the amount of pass-through entity tax from \$25,000 to \$20,000 and requests a \$5,000 refund. Partnership1 may not amend the schedule and may not receive the \$5,000 refund, as the amended schedule and refund claim were not timely filed by October 20.

Example 2:

Partnership2, a calendar-year taxpayer, pays \$30,000, the properly estimated tax liability, on April 20 following the close of the tax year. On October 20, Partnership2 makes an election for pass-through entity taxation and files the required schedule. The schedule details each member's share of \$25,000 of the pass-through entity tax paid. On November 1, Partnership2 requests a refund of \$5,000 for the overpayment of pass-through entity tax paid. Partnership2 may receive a refund of \$5,000 because the refund claim was timely filed within the time prescribed by section 235-111, HRS.

Example 3:

Partnership3, a calendar-year taxpayer, makes estimated tax payments throughout the year and pays the properly estimated tax liability on April 20 following the close of the tax year. Partnership3 does not make an election for pass-through entity taxation. On November 1, Partnership3 requests a refund of the estimated tax payments made. Because Partnership3 did not make an election for pass-through entity taxation, section 18-

235-51.5-06, HAR, does not apply.
Partnership³ may receive a refund of the
estimated tax payments made; provided the
request is made within the time prescribed by
section 235-111, HRS." [Eff]
(Auth: HRS §§231-3(9), 235-51.5) (Imp:
HRS §§235-111, 235-51.5)

17. Chapter 18-235, Hawaii Administrative Rules,
is amended by adding a new section 18-235-51.5-07 to
read as follows:

**"§18-235-51.5-07 Pass-through entity tax credit;
allowed.** (a) Each qualified member of an electing
pass-through entity may claim a nonrefundable income
tax credit equal to the qualified member's share of
pass-through entity taxes paid. For the purposes of
this subsection, the amount of pass-through entity
taxes paid does not include any amounts paid as
penalties or interest.

(b) No credit may be claimed by a beneficiary of
a trust or estate that is a qualified member of an
electing pass-through entity unless the trust or
estate files a schedule detailing each beneficiary's
share of the pass-through entity tax paid, on a form
prescribed by the director, on or before the due date
prescribed for the filing of the trust's or estate's
return under chapter 235, HRS, including any
extensions." [Eff] (Auth: HRS §§231-3(9),
235-51.5) (Imp: HRS §235-51.5)

18. Chapter 18-235, Hawaii Administrative Rules,
is amended by adding a new section 18-235-51.5-08 to
read as follows:

"§18-235-51.5-08 Credit for substantially
similar taxes paid to another state or to the District
of Columbia. A taxpayer claiming the credit for the
pro rata share of taxes paid to another state or to
the District of Columbia on income of any partnership
or S corporation of which the taxpayer is a member

shall attach to the taxpayer's income tax return for the taxable year a copy of the pass-through entity's tax return filed in the other state or District of Columbia and all available schedules showing the taxpayer's share of taxes paid. [Eff]
(Auth: HRS §§231-3(9), 235-51.5) (Imp: HRS §§ 235-51.5, 235-55(a))

19. Chapter 18-235, Hawaii Administrative Rules, is amended by adding a new section 18-235-91.5-01 to read as follows:

"§18-235-91.5-01 Income tax credits; ordering of credit claims. In the offsetting of a taxpayer's income tax liability, tax credits shall be applied in the following order:

- (1) Tax credits that may be refunded or paid to a taxpayer who has no income tax liability;
- (2) Nonrefundable tax credits that may not be carried forward; and
- (3) Nonrefundable tax credits that may be used as a credit against taxes in subsequent years until exhausted." [Eff] (Auth: HRS §231-3(9)) (Imp: HRS §235-91.5)

20. Material to be repealed is bracketed and stricken. New material is underscored.

21. These amendments to chapter 18-235, Hawaii Administrative Rules, are provided in the Ramseyer format for reference only.

APPROVED AS TO FORM:

Deputy Attorney General

DATE: _____