



GOV. MSG. NO. 735

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE  
GOVERNOR

May 22, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 22, 2008, the following bill was signed into law:

HB3191 HD1 SD2

A BILL FOR AN ACT RELATING TO CONFORMITY  
OF THE HAWAII INCOME TAX LAW TO THE  
INTERNAL REVENUE CODE.  
(ACT 93)

Sincerely,

LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE  
INTERNAL REVENUE CODE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3 "(a) For all taxable years beginning after December 31,  
4 [~~2006~~] 2007, as used in this chapter, "Internal Revenue Code"  
5 means subtitle A, chapter 1, of the federal Internal Revenue Code  
6 of 1986, as amended as of December 31, [~~2006~~] 2007, as it  
7 applies to the determination of gross income, adjusted gross  
8 income, ordinary income and loss, and taxable income, except  
9 those provisions of the Internal Revenue Code and federal public  
10 laws which, pursuant to this chapter, do not apply or are  
11 otherwise limited in application and except for the provisions of  
12 Public Law 109-001 which apply to section 170 of the Internal  
13 Revenue Code. The provisions of Public Law 109-001 to accelerate  
14 the deduction for charitable cash contributions for the relief of  
15 victims of the 2004 Indian Ocean tsunami are applicable for the  
16 calendar year that ended December 31, 2004, and the calendar year  
17 ending December 31, 2005.



1 Sections 235-2, 235-2.1, and 235-2.2 shall continue to be  
2 used to determine:

3 (1) The basis of property, if a taxpayer first determined  
4 the basis of property in a taxable year to which such  
5 sections apply, and if such determination was made  
6 before January 1, 1978; and

7 (2) Gross income, adjusted gross income, ordinary income  
8 and loss, and taxable income for a taxable year to  
9 which such sections apply where such taxable year  
10 begins before January 1, 1978."

11 SECTION 2. Section 235-2.4, Hawaii Revised Statutes, is  
12 amended by amending subsection (g) to read as follows:

13 "(g) Section 179 (with respect to the election to expense  
14 certain depreciable business assets) of the Internal Revenue Code  
15 shall be operative for purposes of this chapter, except that  
16 provisions relating to:

17 (1) The increase of the maximum deduction to \$100,000 for  
18 taxable years beginning after 2002 and before 2008, and  
19 the increase of the maximum deduction to \$125,000 for  
20 taxable years beginning after 2006 and before 2011, in  
21 section 179(b)(1);



1 (2) The increase of the qualifying investment amount to  
2 \$400,000 for taxable years beginning after 2002 and  
3 before 2008, and the increase of the qualifying  
4 investment amount to \$500,000 for taxable years  
5 beginning after 2006 and before 2011, in section  
6 179(b)(2);

7 (3) Defining section 179 property to include computer  
8 software in section 179(d)(1);

9 (4) Inflation adjustments in section 179(b)(5); and

10 (5) Irrevocable election in section 179(c)(2);

11 shall not be operative for the purposes of this chapter."

12 SECTION 3. Section 235-2.45, Hawaii Revised Statutes, is  
13 amended by amending subsection (g) to read as follows:

14 "(g) Section 1400N (with respect to tax benefits for Gulf  
15 Opportunity Zone) of the Internal Revenue Code shall be operative  
16 for the purposes of this chapter, except that sections 1400N(a)  
17 (with respect to tax-exempt bond financing); 1400N(b) (with  
18 respect to advance refundings of certain tax-exempt bonds);  
19 1400N(c) (with respect to the low income housing credit); 1400N(d)  
20 (with respect to special allowance for certain property acquired  
21 on or after August 28, 2005); 1400N(e) (with respect to increase  
22 in expensing under section 179); 1400N(h) (with respect to



1 increase in rehabilitation credit); 1400N(1) (with respect to  
2 credit to holders of Gulf tax credit bonds); 1400N(m) (with  
3 respect to application of new markets tax credit to investments  
4 in community development entities serving Gulf Opportunity Zone);  
5 1400N(n) (with respect to treatment of representations regarding  
6 income eligibility for purposes of qualified residential rental  
7 project requirements) shall not be operative for purposes of this  
8 chapter."

9 SECTION 4. Section 235-2.5, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) Reference in provisions of the Internal Revenue Code  
12 which are operative in this State to provisions in the Internal  
13 Revenue Code which are not operative in this State shall be  
14 considered inoperative for the purposes of determining gross  
15 income, adjusted gross income, ordinary income and loss, and  
16 taxable income; provided that:

17 (1) References to time limits and other administrative  
18 provisions in subtitle F (sections 6001 to 7873) of  
19 the Internal Revenue Code contained in operative  
20 sections of the Internal Revenue Code shall be deemed  
21 references to applicable provisions of this chapter or  
22 chapter 231 or 232, and in the absence of applicable



1 provisions in this chapter or chapter 231 or 232, then  
2 to rules adopted by the director of taxation under  
3 subsection (b);

4 (2) If inoperative provisions of the Internal Revenue Code  
5 have been codified in this chapter such references  
6 shall be deemed references to the codified provisions  
7 in this chapter. Transitory and savings provisions in  
8 federal Public Laws amending sections of the Internal  
9 Revenue Code operative in this chapter shall be  
10 operative for the purposes of this chapter.

11 Provisions in this chapter or chapter 231 or 232 in  
12 conflict with the Internal Revenue Code or transitory  
13 or savings provisions in federal Public Law shall  
14 control; and

15 (3) Retroactive and prospective provisions in federal  
16 Public Laws amending sections of the federal Internal  
17 Revenue Code operative in this chapter affecting  
18 taxable years beginning or ending before the December  
19 31 date in section 235-2.3 shall be operative for the  
20 purposes of this chapter; provided that the effective  
21 dates in Public Law 96-471 placing it in effect for



1           the taxable year 1980 shall be operative for the  
2           purposes of this chapter."

3           SECTION 5. Section 235-55.91, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5           "(c) For purposes of this section:

6           "Hiring date" means the day the vocational rehabilitation  
7 referral is hired by the employer.

8           "Qualified first-year wages" means, with respect to any  
9 vocational rehabilitation referral, qualified wages attributable  
10 to service rendered during the one-year period beginning with the  
11 day the individual begins work for the employer.

12           "Qualified wages" means the wages paid or incurred by the  
13 employer during the taxable year to an individual who is a  
14 vocational rehabilitation referral and more than one-half of the  
15 wages paid or incurred for such an individual is for services  
16 performed in a trade or business of the employer.

17           "Vocational rehabilitation referral" means any individual  
18 who is certified by the department of human services vocational  
19 rehabilitation and services for the blind division in  
20 consultation with the Hawaii state employment service of the  
21 department of labor and industrial relations as:



1 (1) Having a physical or mental disability which, for such  
2 individual, constitutes or results in a substantial  
3 handicap to employment; and

4 (2) Having been referred to the employer upon completion of  
5 (or while receiving) rehabilitative services pursuant  
6 to:

7 (A) An individualized written rehabilitation plan  
8 under the State's plan for vocational  
9 rehabilitation services approved under the  
10 Rehabilitation Act of 1973, as amended; [~~or~~]

11 (B) A program of vocational rehabilitation carried  
12 out under chapter 31 of [~~title~~] Title 38, United  
13 States Code[~~-~~]; or

14 (C) An individual work plan developed and implemented  
15 by an employment network pursuant to subsection  
16 (g) of section 1148 of the Social Security Act,  
17 as amended, with respect to which the  
18 requirements of such subsection are met.

19 "Wages" has the meaning given to such term by section  
20 3306(b) of the Internal Revenue Code (determined without regard  
21 to any dollar limitation contained in the Internal Revenue Code  
22 section). "Wages" shall not include:





- 1           (1) Amounts paid or incurred by an employer for any period  
2           to any vocational rehabilitation referral for whom the  
3           employer receives state or federally funded payments  
4           for on-the-job training of the individual for the  
5           period;
- 6           (2) Amounts paid to an employer (however utilized by the  
7           employer) for any vocational rehabilitation referral  
8           under a program established under section 414 of the  
9           Social Security Act; and
- 10          (3) If the principal place of employment is at a plant or  
11          facility, and there is a strike or lockout involving  
12          vocational rehabilitation referrals at the plant or  
13          facility, amounts paid or incurred by the employer to  
14          the vocational rehabilitation referral for services  
15          which are the same as, or substantially similar to,  
16          those services performed by employees participating in,  
17          or affected by, the strike or lockout during the period  
18          of strike or lockout."

19          SECTION 6. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21          SECTION 7. This Act shall take effect upon its approval and  
22 shall apply to taxable years beginning after December 31, 2007;



1 provided that the retroactive and prospective effective dates  
2 contained in the congressional acts relating to the Internal  
3 Revenue Code and enacted during 2007 shall be operative for  
4 chapter 235, Hawaii Revised Statutes.

APPROVED this 22 day of MAY, 2008



GOVERNOR OF THE STATE OF HAWAII

