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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Section 235-2.4, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§235-2.4 Operation of certain Internal Revenue Code**  
4 **provisions; sections 63 to 530.** (a) Section 63 (with respect  
5 to taxable income defined) of the Internal Revenue Code shall be  
6 operative for the purposes of this chapter, except that the  
7 standard deduction amount in section 63(c) of the Internal  
8 Revenue Code shall instead mean:  
9           (1) \$4,000 in the case of:  
10           (A) A joint return as provided by section 235-93; or  
11           (B) A surviving spouse (as defined in section 2(a) of  
12           the Internal Revenue Code);  
13           (2) \$2,920 in the case of a head of household (as defined  
14           in section 2(b) of the Internal Revenue Code);  
15           (3) \$2,000 in the case of an individual who is not married  
16           and who is not a surviving spouse or head of  
17           household; or



1           (4)   \$2,000 in the case of a married individual filing a  
2                   separate return.

3           Section 63(c)(4) shall not be operative in this [~~State-~~]  
4 state. Section 63(c)(5) shall be operative, except that the  
5 limitation on basic standard deduction in the case of certain  
6 dependents shall be the greater of \$500 or such individual's  
7 earned income. Section 63(f) shall not be operative in this  
8 [~~State-~~] state.

9           The standard deduction amount for nonresidents shall be  
10 calculated pursuant to section 235-5.

11           (b) Section 72 (with respect to annuities; certain  
12 proceeds of endowment and life insurance contracts) of the  
13 Internal Revenue Code shall be operative for purposes of this  
14 chapter and be interpreted with due regard to section 235-7(a),  
15 except that the ten per cent additional tax on early  
16 distributions from retirement plans in section 72(t) shall not  
17 be operative for purposes of this chapter.

18           (c) Section 121 (with respect to exclusion of gain from  
19 sale of principal residence) of the Internal Revenue Code shall  
20 be operative for purposes of this chapter, except that for the  
21 election under section 121(f), a reference to section 1034



1 treatment means a reference to section 235-2.4(n) in effect for  
2 taxable year 1997.

3 (d) Section 163 (with respect to interest) of the Internal  
4 Revenue Code shall be operative for the purposes of this  
5 chapter, except that provisions in section 163(d)(4)(B)  
6 (defining net investment income to exclude dividends) shall not  
7 be operative for the purposes of this chapter.

8 (e) Section 165 (with respect to losses) of the Internal  
9 Revenue Code shall be operative for purposes of this chapter.  
10 Section 165 as operative for this chapter shall also apply to  
11 losses sustained from the sale of stocks or other interests  
12 issued through the exercise of the stock options or warrants  
13 granted by a qualified high technology business as defined in  
14 section 235-7.3.

15 (f) Section 168 (with respect to the accelerated cost  
16 recovery system) of the Internal Revenue Code shall be operative  
17 for purposes of this chapter, except that provisions relating to  
18 property on Indian reservations in section 168(j) and special  
19 allowance for certain property acquired after September 10,  
20 2001, and before January 1, 2005 (including the extension of the  
21 qualifying aircraft placed in service before January 1, 2006),



1 in section 168(k) shall not be operative for purposes of this  
2 chapter.

3 (g) Section 179 (with respect to the election to expense  
4 certain depreciable business assets) of the Internal Revenue  
5 Code shall be operative for purposes of this chapter, except  
6 that provisions relating to:

7 (1) The increase of the maximum deduction to \$100,000 for  
8 taxable years beginning after 2002 and before 2008 in  
9 section 179(b)(1);

10 (2) The increase of the qualifying investment amount to  
11 \$400,000 for taxable years beginning after 2002 and  
12 before 2008 in section 179(b)(2);

13 (3) Defining section 179 property to include computer  
14 software in section 179(d)(1);

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

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

17 shall not be operative for the purposes of this chapter.

18 (h) Section 219 (with respect to retirement savings) of  
19 the Internal Revenue Code shall be operative for the purpose of  
20 this chapter. For the purpose of computing the limitation on  
21 the deduction for active participants in certain pension plans  
22 for state income tax purposes, adjusted gross income as used in



1 section 219 as operative for this chapter means federal adjusted  
2 gross income.

3 (i) Section 220 (with respect to medical savings accounts)  
4 of the Internal Revenue Code shall be operative for the purpose  
5 of this chapter, but only with respect to medical services  
6 accounts that have been approved by the Secretary of the  
7 Treasury of the United States.

8 (j) Section 265 (with respect to expenses and interest  
9 relating to tax-exempt income) of the Internal Revenue Code  
10 shall be operative for purposes of this chapter; except that it  
11 shall not apply to expenses for royalties and other income  
12 derived from any patents, copyrights, and trade secrets by an  
13 individual or a qualified high technology business as defined in  
14 section 235-7.3. Such expenses shall be deductible.

15 (k) Section 408A (with respect to Roth Individual  
16 Retirement Accounts) of the Internal Revenue Code shall be  
17 operative for the purposes of this chapter. For the purposes of  
18 determining the aggregate amount of contributions to a Roth  
19 Individual Retirement Account or qualified rollover contribution  
20 to a Roth Individual Retirement Account from an individual  
21 retirement plan other than a Roth Individual Retirement Account,



1 adjusted gross income as used in section 408A as operative for  
2 this chapter means federal adjusted gross income.

3 (1) In administering the provisions of sections 410 to 417  
4 (with respect to special rules relating to pensions, profit  
5 sharing, stock bonus plans, etc.), sections 418 to 418E (with  
6 respect to special rules for multiemployer plans), and sections  
7 419 and 419A (with respect to treatment of welfare benefit  
8 funds) of the Internal Revenue Code, the department of taxation  
9 shall adopt rules under chapter 91 relating to the specific  
10 requirements under such sections and to such other  
11 administrative requirements under those sections as may be  
12 necessary for the efficient administration of sections 410 to  
13 419A.

14 In administering sections 401 to 419A (with respect to  
15 deferred compensation) of the Internal Revenue Code, Public Law  
16 93-406, section 1017(i), shall be operative for the purposes of  
17 this chapter.

18 In administering section 402 (with respect to the  
19 taxability of beneficiary of employees' trust) of the Internal  
20 Revenue Code, the tax imposed on lump sum distributions by  
21 section 402(e) of the Internal Revenue Code shall be operative  
22 for the purposes of this chapter and the tax imposed therein is



1 hereby imposed by this chapter at the rate determined under this  
2 chapter.

3 (m) In administering section 402 (with respect to the  
4 taxability of a beneficiary of an employees' trust) of the  
5 Internal Revenue Code, section 402(c) (providing for tax free  
6 rollovers) shall not be operative for the purposes of this  
7 chapter with respect to amounts rolled over to the employees'  
8 retirement system of the state if the amounts rolled over would  
9 have been subject to Hawaii income tax if distributed at  
10 retirement rather than being rolled over to the employees'  
11 retirement system of the state.

12 (n) In administering section 403 (with respect to taxation  
13 of employee annuities) of the Internal Revenue Code, section  
14 403(b) (8) (providing for tax free rollovers) shall not be  
15 operative for the purposes of this chapter with respect to  
16 amounts rolled over to the employees' retirement system of the  
17 state; and section 403(b) (13) (providing for non-taxable trustee-  
18 to-trustee transfers to purchase permissive service credit)  
19 shall not be operative with respect to amounts transferred to  
20 the employees' retirement system of the state.

21 (o) In administering section 408 (with respect to  
22 individual retirement accounts) of the Internal Revenue Code,



1 section 408(d)(3) (providing for tax free rollovers) shall not be  
2 operative for the purposes of this chapter with respect to  
3 amounts rolled over to the employees' retirement system of the  
4 state if the amounts rolled over would have been subject to  
5 Hawaii income tax if distributed at retirement rather than being  
6 rolled over to the employees' retirement system of the state.

7 (p) In administering section 457 (with respect to rollover  
8 amounts in deferred compensation plans for state and local  
9 governments) of the Internal Revenue Code, section 457  
10 (e)(16)(A) and (B) (providing for tax-free rollovers) shall not  
11 be operative for the purposes of this chapter with respect to  
12 amounts rolled over to the employees' retirement system of the  
13 state; and section 457(e)(17) (providing for non-taxable  
14 trustee-to-trustee transfers to purchase permissive service  
15 credit) shall not be operative with respect to amounts  
16 transferred to the employees' retirement system of the state.

17 ~~[(m)]~~ (q) Section 468B (with respect to special rules for  
18 designated settlement funds) of the Internal Revenue Code shall  
19 be operative for the purposes of this chapter and the tax  
20 imposed therein is hereby imposed by this chapter at a rate  
21 equal to the maximum rate in effect for the taxable year imposed  
22 on estates and trusts under section 235-51.





1        [~~n~~] (r) Section 469 (with respect to passive activities  
2 and credits limited) of the Internal Revenue Code shall be  
3 operative for the purposes of this chapter. For the purpose of  
4 computing the offset for rental real estate activities for state  
5 income tax purposes, adjusted gross income as used in section  
6 469 as operative for this chapter means federal adjusted gross  
7 income.

8        [~~e~~] (s) Sections 512 to 514 (with respect to taxation of  
9 business income of certain exempt organizations) of the Internal  
10 Revenue Code shall be operative for the purposes of this chapter  
11 as provided in this subsection.

12        "Unrelated business taxable income" means the same as in  
13 the Internal Revenue Code, except that in the computation  
14 thereof sections 235-3 to 235-5, and 235-7 (except subsection  
15 (c)), shall apply, and in the determination of the net operating  
16 loss deduction there shall not be taken into account any amount  
17 of income or deduction that is excluded in computing the  
18 unrelated business taxable income. Unrelated business taxable  
19 income shall not include any income from a prepaid legal service  
20 plan.

21        For a person described in section 401 or 501 of the  
22 Internal Revenue Code, as modified by section 235-2.3, the tax



1 imposed by section 235-51 or 235-71 shall be imposed upon the  
2 person's unrelated business taxable income.

3 ~~(p)~~ (t) Section 521 (with respect to cooperatives) and  
4 subchapter T (sections 1381 to 1388, with respect to  
5 cooperatives and their patrons) of the Internal Revenue Code  
6 shall be operative for the purposes of this chapter as to any  
7 cooperative fully meeting the requirements of section 421-23,  
8 except that Internal Revenue Code section 521 cooperatives need  
9 not be organized in Hawaii.

10 ~~(q)~~ (u) Sections 527 (with respect to political  
11 organizations) and 528 (with respect to certain homeowners  
12 associations) of the Internal Revenue Code shall be operative  
13 for the purposes of this chapter and the taxes imposed in each  
14 such section are hereby imposed by this chapter at the rates  
15 determined under section 235-71.

16 ~~(r)~~ (v) Section 529 (with respect to qualified tuition  
17 programs) shall be operative for the purposes of this chapter,  
18 except that section 529(c)(6) shall not be operative.

19 ~~(s)~~ (w) Section 530 (with respect to education  
20 individual retirement accounts) of the Internal Revenue Code  
21 shall be operative for the purposes of this chapter. For the  
22 purpose of determining the maximum amount that a contributor



1 could make to an education individual retirement account for  
2 state income tax purposes, modified adjusted gross income as  
3 used in section 530 as operative for this chapter means federal  
4 modified adjusted gross income as defined in section 530."

5 SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect upon its approval  
8 and shall apply to taxable years beginning after December 31,  
9 2007.



**Report Title:**

Taxation; Deferred Compensation Plan

**Description:**

Imposes the state income tax on rollovers made by state and county employees from qualifying deferred compensation plans to eligible state or county retirement plans. (HB2348 HD1)

