
A BILL FOR AN ACT

RELATING TO COLLEGE SAVINGS PROGRAMS.

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

1 SECTION 1. In 2002, the State of Hawaii established a
2 college savings program called "TuitionEDGE" pursuant to chapter
3 256, Hawaii Revised Statutes, and section 529 of the Internal
4 Revenue Code of 1986, as amended. The program was established
5 to assist and encourage families to set aside funds for future
6 higher education expenses.

7 As of October 2007, there were approximately 1,300,000
8 accounts and more than \$18,000,000,000 in program assets in what
9 is now known as the HI529 program. The asset size of Hawaii's
10 program is relatively small and the participation rate is low
11 compared to college savings programs in other states. Most
12 states offer some type of in-state tax deduction or credit for
13 contributions made as an incentive for residents to participate
14 in their college savings programs.

15 The purpose of this Act is to increase the participation of
16 Hawaii taxpayers in the State's college savings program and to
17 increase the program's assets to enable the State to obtain a
18 lower program management fee, by providing a State income tax



1 deduction for contributions made to the program in taxable years
2 beginning after December 31, 2007.

3 SECTION 2. Section 235-7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§235-7 Other provisions as to gross income, adjusted**
6 **gross income, and taxable income.** (a) There shall be excluded
7 from gross income, adjusted gross income, and taxable income:

8 (1) Income not subject to taxation by the State under the
9 Constitution and laws of the United States;

10 (2) Rights, benefits, and other income exempted from
11 taxation by section 88-91, having to do with the state
12 retirement system, and the rights, benefits, and other
13 income, comparable to the rights, benefits, and other
14 income exempted by section 88-91, under any other
15 public retirement system;

16 (3) Any compensation received in the form of a pension for
17 past services;

18 (4) Compensation paid to a patient affected with Hansen's
19 disease employed by the State or the United States in
20 any hospital, settlement, or place for the treatment
21 of Hansen's disease;



1 (5) Except as otherwise expressly provided, payments made
2 by the United States or this State, under an act of
3 Congress or a law of this State, which by express
4 provision or administrative regulation or
5 interpretation are exempt from both the normal and
6 surtaxes of the United States, even though not so
7 exempted by the Internal Revenue Code itself;

8 (6) Any income expressly exempted or excluded from the
9 measure of the tax imposed by this chapter by any
10 other law of the State, it being the intent of this
11 chapter not to repeal or supersede any express
12 exemption or exclusion;

13 (7) Income received by each member of the reserve
14 components of the Army, Navy, Air Force, Marine Corps,
15 or Coast Guard of the United States of America, and
16 the Hawaii national guard as compensation for
17 performance of duty, equivalent to pay received for
18 forty-eight drills (equivalent of twelve weekends) and
19 fifteen days of annual duty, at an:

20 (A) E-1 pay grade after eight years of service;

21 provided that this subparagraph shall apply to

22 taxable years beginning after December 31, 2004;



- 1 (B) E-2 pay grade after eight years of service;
2 provided that this subparagraph shall apply to
3 taxable years beginning after December 31, 2005;
- 4 (C) E-3 pay grade after eight years of service;
5 provided that this subparagraph shall apply to
6 taxable years beginning after December 31, 2006;
- 7 (D) E-4 pay grade after eight years of service;
8 provided that this subparagraph shall apply to
9 taxable years beginning after December 31, 2007;
10 and
- 11 (E) E-5 pay grade after eight years of service;
12 provided that this subparagraph shall apply to
13 taxable years beginning after December 31, 2008;
- 14 (8) Income derived from the operation of ships or aircraft
15 if the income is exempt under the Internal Revenue
16 Code pursuant to the provisions of an income tax
17 treaty or agreement entered into by and between the
18 United States and a foreign country; provided that the
19 tax laws of the local governments of that country
20 reciprocally exempt from the application of all of
21 their net income taxes, the income derived from the



- 1 operation of ships or aircraft that are documented or
2 registered under the laws of the United States;
- 3 (9) The value of legal services provided by a prepaid
4 legal service plan to a taxpayer, the taxpayer's
5 spouse, and the taxpayer's dependents;
- 6 (10) Amounts paid, directly or indirectly, by a prepaid
7 legal service plan to a taxpayer as payment or
8 reimbursement for the provision of legal services to
9 the taxpayer, the taxpayer's spouse, and the
10 taxpayer's dependents;
- 11 (11) Contributions by an employer to a prepaid legal
12 service plan for compensation (through insurance or
13 otherwise) to the employer's employees for the costs
14 of legal services incurred by the employer's
15 employees, their spouses, and their dependents;
- 16 (12) Amounts received in the form of a monthly surcharge by
17 a utility acting on behalf of an affected utility
18 under section 269-16.3 shall not be gross income,
19 adjusted gross income, or taxable income for the
20 acting utility under this chapter. Any amounts
21 retained by the acting utility for collection or other
22 costs shall not be included in this exemption; and



1 (13) One hundred per cent of the gain realized by a fee
2 simple owner from the sale of a leased fee interest in
3 units within a condominium project, cooperative
4 project, or planned unit development to the
5 association of apartment owners or the residential
6 cooperative corporation of the leasehold units.

7 For purposes of this paragraph:

8 ~~["Fee simple owner" shall have the same meaning~~
9 ~~as provided under section 516-1; provided that it~~
10 ~~shall include legal and equitable owners;~~

11 ~~"Legal and equitable owner", and "leased fee~~
12 ~~interest" shall have the same meanings as provided~~
13 ~~under section 516-1; and~~

14 ~~"Condominium project" and "cooperative project"~~
15 ~~shall have the same meanings as provided under section~~
16 ~~514C-1.]~~

17 "Condominium project" and "cooperative project"
18 shall have the same meanings as provided under section
19 514C-1.

20 "Fee simple owner" shall have the same meaning as
21 provided under section 516-1; provided that it shall
22 include legal and equitable owners.



1 "Legal and equitable owner", and "leased fee
2 interest" shall have the same meanings as provided
3 under section 516-1.

4 (b) There shall be included in gross income, adjusted
5 gross income, and taxable income:

6 (1) [~~unless~~] Unless excluded by this chapter relating to
7 the uniformed services of the United States, cost-of-
8 living allowances and other payments exempted by
9 section 912 of the Internal Revenue Code, but section
10 119 of the Internal Revenue Code nevertheless shall
11 apply; and

12 (2) [~~unless~~] Unless expressly exempted or excluded as
13 provided by subsection (a)(6), interest on the
14 obligations of a State or a political subdivision
15 thereof.

16 (c) The deductions of or based on dividends paid or
17 received, allowed to a corporation under chapter 1, subchapter
18 B, Part VIII of the Internal Revenue Code, shall not be allowed.
19 In lieu thereof there shall be allowed as a deduction the entire
20 amount of dividends received by any corporation upon the shares
21 of stock of a national banking association, qualifying
22 dividends, as defined in section 243(b) of the Internal Revenue



1 Code, received by members of an affiliated group, or dividends
2 received by a small business investment company operating under
3 the Small Business Investment Act of 1958 (Public Law 85-699)
4 upon shares of stock qualifying under paragraph (3), seventy per
5 cent of the amount received by any corporation as dividends:

- 6 (1) Upon the shares of stock of another corporation, if at
7 the date of payment of the dividend at least ninety-
8 five per cent of the other corporation's capital stock
9 is owned by one or more corporations doing business in
10 this State and if the other corporation is subjected
11 to an income tax in another jurisdiction (but
12 subsection to federal tax does not constitute
13 subsection to income tax in another jurisdiction);
- 14 (2) Upon the shares of stock of a bank or insurance
15 company organized and doing business under the laws of
16 the State; or
- 17 (3) Upon the shares of stock of another corporation, if at
18 least fifteen per cent of the latter corporation's
19 business, for the taxable year of the latter
20 corporation preceding the payment of the dividend, has
21 been attributed to this State.



1 However, except for national bank dividends, the deductions
2 under this subsection are not allowed when they would not have
3 been allowed under section 243 of the Internal Revenue Code, as
4 amended by Public Law 85-866, by reason of subsections (b) and
5 (c) of section 246 of the Internal Revenue Code. For the
6 purposes of this subsection fifteen per cent of a corporation's
7 business shall be deemed to have been attributed to this State
8 if fifteen per cent or more of the entire gross income of the
9 corporation as defined in this chapter (which for the purposes
10 of this subsection shall be computed without regard to source in
11 the State and shall include income not taxable by reason of the
12 fact that it is from property not owned in the State or from a
13 trade or business not carried on in the State in whole or in
14 part), under section 235-5 and the other provisions of this
15 chapter, shall have been attributed to the State and subjected
16 to assessment of the taxable income therefrom (including the
17 determination of the resulting net loss, if any).

18 (d) (1) For taxable years ending before January 1, 1967,
19 the net operating loss deductions allowed as
20 carrybacks and carryovers by the Internal Revenue Code
21 shall not be allowed. In lieu thereof the net
22 operating loss deduction shall consist of the excess



1 of the deductions allowed by this chapter over the
2 gross income, computed with the modifications
3 specified in paragraphs (1) to (4) of section 172(d)
4 of the Internal Revenue Code, and with the further
5 modification stated in paragraph (3) hereof; and shall
6 be allowed as a deduction in computing the taxable
7 income of the taxpayer for the succeeding taxable
8 year;

9 (2) (A) With respect to net operating loss deductions
10 resulting from net operating losses for taxable
11 years ending after December 31, 1966, the net
12 operating loss deduction provisions of the
13 Internal Revenue Code shall apply; provided that
14 there shall be no net operating loss deduction
15 carried back to any taxable year ending prior to
16 January 1, 1967;

17 (B) In the case of a taxable year beginning in 1966
18 and ending in 1967, the entire amount of all net
19 operating loss deductions carried back to the
20 taxable year shall be limited to that portion of
21 taxable income for such taxable year which the



1 number of days in 1967 bears to the total days in
2 the taxable year ending in 1967; and
3 (C) The computation of any net operating loss
4 deduction for a taxable year covered by this
5 subsection shall require the further
6 modifications stated in paragraphs (3), (4), and
7 (5) of this subsection;
8 (3) In computing the net operating loss deduction allowed
9 by this subsection, there shall be included in gross
10 income the amount of interest which is excluded from
11 gross income by subsection (a), decreased by the
12 amount of interest paid or accrued which is disallowed
13 as a deduction by subsection (e). In determining the
14 amount of the net operating loss deduction under this
15 subsection of any corporation, there shall be
16 disregarded the net operating loss of such corporation
17 for any taxable year for which the corporation is an
18 electing small business corporation;
19 (4) No net operating loss carryback or carryover shall be
20 allowed by this chapter if not allowed under section
21 172 of the Internal Revenue Code;



- 1 (5) The election to relinquish the entire carryback period
2 with respect to a net operating loss allowed under
3 section 172(b)(3)(C) of the Internal Revenue Code
4 shall be operative for the purposes of this chapter;
5 provided that no taxpayer shall make such an election
6 as to a net operating loss of a business where such
7 net operating loss occurred in the taxpayer's business
8 prior to the taxpayer entering business in this State;
9 and
- 10 (6) The five-year carryback period for net operating
11 losses for any taxable year ending during 2001 and
12 2002 in section 172(b)(1)(H) of the Internal Revenue
13 Code shall not be operative for purposes of this
14 chapter.
- 15 (e) There shall be disallowed as a deduction the amount of
16 interest paid or accrued within the taxable year on indebtedness
17 incurred or continued[7]:
- 18 (1) [~~to~~] To purchase or carry bonds the interest upon
19 which is excluded from gross income by subsection (a);
20 or
- 21 (2) [~~to~~] To purchase or carry property owned without the
22 State, or to carry on trade or business without the



1 State, if the taxpayer is a person taxable only upon
2 income from sources in the State.

3 (f) Losses of property as the result of tidal wave,
4 hurricane, earthquake, or volcanic eruption, or as a result of
5 flood waters overflowing the banks or walls of a river or
6 stream, or from any other natural disaster, to the extent of the
7 amount deductible, under this chapter, not compensated for by
8 insurance or otherwise, may be deducted in the taxable year in
9 which sustained, or at the option of the taxpayer may be
10 deducted in equal installments over a period of five years, the
11 first such year to be the calendar year or fiscal year of the
12 taxpayer in which such loss occurred.

13 (g) In computing taxable income there shall be allowed as
14 a deduction:

15 (1) Political contributions by any taxpayer not in excess
16 of \$250 in any year; provided that such contributions
17 are made to a central or county committee of a
18 political party whose candidates shall have qualified
19 by law to be voted for at the immediately previous
20 general election; or

21 (2) Political contributions by any individual taxpayer in
22 an aggregate amount not to exceed \$1,000 in any year;



1 provided that such contributions are made to
2 candidates as defined in section 11-191, who have
3 agreed to abide by the campaign expenditure limits as
4 set forth in section 11-209; and provided further that
5 not more than \$250 of an individual's total
6 contribution to any single candidate shall be
7 deductible for purposes of this section.

8 (h) The following annual deductions from gross income
9 shall be allowed for contributions to a college account in the
10 college savings program trust fund established by chapter 256:

11 (1) Up to \$10,000 for individual taxpayers not filing as
12 heads of household or surviving spouses;

13 (2) Up to \$20,000 for married couples filing separate
14 returns; provided that each spouse may claim a
15 deduction up to \$10,000; and

16 (3) Up to \$20,000 for married couples filing joint
17 returns, individuals filing as the heads of household,
18 and individuals filing as surviving spouses.

19 If the amount of the deduction exceeds the taxpayer's taxable
20 income for the taxable year the contribution is made, the excess
21 deduction may be used as a deduction against the taxpayer's



1 taxable income in subsequent tax years until the excess
2 deduction is exhausted."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act, upon its approval, shall apply to
6 taxable years beginning after December 31, 2007.

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INTRODUCED BY: Kirk Caldwell
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JAN 17 2008



Report Title:

College Savings Program; Annual Income Tax Deduction

Description:

Provides an annual maximum deduction of \$10,000 per individual, or \$20,000 for a married couple filing jointly against their taxable income for contributions made to Hawaii's college savings program in taxable years beginning after December 31, 2007.

