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## A BILL FOR AN ACT

RELATING TO PENSION INCOME.

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

1           SECTION 1. Section 88-91, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§88-91 Exemption from taxation and execution.** [~~The~~  
4 Except as provided in sections 88-92 and 235-7(a)(2), the right  
5 of a person to a pension, an annuity or a retirement allowance,  
6 to the return of contributions, the pension, annuity or  
7 retirement allowance itself, any optional benefit or death  
8 benefit, any other right accrued or accruing to any person under  
9 this part and the moneys in the various funds created under this  
10 part are exempted from any tax of the State and~~[, except as in~~  
11 ~~section 88-92 provided,~~] shall not be subject to execution,  
12 garnishment or any other process and shall be unassignable  
13 except as specifically provided in this part [~~specifically~~  
14 ~~provided~~]."

15           SECTION 2. Section 235-7, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17           "(a) There shall be excluded from gross income, adjusted  
18 gross income, and taxable income:



- 1 (1) Income not subject to taxation by the State under the  
2 Constitution and laws of the United States;
- 3 (2) Rights, benefits, and other income exempted from  
4 taxation by section 88-91, [~~having to do with~~  
5 relating to the state retirement system, and the  
6 rights, benefits, and other income, comparable to the  
7 rights, benefits, and other income exempted by section  
8 88-91, under any other public retirement system;  
9 provided that the exemption only applies to the first  
10 \$100,000 received in income;
- 11 (3) [~~Any~~] The first \$100,000 of any compensation received  
12 in the form of a pension for past services;
- 13 (4) Compensation paid to a patient affected with Hansen's  
14 disease employed by the State or the United States in  
15 any hospital, settlement, or place for the treatment  
16 of Hansen's disease;
- 17 (5) Except as otherwise expressly provided, payments made  
18 by the United States or this State, under an act of  
19 Congress or a law of this State, which by express  
20 provision or administrative regulation or  
21 interpretation are exempt from both the normal and



- 1           surtaxes of the United States, even though not so  
2           exempted by the Internal Revenue Code itself;
- 3       (6) Any income expressly exempted or excluded from the  
4           measure of the tax imposed by this chapter by any  
5           other law of the State, it being the intent of this  
6           chapter not to repeal or supersede any express  
7           exemption or exclusion;
- 8       (7) Income received by each member of the reserve  
9           components of the Army, Navy, Air Force, Marine Corps,  
10          or Coast Guard of the United States of America, and  
11          the Hawaii national guard as compensation for  
12          performance of duty, equivalent to pay received for  
13          forty-eight drills (equivalent of twelve weekends) and  
14          fifteen days of annual duty, at an:
- 15       (A) E-1 pay grade after eight years of service;  
16           provided that this subparagraph shall apply to  
17           taxable years beginning after December 31, 2004;
- 18       (B) E-2 pay grade after eight years of service;  
19           provided that this subparagraph shall apply to  
20           taxable years beginning after December 31, 2005;



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



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



1 units within a condominium project, cooperative  
2 project, or planned unit development to the  
3 association of apartment owners or the residential  
4 cooperative corporation of the leasehold units.

5 For purposes of this paragraph:

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

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

12 "Condominium project" and "cooperative project"  
13 shall have the same meanings as provided under section  
14 514C-1."

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

17 SECTION 4. This Act shall take effect upon its approval  
18 and shall apply to taxable years beginning after December 31,  
19 2007; provided that the amendments made to section 235-7(a),  
20 Hawaii Revised Statutes, by section 2 of this Act shall not be



- 1 repealed on January 1, 2013, pursuant to section 3 of Act 166,
- 2 Session Laws of Hawaii 2007.
- 3

INTRODUCED BY: Ki SIC Caldwell

JAN 17 2008



**Report Title:**

Pension; Income Tax

**Description:**

Exempts the first \$100,000 in pension income from state income taxes.

