
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 1996, Congress enacted Section 529 (with
2 respect to qualified state tuition programs) of the Internal
3 Revenue Code of 1986, as amended, authorizing tax-deferred
4 college savings plans now referred to as "529 Plans." Section
5 529 authorizes states to establish these programs to assist and
6 encourage families to set aside funds for future higher
7 education expenses.

8 Most states that assess an income tax offer some kind of
9 in-state tax deduction or credit for contributions as an
10 incentive for their residents to participate in these college
11 savings programs. To encourage Hawaii families to save for
12 college in the plan of their choice and to increase their
13 participation in these programs, this Act provides a state
14 income tax deduction for contributions to any qualified program.
15 This income tax deduction shall apply to program contributions
16 made in calendar year 2008 and beyond.



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

3 **"§235-7 Other provisions as to gross income, adjusted**

4 **gross income, and taxable income.** (a) There shall be excluded
5 from gross income, adjusted gross income, and taxable income:

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

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

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

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

20 (5) Except as otherwise expressly provided, payments made
21 by the United States or this State, under an act of
22 Congress or a law of this State, which by express



1 provision or administrative regulation or
2 interpretation are exempt from both the normal and
3 surtaxes of the United States, even though not so
4 exempted by the Internal Revenue Code itself;

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

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

17 (A) E-1 pay grade after eight years of service;
18 provided that this subparagraph shall apply to
19 taxable years beginning after December 31, 2004;

20 (B) E-2 pay grade after eight years of service;
21 provided that this subparagraph shall apply to
22 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~~
7 ~~as provided under section 516-1; provided that it~~
8 ~~shall 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 "Condominium project" and "cooperative project"
16 shall have the same meanings as provided under section
17 514C-1;

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



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~~] Section 912 (with respect to exemption
10 for certain allowances) of the Internal Revenue Code,
11 but [~~section 119~~] Section 119 (with respect to meals
12 or lodging furnished for convenience of employer) of
13 the Internal Revenue Code nevertheless shall apply;
14 and

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

19 (c) The deductions of or based on dividends paid or
20 received, allowed to a corporation under [~~chapter 1, subchapter~~
21 ~~B,~~] Chapter 1, Subchapter B, Part VIII of the Internal Revenue
22 Code, shall not be allowed. In lieu thereof there shall be



1 allowed as a deduction the entire amount of dividends received
2 by any corporation upon the shares of stock of a national
3 banking association, qualifying dividends, as defined in
4 [~~section 243(b)~~] Section 243(b) (with respect to dividends
5 received by corporations) of the Internal Revenue Code, received
6 by members of an affiliated group, or dividends received by a
7 small business investment company operating under the Small
8 Business Investment Act of 1958 (Public Law 85-699) upon shares
9 of stock qualifying under paragraph (3), seventy per cent of the
10 amount received by any corporation as dividends:

11 (1) Upon the shares of stock of another corporation, if at
12 the date of payment of the dividend at least ninety-
13 five per cent of the other corporation's capital stock
14 is owned by one or more corporations doing business in
15 this [~~State~~] state and if the other corporation is
16 subjected to an income tax in another jurisdiction
17 (but subsection to federal tax does not constitute
18 subsection to income tax in another jurisdiction);

19 (2) Upon the shares of stock of a bank or insurance
20 company organized and doing business under the laws of
21 the State; and



1 (3) Upon the shares of stock of another corporation, if at
2 least fifteen per cent of the latter corporation's
3 business, for the taxable year of the latter
4 corporation preceding the payment of the dividend, has
5 been attributed to this [~~State.~~] state.

6 However, except for national bank dividends, the deductions
7 under this subsection are not allowed when they would not have
8 been allowed under [~~section 243~~] Section 243 (with respect to
9 dividends received by corporations) of the Internal Revenue
10 Code, as amended by Public Law 85-866, by reason of
11 [~~subsections~~] Subsections (b) and (c) of [~~section~~] Section 246
12 (with respect to rules applying to deductions for dividends
13 received) of the Internal Revenue Code. For the purposes of
14 this subsection, fifteen per cent of a corporation's business
15 shall be deemed to have been attributed to this [~~State~~] state if
16 fifteen per cent or more of the entire gross income of the
17 corporation as defined in this chapter (which for the purposes
18 of this subsection shall be computed without regard to source in
19 the [~~State~~] state and shall include income not taxable by reason
20 of the fact that it is from property not owned in the [~~State~~]
21 state or from a trade or business not carried on in the [~~State~~]
22 state in whole or in part), under section 235-5 and the other



1 provisions of this chapter, shall have been attributed to the
2 [~~State~~] state and subjected to assessment of the taxable income
3 therefrom (including the determination of the resulting net
4 loss, if any).

5 (d) (1) For taxable years ending before January 1, 1967, the
6 net operating loss deductions allowed as carrybacks
7 and carryovers by the Internal Revenue Code shall not
8 be allowed. In lieu thereof, the net operating loss
9 deduction shall consist of the excess of the
10 deductions allowed by this chapter over the gross
11 income, computed with the modifications specified in
12 [~~paragraphs~~] Paragraphs (1) to (4) of [~~section~~]
13 Section 172(d) of the Internal Revenue Code, and with
14 the further modification stated in paragraph (3)
15 hereof; and shall be allowed as a deduction in
16 computing the taxable income of the taxpayer for the
17 succeeding taxable year;

18 (2) (A) With respect to net operating loss deductions
19 resulting from net operating losses for taxable
20 years ending after December 31, 1966, the net
21 operating loss deduction provisions of the
22 Internal Revenue Code shall apply; provided that



1 there shall be no net operating loss deduction
2 carried back to any taxable year ending prior to
3 January 1, 1967;

4 (B) In the case of a taxable year beginning in 1966
5 and ending in 1967, the entire amount of all net
6 operating loss deductions carried back to the
7 taxable year shall be limited to that portion of
8 taxable income for [~~such~~] the taxable year which
9 the number of days in 1967 bears to the total
10 days in the taxable year ending in 1967; and

11 (C) The computation of any net operating loss
12 deduction for a taxable year covered by this
13 subsection shall require the further
14 modifications stated in paragraphs (3), (4), and
15 (5) of this subsection;

16 (3) In computing the net operating loss deduction allowed
17 by this subsection, there shall be included in gross
18 income, the amount of interest which is excluded from
19 gross income by subsection (a), decreased by the
20 amount of interest paid or accrued which is disallowed
21 as a deduction by subsection (e). In determining the
22 amount of the net operating loss deduction under this



1 subsection of any corporation, there shall be
2 disregarded the net operating loss of [~~such~~] the
3 corporation for any taxable year for which the
4 corporation is an electing small business corporation;

5 (4) No net operating loss carryback or carryover shall be
6 allowed by this chapter if not allowed under [~~section~~]
7 Section 172 of the Internal Revenue Code;

8 (5) The election to relinquish the entire carryback period
9 with respect to a net operating loss allowed under
10 [~~section~~] Section 172(b)(3)(C) of the Internal Revenue
11 Code shall be operative for the purposes of this
12 chapter; provided that no taxpayer shall make such an
13 election as to a net operating loss of a business
14 where [~~such~~] the net operating loss occurred in the
15 taxpayer's business prior to the taxpayer entering
16 business in this [~~State,~~] state; and

17 (6) The five-year carryback period for net operating
18 losses for any taxable year ending during 2001 and
19 2002 in [~~section~~] Section 172(b)(1)(H) of the Internal
20 Revenue Code shall not be operative for purposes of
21 this chapter.



1 (e) There shall be disallowed as a deduction, the amount
2 of interest paid or accrued within the taxable year on
3 indebtedness incurred or continued~~[7]~~:

4 (1) ~~[to]~~ To purchase or carry bonds the interest upon
5 which is excluded from gross income by subsection (a);
6 or

7 (2) ~~[to]~~ To purchase or carry property owned without the
8 ~~[State,]~~ state, or to carry on trade or business
9 without the ~~[State,]~~ state, if the taxpayer is a
10 person taxable only upon income from sources in the
11 ~~[State.]~~ state.

12 (f) Losses of property as the result of tidal wave,
13 hurricane, earthquake, or volcanic eruption, or as a result of
14 flood waters overflowing the banks or walls of a river or
15 stream, or from any other natural disaster, to the extent of the
16 amount deductible, under this chapter, not compensated for by
17 insurance or otherwise, may be deducted in the taxable year in
18 which sustained, or at the option of the taxpayer may be
19 deducted in equal installments over a period of five years, the
20 first such year to be the calendar year or fiscal year of the
21 taxpayer in which ~~[such]~~ the loss occurred.



1 (g) In computing taxable income, there shall be allowed as
2 a deduction:

3 (1) Political contributions by any taxpayer not in excess
4 of \$250 in any year; provided that [~~such~~] the
5 contributions are made to a central or county
6 committee of a political party whose candidates shall
7 have qualified by law to be voted for at the
8 immediately previous general election; or

9 (2) Political contributions by any individual taxpayer in
10 an aggregate amount not to exceed \$1,000 in any year;
11 provided that [~~such~~] the contributions are made to
12 candidates as defined in section 11-191, who have
13 agreed to abide by the campaign expenditure limits as
14 set forth in section 11-209; and provided further that
15 not more than \$250 of an individual's total
16 contribution to any single candidate shall be
17 deductible for purposes of this section.

18 (h) The following annual deductions from gross income
19 shall be allowed for contributions to a qualified tuition
20 program established pursuant to Section 529 (with respect to
21 qualified state tuition programs) of the Internal Revenue Code:



- 1 (1) Up to \$10,000 for individual taxpayers, but not more
2 than the amount contributed during the taxable year;
- 3 (2) Up to \$10,000 for married couples filing separate
4 returns, but not more than the amount contributed
5 during the taxable year; provided that each spouse may
6 claim a deduction of up to \$10,000; and
- 7 (3) Up to \$20,000 for married couples filing joint
8 returns, individuals filing as the head of the
9 household, or individuals filing as surviving spouses,
10 but not more than the amount contributed during the
11 taxable year;
- 12 provided that the aggregate deduction amount per taxpayer shall
13 not exceed \$75,000 per college savings account. If the amount
14 of the deduction exceeds the taxpayer's taxable income for the
15 taxable year in which the contribution is made, the excess
16 deduction may be used as a deduction against the taxpayer's
17 taxable income in subsequent tax years until the excess
18 deduction is exhausted. Any amount withdrawn from a college
19 savings account and not used for a qualified tuition program
20 shall be added to the taxpayer's taxable income for that year;
21 provided that this requirement shall not apply to withdrawals
22 made as a result of the beneficiary's death or disability, or of



1 receiving a scholarship, except that withdrawals made during the
2 year do not exceed the total amount of scholarship funds
3 received in that year."

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

6 SECTION 4. This Act shall take effect upon its approval
7 and apply to taxable years beginning after December 31, 2050;
8 provided that amendments made to section 235-7, Hawaii Revised
9 Statutes, by this Act shall not be repealed when that section is
10 reenacted on January 1, 2013, pursuant to section 3 of Act 166,
11 Session Laws of Hawaii 2007.



S.B. NO. 2660
S.D. 3
H.D. 1

Report Title:

College Savings Programs

Description:

Provides an annual maximum deduction against taxable income for contributions made to a section 529 college savings program.

(SB2660 HD1)

SB2660 HD1 HMS 2008-3115

