

JAN 17 2008

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following Internal Revenue Code subchapters,
4 parts of subchapters, sections, subsections, and parts of
5 subsections shall not be operative for the purposes of this
6 chapter, unless otherwise provided:

7 (1) Subchapter A (sections 1 to 59A) (with respect to
8 determination of tax liability), except section
9 1(h)(2) (relating to net capital gain reduced by the
10 amount taken into account as investment income),
11 except sections 2(a), 2(b), and 2(c) (with respect to
12 the definition of "surviving spouse" and "head of
13 household"), except section 41 (with respect to the
14 credit for increasing research activities), except
15 section 42 (with respect to low-income housing
16 credit), and except sections 47 and 48, as amended, as
17 of December 31, 1984 (with respect to certain



- 1 depreciable tangible personal property). For
2 treatment, see sections 235-110.91, 235-110.7, and
3 235-110.8;
- 4 (2) Section 78 (with respect to dividends received from
5 certain foreign corporations by domestic corporations
6 choosing foreign tax credit);
- 7 (3) Section 86 (with respect to social security and tier 1
8 railroad retirement benefits);
- 9 (4) Section 103 (with respect to interest on state and
10 local bonds). For treatment, see section 235-7(b);
- 11 (5) Section 114 (with respect to extraterritorial income).
12 For treatment, any transaction as specified in the
13 transitional rule for 2005 and 2006 as specified in
14 the American Jobs Creation Act of 2004 section 101(d)
15 and any transaction that has occurred pursuant to a
16 binding contract as specified in the American Jobs
17 Creation Act of 2004 section 101(f) are inoperative;
- 18 (6) Section 120 (with respect to amounts received under
19 qualified group legal services plans). For treatment,
20 see section 235-7(a)(9) to (11);



- 1 (7) Section 122 (with respect to certain reduced uniformed
2 services retirement pay). For treatment, see section
3 235-7(a)(3);
- 4 (8) Section 135 (with respect to income from United States
5 savings bonds used to pay higher education tuition and
6 fees). For treatment, see section 235-7(a)(1);
- 7 (9) Subchapter B (sections 141 to 150) (with respect to
8 tax exemption requirements for state and local bonds);
- 9 (10) Section 151 (with respect to allowance of deductions
10 for personal exemptions). For treatment, see section
11 235-54;
- 12 (11) Section 179B (with respect to expensing of capital
13 costs incurred in complying with Environmental
14 Protection Agency sulphur regulations);
- 15 (12) Section 181 (with respect to special rules for certain
16 film and television productions);
- 17 (13) Section 196 (with respect to deduction for certain
18 unused investment credits);
- 19 (14) Section 199 (with respect to the U.S. production
20 activities deduction);
- 21 (15) Section 222 (with respect to qualified tuition and
22 related expenses);



- 1 (16) Sections 241 to 247 (with respect to special
2 deductions for corporations). For treatment, see
3 section 235-7(c);
- 4 (17) Section 280C (with respect to certain expenses for
5 which credits are allowable). For treatment, see
6 section 235-110.91;
- 7 (18) Section 291 (with respect to special rules relating to
8 corporate preference items);
- 9 (19) Section 367 (with respect to foreign corporations);
- 10 (20) Section 501(c)(12), (15), and (16) (with respect to
11 exempt organizations); except for mutual ditch or
12 irrigation companies under section 501(c)(12) that
13 collect at least eighty five per cent of its income
14 from members for the sole purpose of meeting losses
15 and expenses;
- 16 (21) Section 515 (with respect to taxes of foreign
17 countries and possessions of the United States);
- 18 (22) Subchapter G (sections 531 to 565) (with respect to
19 corporations used to avoid income tax on
20 shareholders);
- 21 (23) Subchapter H (sections 581 to 597) (with respect to
22 banking institutions), except section 584 (with



- 1 respect to common trust funds). For treatment, see
2 chapter 241;
- 3 (24) Section 642(a) and (b) (with respect to special rules
4 for credits and deductions applicable to trusts). For
5 treatment, see sections 235-54(b) and 235-55;
- 6 (25) Section 646 (with respect to tax treatment of electing
7 Alaska Native settlement trusts);
- 8 (26) Section 668 (with respect to interest charge on
9 accumulation distributions from foreign trusts);
- 10 (27) Subchapter L (sections 801 to 848) (with respect to
11 insurance companies). For treatment, see sections
12 431:7-202 and 431:7-204;
- 13 (28) Section 853 (with respect to foreign tax credit
14 allowed to shareholders). For treatment, see section
15 235-55;
- 16 (29) Subchapter N (sections 861 to 999) (with respect to
17 tax based on income from sources within or without the
18 United States), except sections 985 to 989 (with
19 respect to foreign currency transactions). For
20 treatment, see sections 235-4, 235-5, and 235-7(b),
21 and 235-55;



- 1 (30) Section 1042(g) (with respect to sales of stock in
2 agricultural refiners and processors to eligible farm
3 cooperatives);
- 4 (31) Section 1055 (with respect to redeemable ground
5 rents);
- 6 (32) Section 1057 (with respect to election to treat
7 transfer to foreign trust, etc., as taxable exchange);
- 8 (33) Sections 1291 to 1298 (with respect to treatment of
9 passive foreign investment companies);
- 10 (34) Subchapter Q (sections 1311 to 1351) (with respect to
11 readjustment of tax between years and special
12 limitations);
- 13 (35) Subchapter R (sections 1352 to 1359) (with respect to
14 election to determine corporate tax on certain
15 international shipping activities using per ton rate);
- 16 (36) Subchapter U (sections 1391 to 1397F) (with respect to
17 designation and treatment of empowerment zones,
18 enterprise communities, and rural development
19 investment areas). For treatment, see chapter 209E;
- 20 (37) Subchapter W (sections 1400 to 1400C) (with respect to
21 District of Columbia enterprise zone);



- 1 (38) Section 14000 (with respect to education tax
- 2 benefits);
- 3 (39) Section 1400P (with respect to housing tax benefits);
- 4 (40) Section 1400R (with respect to employment relief); and
- 5 (41) Section 1400T (with respect to special rules for
- 6 mortgage revenue bonds)."

7 SECTION 2. Section 237-23, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) This chapter shall not apply to the following
10 persons:

- 11 (1) Public service companies as that term is defined in
- 12 section 239-2, with respect to the gross income,
- 13 either actual gross income or gross income estimated
- 14 and adjusted, that is included in the measure of the
- 15 tax imposed by chapter 239;
- 16 (2) Public utilities owned and operated by the State or
- 17 any county, or other political subdivision thereof;
- 18 (3) Fraternal benefit societies, orders, or associations,
- 19 operating under the lodge system, or for the exclusive
- 20 benefit of the members of the fraternity itself,
- 21 operating under the lodge system, and providing for
- 22 the payment of death, sick, accident, prepaid legal



1 services, or other benefits to the members of the
2 societies, orders, or associations, and to their
3 dependents;

4 (4) Corporations, associations, trusts, or societies
5 organized and operated exclusively for religious,
6 charitable, scientific, or educational purposes, as
7 well as that of operating senior citizens housing
8 facilities qualifying for a loan under the laws of the
9 United States as authorized by section 202 of the
10 Housing Act of 1959, as amended, as well as that of
11 operating a prepaid legal services plan, as well as
12 that of operating or managing a homeless facility, or
13 any other program for the homeless authorized under
14 part VII of chapter 356D;

15 (5) Business leagues, chambers of commerce, boards of
16 trade, civic leagues, agricultural and horticultural
17 organizations, and organizations operated exclusively
18 for the benefit of the community and for the promotion
19 of social welfare that shall include the operation of
20 a prepaid legal service plan, and from which no profit
21 inures to the benefit of any private stockholder or
22 individual;



1 (6) Hospitals, infirmaries, and sanitararia;
2 (7) Cooperative associations incorporated under chapter
3 421 or Code section 521 cooperatives which fully meet
4 the requirements of section 421-23, except Code
5 section 521 cooperatives need not be organized in
6 Hawaii; provided that:

7 (A) The exemption shall apply only to the gross
8 income derived from activities that are pursuant
9 to purposes and powers authorized by chapter 421,
10 except those provisions pertaining to or
11 requiring corporate organization in Hawaii do not
12 apply to Code section 521 cooperatives;

13 (B) The exemption shall not relieve any person who
14 receives any proceeds of sale from the
15 association of the duty of returning and paying
16 the tax on the total gross proceeds of the sales
17 on account of which the payment was made, in the
18 same amount and at the same rate as would apply
19 thereto had the sales been made directly by the
20 person, and all those persons shall be so
21 taxable; and



1 (C) As used in this paragraph, "section 521
2 cooperatives" mean associations that qualify as a
3 cooperative under section 521 (with respect to
4 exemption of farmers' cooperatives from tax) of
5 the Internal Revenue Code of 1986, as amended;

6 (8) Persons affected with Hansen's disease and kokuas,
7 with respect to business within the county of Kalawao;

8 (9) Corporations, companies, associations, or trusts
9 organized for the establishment and conduct of
10 cemeteries no part of the net earnings of which inures
11 to the financial benefit of any private stockholder or
12 individual; provided that the exemption shall apply
13 only to the activities of those persons in the conduct
14 of cemeteries and shall not apply to any activity the
15 primary purpose of which is to produce income, even
16 though the income is to be used for or in the
17 furtherance of the exempt activities of those persons;
18 [~~and~~]

19 (10) Nonprofit shippers associations operating under part
20 296 of the Civil Aeronautics Board Economic
21 Regulations[~~-~~]; and

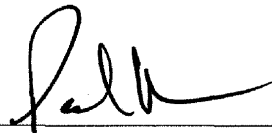


1 (11) Mutual ditch or irrigation companies under section
2 501(c)(12) that collect at least eighty five per cent
3 of its income from members for the sole purpose of
4 meeting losses and expenses."

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

7 SECTION 4. This Act shall take effect upon its approval
8 and shall apply to taxable years beginning after December 31,
9 2007.

10

INTRODUCED BY: 

Report Title:

Income Tax; General Excise Tax; Irrigation Companies

Description:

Provides income tax and general excise tax exemptions for mutual ditch or irrigation companies that collect at least eighty five per cent of its income from members for the sole purpose of meeting losses and expenses.

