

JAN 17 2008

A BILL FOR AN ACT

RELATING TO THE COLLEGE SAVINGS PROGRAM.

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 Hawaii's college savings program asset size and
8 participation rate is relatively low compared to other states'
9 college savings programs. Most states offer an in-state tax
10 deduction or credit for program contributions to boost
11 participation rates, lower program management fees, and
12 ultimately improve program benefits.

13 The purpose of this Act is to provide a state income tax
14 deduction for Hawaii's college savings program contributions.

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



1 "**§235-7 Other provisions as to gross income, adjusted**
2 **gross income, and taxable income.** (a) There shall be excluded
3 from gross income, adjusted gross income, and taxable income:

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

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

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

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

18 (5) Except as otherwise expressly provided, payments made
19 by the United States or this State, under an act of
20 Congress or a law of this State, which by express
21 provision or administrative regulation or
22 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 (b) There shall be included in gross income, adjusted
16 gross income, and taxable income: (1) unless excluded by this
17 chapter relating to the uniformed services of the United States,
18 cost-of-living allowances and other payments exempted by section
19 912 of the Internal Revenue Code, but section 119 of the
20 Internal Revenue Code nevertheless shall apply; (2) unless
21 expressly exempted or excluded as provided by subsection (a)(6),



1 interest on the obligations of a State or a political
2 subdivision thereof.

3 (c) The deductions of or based on dividends paid or
4 received, allowed to a corporation under chapter 1, subchapter
5 B, Part VIII of the Internal Revenue Code, shall not be allowed.
6 In lieu thereof there shall be allowed as a deduction the entire
7 amount of dividends received by any corporation upon the shares
8 of stock of a national banking association, qualifying
9 dividends, as defined in section 243(b) of the Internal Revenue
10 Code, received by members of an affiliated group, or dividends
11 received by a small business investment company operating under
12 the Small Business Investment Act of 1958 (Public Law 85-699)
13 upon shares of stock qualifying under paragraph (3), seventy per
14 cent of the amount received by any corporation as dividends:

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



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

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

9 However, except for national bank dividends, the deductions
10 under this subsection are not allowed when they would not have
11 been allowed under section 243 of the Internal Revenue Code, as
12 amended by Public Law 85-866, by reason of subsections (b) and
13 (c) of section 246 of the Internal Revenue Code. For the
14 purposes of this subsection fifteen per cent of a corporation's
15 business shall be deemed to have been attributed to this State
16 if 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 and shall include income not taxable by reason of the
20 fact that it is from property not owned in the State or from a
21 trade or business not carried on in the State in whole or in
22 part), under section 235-5 and the other provisions of this



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

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

17 (2) (A) With respect to net operating loss deductions
18 resulting from net operating losses for taxable
19 years ending after December 31, 1966, the net
20 operating loss deduction provisions of the
21 Internal Revenue Code shall apply; provided that
22 there shall be no net operating loss deduction



1 carried back to any taxable year ending prior to
2 January 1, 1967;

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

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

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



1 disregarded the net operating loss of such corporation
2 for any taxable year for which the corporation is an
3 electing small business corporation;

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

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

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

21 (e) There shall be disallowed as a deduction the amount of
22 interest paid or accrued within the taxable year on indebtedness



1 incurred or continued, (1) to purchase or carry bonds the
2 interest upon which is excluded from gross income by subsection
3 (a); or (2) to purchase or carry property owned without the
4 State, or to carry on trade or business without the State, if
5 the taxpayer is a person taxable only upon income from sources
6 in the State.

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

17 (g) In computing taxable income there shall be allowed as
18 a deduction:

19 (1) Political contributions by any taxpayer not in excess
20 of \$250 in any year; provided that such contributions
21 are made to a central or county committee of a
22 political party whose candidates shall have qualified



1 by law to be voted for at the immediately previous
2 general election; or

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

12 (h) The following annual deductions from gross income
13 shall be allowed for contributions to the Hawaii college savings
14 program provided under chapter 256:

15 (1) Up to \$2,000 for individual taxpayers;

16 (2) Up to \$2,000 for married couples filing separate
17 returns; provided that each spouse may claim a
18 deduction up to \$2,000; and

19 (3) Up to \$4,000 for married couples filing joint returns,
20 individuals filing as the head of households, or
21 individuals filing as surviving spouses.



1 If the amount of the deduction exceeds the taxpayer's taxable
 2 income for the taxable year the contribution is made, the excess
 3 deduction may be used as a deduction against the taxpayer's
 4 taxable income in subsequent tax years until the excess
 5 deduction is exhausted.

6 The adjusted gross income of a taxpayer who qualifies for a
 7 deduction under this subsection shall not exceed \$100,000;
 8 provided that the adjusted gross income of a married couple
 9 under paragraph (3) shall not exceed \$200,000."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval
 12 and shall apply to taxable years beginning after December 31,
 13 2007; provided that the amendments made to section 235-7, Hawaii
 14 Revised Statutes, by this Act shall not be repealed when that
 15 section is reenacted on January 1, 2013, pursuant to section 3
 16 of Act 166, Session Laws of Hawaii 2007.

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INTRODUCED BY:

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Report Title:

Tax Deduction; Education; College Savings Plan

Description:

Provides an annual state tax deduction of \$2,000 per individual and \$4,000 for a married couple (subject to limits on adjusted gross income) for contributions made to Hawaii's section 529 college savings program.

