

JAN 18 2008

A BILL FOR AN ACT

RELATING TO INCOME TAX.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Anti-speculation capital gains tax on real
5 property. (a) In addition to the capital gains tax imposed
6 under this chapter, there shall be an anti-speculation capital
7 gains tax on the net capital gains realized by a seller of real
8 property, less commissions, fees, and other charges, if any,
9 related to the sale. The tax shall be as follows:

10 (1) If the real property was held by the seller for less
11 than six months prior to the sale, the tax shall be
12 seventy-five per cent of the net capital gains
13 realized by the seller, including deferred payments or
14 exchanges;

15 (2) If the real property was held by the seller for at
16 least six months but less than twelve months prior to
17 the sale, the tax shall be fifty per cent of the net



1 capital gains realized by the seller, including
2 deferred payments or exchanges; or

3 (3) If the real property was held by the seller for at
4 least twelve months but not more than twenty-four
5 months, the tax shall be twenty-five per cent of the
6 net capital gains realized by the seller, including
7 deferred payments or exchanges.

8 (b) This section shall not apply to:

9 (1) Residential property sold to provide affordable rental
10 housing for a period of not less than ten years to a
11 resident earning less than one hundred forty per cent
12 of the median Hawaii income, as determined by the
13 department in accordance with standards established by
14 the United States Department of Housing and Urban
15 Development;

16 (2) A principal residence sold by reason of a change in
17 place of employment, health, or unforeseen
18 circumstances, as exempted under section 121(c)(2)
19 (with respect to exclusion of gain from sale of
20 principal residence) of the Internal Revenue Code;

21 (3) Amounts realized from properties that are
22 involuntarily converted (destroyed, stolen, seized,



1 requisitioned, or condemned), as exempted under
2 section 1033 (with respect to involuntary conversions)
3 of the Internal Revenue Code; or

4 (4) Military personnel selling property as a result of
5 military relocation orders.

6 (c) The tax realized pursuant to this section shall be
7 deposited into an escrow account to be forwarded to the
8 department. The department shall deposit all such tax
9 realizations into the rental housing trust fund under section
10 201H-202."

11 SECTION 2. Section 201H-202, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The following may be deposited into the fund:
14 appropriations made by the legislature, private contributions,
15 moneys derived from the anti-speculation capital gains tax under
16 section 235- , repayment of loans, interest, other returns, and
17 moneys from other sources."

18 SECTION 3. Section 235-51, Hawaii Revised Statutes, is
19 amended by amending subsection (f) to read as follows:

20 "(f) [~~FF~~] Except as provided under section 235- , if a
21 taxpayer has a net capital gain for any taxable year to which

1 this subsection applies, then the tax imposed by this section
2 shall not exceed the sum of:

3 (1) The tax computed at the rates and in the same manner
4 as if this subsection had not been enacted on the
5 greater of:

6 (A) The taxable income reduced by the amount of net
7 capital gain, or

8 (B) The amount of taxable income taxed at a rate
9 below 7.25 per cent, plus

10 (2) A tax of 7.25 per cent of the amount of taxable income
11 in excess of the amount determined under paragraph
12 (1).

13 This subsection shall apply to individuals, estates, and
14 trusts for taxable years beginning after December 31, 1986."

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

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

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Report Title:

Income Tax; Real Property; Anti-Speculation

Description:

Assesses a graduated anti-speculation tax on the capital gains realized on residential real property held for up to 24 months before being sold. Deposits realizations to the rental housing trust fund.

