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

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



1 SECTION 2. Chapter 412, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§412: - Hawaii college savings program; disclosure. A
5 financial institution shall provide to any person who seeks
6 investment advice or services regarding postsecondary education
7 savings accounts, established pursuant to section 529 of the
8 Internal Revenue Code of 1986, as amended, information on the
9 Hawaii college savings program, established under chapter 256,
10 and its features and benefits."

11 SECTION 3. Section 235-7, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§235-7 Other provisions as to gross income, adjusted
14 gross income, and taxable income. (a) There shall be excluded
15 from gross income, adjusted gross income, and taxable income:

- 16 (1) Income not subject to taxation by the State under the
17 Constitution and laws of the United States;
- 18 (2) Rights, benefits, and other income exempted from
19 taxation by section 88-91, having to do with the state
20 retirement system, and the rights, benefits, and other
21 income, comparable to the rights, benefits, and other



- 1 income exempted by section 88-91, under any other
2 public retirement system;
- 3 (3) Any compensation received in the form of a pension for
4 past services;
- 5 (4) Compensation paid to a patient affected with Hansen's
6 disease employed by the State or the United States in
7 any hospital, settlement, or place for the treatment
8 of Hansen's disease;
- 9 (5) Except as otherwise expressly provided, payments made
10 by the United States or this State, under an act of
11 Congress or a law of this State, which by express
12 provision or administrative regulation or
13 interpretation are exempt from both the normal and
14 surtaxes of the United States, even though not so
15 exempted by the Internal Revenue Code itself;
- 16 (6) Any income expressly exempted or excluded from the
17 measure of the tax imposed by this chapter by any
18 other law of the State, it being the intent of this
19 chapter not to repeal or supersede any express
20 exemption or exclusion;
- 21 (7) Income received by each member of the reserve
22 components of the Army, Navy, Air Force, Marine Corps,



1 or Coast Guard of the United States of America, and
2 the Hawaii national guard as compensation for
3 performance of duty, equivalent to pay received for
4 forty-eight drills (equivalent of twelve weekends) and
5 fifteen days of annual duty, at an:

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

9 (B) E-2 pay grade after eight years of service;
10 provided that this subparagraph shall apply to
11 taxable years beginning after December 31, 2005;

12 (C) E-3 pay grade after eight years of service;
13 provided that this subparagraph shall apply to
14 taxable years beginning after December 31, 2006;

15 (D) E-4 pay grade after eight years of service;
16 provided that this subparagraph shall apply to
17 taxable years beginning after December 31, 2007;

18 and

19 (E) E-5 pay grade after eight years of service;
20 provided that this subparagraph shall apply to
21 taxable years beginning after December 31, 2008;



- 1 (8) Income derived from the operation of ships or aircraft
2 if the income is exempt under the Internal Revenue
3 Code pursuant to the provisions of an income tax
4 treaty or agreement entered into by and between the
5 United States and a foreign country; provided that the
6 tax laws of the local governments of that country
7 reciprocally exempt from the application of all of
8 their net income taxes, the income derived from the
9 operation of ships or aircraft that are documented or
10 registered under the laws of the United States;
- 11 (9) The value of legal services provided by a prepaid
12 legal service plan to a taxpayer, the taxpayer's
13 spouse, and the taxpayer's dependents;
- 14 (10) Amounts paid, directly or indirectly, by a prepaid
15 legal service plan to a taxpayer as payment or
16 reimbursement for the provision of legal services to
17 the taxpayer, the taxpayer's spouse, and the
18 taxpayer's dependents;
- 19 (11) Contributions by an employer to a prepaid legal
20 service plan for compensation (through insurance or
21 otherwise) to the employer's employees for the costs



1 of legal services incurred by the employer's
2 employees, their spouses, and their dependents;

3 (12) Amounts received in the form of a monthly surcharge by
4 a utility acting on behalf of an affected utility
5 under section 269-16.3 shall not be gross income,
6 adjusted gross income, or taxable income for the
7 acting utility under this chapter. Any amounts
8 retained by the acting utility for collection or other
9 costs shall not be included in this exemption; and

10 (13) One hundred per cent of the gain realized by a fee
11 simple owner from the sale of a leased fee interest in
12 units within a condominium project, cooperative
13 project, or planned unit development to the
14 association of apartment owners or the residential
15 cooperative corporation of the leasehold units.
16 For purposes of this paragraph:

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

20 "Legal and equitable owner" [7] and "leased fee
21 interest" shall have the same meanings as provided
22 under section 516-1; and



1 "Condominium project" and "cooperative project"
2 shall have the same meanings as provided under section
3 514C-1.

4 (b) There shall be included in gross income, adjusted
5 gross income, and taxable income: (1) unless excluded by this
6 chapter relating to the uniformed services of the United States,
7 cost-of-living allowances and other payments exempted by section
8 912 of the Internal Revenue Code, but section 119 of the
9 Internal Revenue Code nevertheless shall apply; (2) unless
10 expressly exempted or excluded as provided by subsection (a)(6),
11 interest on the obligations of a State or a political
12 subdivision thereof.

13 (c) The deductions of or based on dividends paid or
14 received, allowed to a corporation under chapter 1, subchapter
15 B, Part VIII of the Internal Revenue Code, shall not be allowed.
16 In lieu thereof there shall be allowed as a deduction the entire
17 amount of dividends received by any corporation upon the shares
18 of stock of a national banking association, qualifying
19 dividends, as defined in section 243(b) of the Internal Revenue
20 Code, received by members of an affiliated group, or dividends
21 received by a small business investment company operating under
22 the Small Business Investment Act of 1958 (Public Law 85-699)



1 upon shares of stock qualifying under paragraph (3), seventy per
2 cent of the amount received by any corporation as dividends:

3 (1) Upon the shares of stock of another corporation, if at
4 the date of payment of the dividend at least ninety-
5 five per cent of the other corporation's capital stock
6 is owned by one or more corporations doing business in
7 this State and if the other corporation is subjected
8 to an income tax in another jurisdiction (but
9 subsection to federal tax does not constitute
10 subsection to income tax in another jurisdiction);

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

14 (3) Upon the shares of stock of another corporation, if at
15 least fifteen per cent of the latter corporation's
16 business, for the taxable year of the latter
17 corporation preceding the payment of the dividend, has
18 been attributed to this State.

19 However, except for national bank dividends, the deductions
20 under this subsection are not allowed when they would not have
21 been allowed under section 243 of the Internal Revenue Code, as
22 amended by Public Law 85-866, by reason of subsections (b) and



1 (c) of section 246 of the Internal Revenue Code. For the
2 purposes of this subsection fifteen per cent of a corporation's
3 business shall be deemed to have been attributed to this State
4 if fifteen per cent or more of the entire gross income of the
5 corporation as defined in this chapter (which for the purposes
6 of this subsection shall be computed without regard to source in
7 the State and shall include income not taxable by reason of the
8 fact that it is from property not owned in the State or from a
9 trade or business not carried on in the State in whole or in
10 part), under section 235-5 and the other provisions of this
11 chapter, shall have been attributed to the State and subjected
12 to assessment of the taxable income therefrom (including the
13 determination of the resulting net loss, if any).

14 (d) (1) For taxable years ending before January 1, 1967,
15 the net operating loss deductions allowed as
16 carrybacks and carryovers by the Internal Revenue Code
17 shall not be allowed. In lieu thereof the net
18 operating loss deduction shall consist of the excess
19 of the deductions allowed by this chapter over the
20 gross income, computed with the modifications
21 specified in paragraphs (1) to (4) of section 172(d)
22 of the Internal Revenue Code, and with the further



1 modification stated in paragraph (3) hereof; and shall
2 be allowed as a deduction in computing the taxable
3 income of the taxpayer for the succeeding taxable
4 year;

5 (2) (A) With respect to net operating loss deductions
6 resulting from net operating losses for taxable
7 years ending after December 31, 1966, the net
8 operating loss deduction provisions of the
9 Internal Revenue Code shall apply; provided that
10 there shall be no net operating loss deduction
11 carried back to any taxable year ending prior to
12 January 1, 1967;

13 (B) In the case of a taxable year beginning in 1966
14 and ending in 1967, the entire amount of all net
15 operating loss deductions carried back to the
16 taxable year shall be limited to that portion of
17 taxable income for ~~such~~ the taxable year which
18 the number of days in 1967 bears to the total
19 days in the taxable year ending in 1967; and

20 (C) The computation of any net operating loss
21 deduction for a taxable year covered by this
22 subsection shall require the further



1 modifications stated in paragraphs (3), (4), and
2 (5) of this subsection;

3 (3) In computing the net operating loss deduction allowed
4 by this subsection, there shall be included in gross
5 income the amount of interest which is excluded from
6 gross income by subsection (a), decreased by the
7 amount of interest paid or accrued which is disallowed
8 as a deduction by subsection (e). In determining the
9 amount of the net operating loss deduction under this
10 subsection of any corporation, there shall be
11 disregarded the net operating loss of [~~such~~] the
12 corporation for any taxable year for which the
13 corporation is an electing small business corporation;

14 (4) No net operating loss carryback or carryover shall be
15 allowed by this chapter if not allowed under section
16 172 of the Internal Revenue Code;

17 (5) The election to relinquish the entire carryback period
18 with respect to a net operating loss allowed under
19 section 172(b)(3)(C) of the Internal Revenue Code
20 shall be operative for the purposes of this chapter;
21 provided that no taxpayer shall make such an election
22 as to a net operating loss of a business where [~~such~~]



1 the net operating loss occurred in the taxpayer's
2 business prior to the taxpayer entering business in
3 this State; and

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

9 (e) There shall be disallowed as a deduction the amount of
10 interest paid or accrued within the taxable year on indebtedness
11 incurred or continued, (1) to purchase or carry bonds the
12 interest upon which is excluded from gross income by subsection
13 (a); or (2) to purchase or carry property owned without the
14 State, or to carry on trade or business without the State, if
15 the taxpayer is a person taxable only upon income from sources
16 in the State.

17 (f) Losses of property as the result of tidal wave,
18 hurricane, earthquake, or volcanic eruption, or as a result of
19 flood waters overflowing the banks or walls of a river or
20 stream, or from any other natural disaster, to the extent of the
21 amount deductible, under this chapter, not compensated for by
22 insurance or otherwise, may be deducted in the taxable year in



1 which sustained, or at the option of the taxpayer may be
2 deducted in equal installments over a period of five years, the
3 first such year to be the calendar year or fiscal year of the
4 taxpayer in which [~~such~~] the loss occurred.

5 (g) In computing taxable income there shall be allowed as
6 a deduction:

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

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



1 (h) The following annual deductions from gross income
2 shall be allowed for contributions to a qualified tuition
3 program established pursuant to section 529 of the Internal
4 Revenue Code, as amended:

5 (1) Up to \$5,000 for individual taxpayers;

6 (2) Up to \$5,000 for married couples filing separate
7 returns; provided that each spouse may claim a
8 deduction up to \$5,000; and

9 (3) Up to \$10,000 for married couples filing joint
10 returns, individuals filing as the head of the

11 household, or individuals filing as surviving spouses;
12 provided that the aggregate deduction amount shall not exceed
13 \$75,000 per college savings account established pursuant to
14 section 529 of the Internal Revenue Code, as amended. If the
15 amount of the deduction exceeds the taxpayer's taxable income
16 for the taxable year the contribution is made, the excess
17 deduction may be used as a deduction against the taxpayer's
18 taxable income in subsequent tax years until the excess
19 deduction is exhausted."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2007; provided that
3 amendments made to section 235-7, Hawaii Revised Statutes, by
4 this Act shall not be repealed when that section is reenacted on
5 January 1, 2013, pursuant to section 3 of Act 166, Session Laws
6 of Hawaii 2007.



Report Title:

College Savings Programs

Description:

Provides an annual maximum deduction of \$5,000 per individual or \$10,000 for a married couple filing jointly against their taxable income for contributions made to a section 529 college savings program in calendar year 2008 and beyond. Establishes a \$75,000 cap on the total tax deduction per college savings account. Requires Hawaii financial institutions to provide college savings account information to interested parties.

(SD1)

