
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 with an income tax offer some kind of in-state
9 tax deduction or credit for contributions as an incentive for
10 their residents to participate in these college savings
11 programs. To encourage Hawaii families to save for college in
12 the plan of their choice and to increase their participation in
13 these programs, the purpose of this Act is to provide 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 as
7 provided under section 516-1; provided that it shall
8 include legal and equitable owners;

9 "Legal and equitable owner" [7] 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 (with respect to exemption for certain allowances) of the
20 Internal Revenue Code, but section 119 (with respect to meals or
21 lodging furnished for convenience of employer) of the Internal
22 Revenue Code nevertheless shall apply; (2) unless expressly



1 exempted or excluded as provided by subsection (a)(6), interest
2 on the obligations of a State or a political subdivision
3 thereof.

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

17 (1) Upon the shares of stock of another corporation, if at
18 the date of payment of the dividend at least ninety-
19 five per cent of the other corporation's capital stock
20 is owned by one or more corporations doing business in
21 this State and if the other corporation is subjected
22 to an income tax in another jurisdiction (but



1 subjection to federal tax does not constitute
2 subjection to income tax in another jurisdiction);
3 (2) Upon the shares of stock of a bank or insurance
4 company organized and doing business under the laws of
5 the State;
6 (3) Upon the shares of stock of another corporation, if at
7 least fifteen per cent of the latter corporation's
8 business, for the taxable year of the latter
9 corporation preceding the payment of the dividend, has
10 been attributed to this State.

11 However, except for national bank dividends, the deductions
12 under this subsection are not allowed when they would not have
13 been allowed under section 243 (with respect to dividends
14 received by corporations) of the Internal Revenue Code, as
15 amended by Public Law 85-866, by reason of subsections (b) and
16 (c) of section 246 (with respect to rules applying to deductions
17 for dividends received) of the Internal Revenue Code. For the
18 purposes of this subsection fifteen per cent of a corporation's
19 business shall be deemed to have been attributed to this State
20 if fifteen per cent or more of the entire gross income of the
21 corporation as defined in this chapter (which for the purposes
22 of this subsection shall be computed without regard to source in



1 the State and shall include income not taxable by reason of the
2 fact that it is from property not owned in the State or from a
3 trade or business not carried on in the State in whole or in
4 part), under section 235-5 and the other provisions of this
5 chapter, shall have been attributed to the State and subjected
6 to assessment of the taxable income therefrom (including the
7 determination of the resulting net loss, if any).

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

21 (2) (A) With respect to net operating loss deductions
22 resulting from net operating losses for taxable



1 years ending after December 31, 1966, the net
2 operating loss deduction provisions of the
3 Internal Revenue Code shall apply; provided that
4 there shall be no net operating loss deduction
5 carried back to any taxable year ending prior to
6 January 1, 1967;

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

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

19 (3) In computing the net operating loss deduction allowed
20 by this subsection, there shall be included in gross
21 income the amount of interest which is excluded from
22 gross income by subsection (a), decreased by the



- 1 amount of interest paid or accrued which is disallowed
2 as a deduction by subsection (e). In determining the
3 amount of the net operating loss deduction under this
4 subsection of any corporation, there shall be
5 disregarded the net operating loss of [~~such~~] the
6 corporation for any taxable year for which the
7 corporation is an electing small business corporation;
- 8 (4) No net operating loss carryback or carryover shall be
9 allowed by this chapter if not allowed under section
10 172 of the Internal Revenue Code;
- 11 (5) The election to relinquish the entire carryback period
12 with respect to a net operating loss allowed under
13 section 172(b)(3)(C) of the Internal Revenue Code
14 shall be operative for the purposes of this chapter;
15 provided that no taxpayer shall make such an election
16 as to a net operating loss of a business where [~~such~~]
17 the net operating loss occurred in the taxpayer's
18 business prior to the taxpayer entering business in
19 this State; and
- 20 (6) The five-year carryback period for net operating
21 losses for any taxable year ending during 2001 and
22 2002 in section 172(b)(1)(H) of the Internal Revenue



1 Code shall not be operative for purposes of this
2 chapter.

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

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

21 (g) In computing taxable income there shall be allowed as
22 a deduction:



- 1 (1) Political contributions by any taxpayer not in excess
2 of \$250 in any year; provided that [~~sueh~~] the
3 contributions are made to a central or county
4 committee of a political party whose candidates shall
5 have qualified by law to be voted for at the
6 immediately previous general election; or
- 7 (2) Political contributions by any individual taxpayer in
8 an aggregate amount not to exceed \$1,000 in any year;
9 provided that [~~sueh~~] the contributions are made to
10 candidates as defined in section 11-191, who have
11 agreed to abide by the campaign expenditure limits as
12 set forth in section 11-209; and provided further that
13 not more than \$250 of an individual's total
14 contribution to any single candidate shall be
15 deductible for purposes of this section.

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

- 20 (1) Up to \$5,000 for individual taxpayers, but not more
21 than the amount contributed during the taxable year;



1 (2) Up to \$5,000 for married couples filing separate
2 returns, but not more than the amount contributed
3 during the taxable year; provided that each spouse may
4 claim a deduction up to \$5,000; and

5 (3) Up to \$10,000 for married couples filing joint
6 returns, individuals filing as the head of the
7 household, or individuals filing as surviving spouses,
8 but not more than the amount contributed during the
9 taxable year;

10 provided that the aggregate deduction amount shall not exceed
11 \$75,000 per college savings account established pursuant to
12 section 529 (with respect to qualified state tuition programs)
13 of the Internal Revenue Code. If the amount of the deduction
14 exceeds the taxpayer's taxable income for the taxable year the
15 contribution is made, the excess deduction may be used as a
16 deduction against the taxpayer's taxable income in subsequent
17 tax years until the excess deduction is exhausted."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall apply to taxable years beginning
21 after December 31, 2050; provided that amendments made to
22 section 235-7, Hawaii Revised Statutes, by this Act shall not be



- 1 repealed when that section is reenacted on January 1, 2013,
- 2 pursuant to section 3 of Act 166, Session Laws 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. (SD2)

