
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§235-2.4 Operation of certain Internal Revenue Code
4 provisions; sections 63 to 530. (a) Section 63 (with respect
5 to taxable income defined) of the Internal Revenue Code shall be
6 operative for the purposes of this chapter, except that the
7 standard deduction amount in section 63(c) of the Internal
8 Revenue Code shall instead mean:

9 (1) \$4,000 in the case of:

10 (A) A joint return as provided by section 235-93; or

11 (B) A surviving spouse (as defined in section 2(a) of
12 the Internal Revenue Code);

13 (2) \$2,920 in the case of a head of household (as defined
14 in section 2(b) of the Internal Revenue Code);

15 (3) \$2,000 in the case of an individual who is not married
16 and who is not a surviving spouse or head of
17 household; or



1 (4) \$2,000 in the case of a married individual filing a
2 separate return.

3 Section 63(c)(4) shall not be operative in this State.

4 Section 63(c)(5) shall be operative, except that the limitation
5 on basic standard deduction in the case of certain dependents
6 shall be the greater of \$500 or such individual's earned income.

7 Section 63(f) shall not be operative in this State.

8 The standard deduction amount for nonresidents shall be
9 calculated pursuant to section 235-5.

10 (b) Section 72 (with respect to annuities; certain
11 proceeds of endowment and life insurance contracts) of the
12 Internal Revenue Code shall be operative for purposes of this
13 chapter and be interpreted with due regard to section 235-7(a),
14 except that the ten per cent additional tax on early
15 distributions from retirement plans in section 72(t) shall not
16 be operative for purposes of this chapter.

17 (c) Section 121 (with respect to exclusion of gain from
18 sale of principal residence) of the Internal Revenue Code shall
19 be operative for purposes of this chapter, except that for the
20 election under section 121(f), a reference to section 1034
21 treatment means a reference to section 235-2.4(n) in effect for
22 taxable year 1997.



1 (d) Section 163 (with respect to interest) of the Internal
2 Revenue Code shall be operative for the purposes of this
3 chapter, except that provisions in section 163(d)(4)(B)
4 (defining net investment income to exclude dividends) shall not
5 be operative for the purposes of this chapter.

6 (e) Section 165 (with respect to losses) of the Internal
7 Revenue Code shall be operative for purposes of this chapter.
8 Section 165 as operative for this chapter shall also apply to
9 losses sustained from the sale of stocks or other interests
10 issued through the exercise of the stock options or warrants
11 granted by a qualified high technology business as defined in
12 section 235-7.3.

13 (f) Section 168 (with respect to the accelerated cost
14 recovery system) of the Internal Revenue Code shall be operative
15 for purposes of this chapter, except that provisions relating to
16 property on Indian reservations in section 168(j) and special
17 allowance for certain property acquired after September 10,
18 2001, and before January 1, 2005 (including the extension of the
19 qualifying aircraft placed in service before January 1, 2006),
20 in section 168(k) shall not be operative for purposes of this
21 chapter.



1 (g) Section 179 (with respect to the election to expense
2 certain depreciable business assets) of the Internal Revenue
3 Code shall be operative for purposes of this chapter, except
4 that provisions relating to:

5 (1) The increase of the maximum deduction to \$100,000 for
6 taxable years beginning after 2002 and before 2008,
7 and the increase of the maximum deduction to \$125,000
8 for taxable years beginning after 2006 and before
9 2011, in section 179(b)(1);

10 (2) The increase of the qualifying investment amount to
11 \$400,000 for taxable years beginning after 2002 and
12 before 2008, and the increase of the qualifying
13 investment amount to \$500,000 for taxable years
14 beginning after 2006 and before 2011, in section
15 179(b)(2);

16 (3) Defining section 179 property to include computer
17 software in section 179(d)(1);

18 (4) Inflation adjustments in section 179(b)(5); and

19 (5) Irrevocable election in section 179(c)(2);

20 shall not be operative for the purposes of this chapter.

21 (h) Section 219 (with respect to retirement savings) of
22 the Internal Revenue Code shall be operative for the purpose of



1 this chapter. For the purpose of computing the limitation on
2 the deduction for active participants in certain pension plans
3 for state income tax purposes, adjusted gross income as used in
4 section 219 as operative for this chapter means federal adjusted
5 gross income.

6 (i) Section 220 (with respect to medical savings accounts)
7 of the Internal Revenue Code shall be operative for the purpose
8 of this chapter, but only with respect to medical services
9 accounts that have been approved by the Secretary of the
10 Treasury of the United States.

11 (j) Section 265 (with respect to expenses and interest
12 relating to tax-exempt income) of the Internal Revenue Code
13 shall be operative for purposes of this chapter; except that it
14 shall not apply to expenses for royalties and other income
15 derived from any patents, copyrights, and trade secrets by an
16 individual or a qualified high technology business as defined in
17 section 235-7.3. Such expenses shall be deductible.

18 (k) Section 408A (with respect to Roth Individual
19 Retirement Accounts) of the Internal Revenue Code shall be
20 operative for the purposes of this chapter. For the purposes of
21 determining the aggregate amount of contributions to a Roth
22 Individual Retirement Account or qualified rollover contribution



1 to a Roth Individual Retirement Account from an individual
2 retirement plan other than a Roth Individual Retirement Account,
3 adjusted gross income as used in section 408A as operative for
4 this chapter means federal adjusted gross income.

5 (1) In administering the provisions of sections 410 to 417
6 (with respect to special rules relating to pensions, profit
7 sharing, stock bonus plans, etc.), sections 418 to 418E (with
8 respect to special rules for multiemployer plans), and sections
9 419 and 419A (with respect to treatment of welfare benefit
10 funds) of the Internal Revenue Code, the department of taxation
11 shall adopt rules under chapter 91 relating to the specific
12 requirements under such sections and to such other
13 administrative requirements under those sections as may be
14 necessary for the efficient administration of sections 410 to
15 419A.

16 In administering sections 401 to 419A (with respect to
17 deferred compensation) of the Internal Revenue Code, Public Law
18 93-406, section 1017(i), shall be operative for the purposes of
19 this chapter.

20 In administering section 402 (with respect to the
21 taxability of beneficiary of employees' trust) of the Internal
22 Revenue Code, the tax imposed on lump sum distributions by



1 section 402(e) of the Internal Revenue Code shall be operative
2 for the purposes of this chapter and the tax imposed therein is
3 hereby imposed by this chapter at the rate determined under this
4 chapter.

5 (m) In administering section 403 (with respect to taxation
6 of employee annuities) of the Internal Revenue Code, section
7 403(b)(8)(A)(ii) shall not be operative for the purposes of this
8 chapter.

9 (n) In administering section 457 (with respect to rollover
10 amounts in deferred compensation plans for state and local
11 governments) of the Internal Revenue Code, section 457
12 (e)(16)(A)(ii) shall not be operative for the purposes of this
13 chapter.

14 ~~[-m-]~~ (o) Section 468B (with respect to special rules for
15 designated settlement funds) of the Internal Revenue Code shall
16 be operative for the purposes of this chapter and the tax
17 imposed therein is hereby imposed by this chapter at a rate
18 equal to the maximum rate in effect for the taxable year imposed
19 on estates and trusts under section 235-51.

20 ~~[-n-]~~ (p) Section 469 (with respect to passive activities
21 and credits limited) of the Internal Revenue Code shall be
22 operative for the purposes of this chapter. For the purpose of



1 computing the offset for rental real estate activities for state
2 income tax purposes, adjusted gross income as used in section
3 469 as operative for this chapter means federal adjusted gross
4 income.

5 [~~+~~] (g) Sections 512 to 514 (with respect to taxation of
6 business income of certain exempt organizations) of the Internal
7 Revenue Code shall be operative for the purposes of this chapter
8 as provided in this subsection.

9 "Unrelated business taxable income" means the same as in
10 the Internal Revenue Code, except that in the computation
11 thereof sections 235-3 to 235-5, and 235-7 (except subsection
12 (c)), shall apply, and in the determination of the net operating
13 loss deduction there shall not be taken into account any amount
14 of income or deduction that is excluded in computing the
15 unrelated business taxable income. Unrelated business taxable
16 income shall not include any income from a prepaid legal service
17 plan.

18 For a person described in section 401 or 501 of the
19 Internal Revenue Code, as modified by section 235-2.3, the tax
20 imposed by section 235-51 or 235-71 shall be imposed upon the
21 person's unrelated business taxable income.



1 [~~(p)~~] (r) Section 521 (with respect to cooperatives) and
2 subchapter T (sections 1381 to 1388, with respect to
3 cooperatives and their patrons) of the Internal Revenue Code
4 shall be operative for the purposes of this chapter as to any
5 cooperative fully meeting the requirements of section 421-23,
6 except that Internal Revenue Code section 521 cooperatives need
7 not be organized in Hawaii.

8 [~~(q)~~] (s) Sections 527 (with respect to political
9 organizations) and 528 (with respect to certain homeowners
10 associations) of the Internal Revenue Code shall be operative
11 for the purposes of this chapter and the taxes imposed in each
12 such section are hereby imposed by this chapter at the rates
13 determined under section 235-71.

14 [~~(r)~~] (t) Section 529 (with respect to qualified tuition
15 programs) shall be operative for the purposes of this chapter,
16 except that section 529(c)(6) shall not be operative.

17 [~~(s)~~] (u) Section 530 (with respect to education
18 individual retirement accounts) of the Internal Revenue Code
19 shall be operative for the purposes of this chapter. For the
20 purpose of determining the maximum amount that a contributor
21 could make to an education individual retirement account for
22 state income tax purposes, modified adjusted gross income as



1 used in section 530 as operative for this chapter means federal
2 modified adjusted gross income as defined in section 530."

3 SECTION 2. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval
6 and shall apply to taxable years beginning after December 31,
7 2008.

8

INTRODUCED BY:

Paul Chung
Calvin H. Song

JAN 28 2009



Report Title:

Taxation; Deferred Compensation Plan

Description:

Imposes the state income tax on rollovers made by state and county employees and employees of certain tax exempt employers from qualifying deferred compensation plans to eligible retirement plans.

