

JAN 23 2009

S.B. NO. 767

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# A BILL FOR AN ACT

RELATING TO TAXATION.

**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- Taxable income; leased real property. At the  
5 termination of a lease to real property, the value of capital  
6 improvements made by a lessee to the leased real property shall  
7 be taxable under this chapter to the lessor of the property.

8           The department of taxation may adopt rules pursuant to  
9 chapter 91 to effectuate this section."

10          SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12          "(b) The following Internal Revenue Code subchapters,  
13 parts of subchapters, sections, subsections, and parts of  
14 subsections shall not be operative for the purposes of this  
15 chapter, unless otherwise provided:

16           (1) Subchapter A (sections 1 to 59A) (with respect to  
17 determination of tax liability), except section

18           1(h) (2) (relating to net capital gain reduced by the



- 1 amount taken into account as investment income),  
2 except sections 2(a), 2(b), and 2(c) (with respect to  
3 the definition of "surviving spouse" and "head of  
4 household"), except section 41 (with respect to the  
5 credit for increasing research activities), except  
6 section 42 (with respect to low-income housing  
7 credit), and except sections 47 and 48, as amended, as  
8 of December 31, 1984 (with respect to certain  
9 depreciable tangible personal property). For  
10 treatment, see sections 235-110.91, 235-110.7, and  
11 235-110.8;
- 12 (2) Section 78 (with respect to dividends received from  
13 certain foreign corporations by domestic corporations  
14 choosing foreign tax credit);
- 15 (3) Section 86 (with respect to social security and tier 1  
16 railroad retirement benefits);
- 17 (4) Section 103 (with respect to interest on state and  
18 local bonds). For treatment, see section 235-7(b);
- 19 (5) Section 109 (with respect to taxing capital  
20 improvements made by a lessee upon the termination of  
21 a lease). For treatment, see section 235- .



- 1        [~~(5)~~] (6) Section 114 (with respect to extraterritorial  
2        income). For treatment, any transaction as specified  
3        in the transitional rule for 2005 and 2006 as  
4        specified in the American Jobs Creation Act of 2004  
5        section 101(d) and any transaction that has occurred  
6        pursuant to a binding contract as specified in the  
7        American Jobs Creation Act of 2004 section 101(f) are  
8        inoperative;
- 9        [~~(6)~~] (7) Section 120 (with respect to amounts received  
10        under qualified group legal services plans). For  
11        treatment, see section 235-7(a)(9) to (11);
- 12        [~~(7)~~] (8) Section 122 (with respect to certain reduced  
13        uniformed services retirement pay). For treatment,  
14        see section 235-7(a)(3);
- 15        [~~(8)~~] (9) Section 135 (with respect to income from United  
16        States savings bonds used to pay higher education  
17        tuition and fees). For treatment, see section 235-  
18        7(a)(1);
- 19        [~~(9)~~] (10) Subchapter B (sections 141 to 150) (with respect  
20        to tax exemption requirements for state and local  
21        bonds);



- 1        [~~(10)~~] (11) Section 151 (with respect to allowance of  
2                deductions for personal exemptions). For treatment,  
3                see section 235-54;
- 4        [~~(11)~~] (12) Section 179B (with respect to expensing of  
5                capital costs incurred in complying with Environmental  
6                Protection Agency sulphur regulations);
- 7        [~~(12)~~] (13) Section 181 (with respect to special rules for  
8                certain film and television productions);
- 9        [~~(13)~~] (14) Section 196 (with respect to deduction for  
10                certain unused investment credits);
- 11       [~~(14)~~] (15) Section 199 (with respect to the U.S. production  
12                activities deduction);
- 13       [~~(15)~~] (16) Section 222 (with respect to qualified tuition  
14                and related expenses);
- 15       [~~(16)~~] (17) Sections 241 to 247 (with respect to special  
16                deductions for corporations). For treatment, see  
17                section 235-7(c);
- 18       [~~(17)~~] (18) Section 280C (with respect to certain expenses  
19                for which credits are allowable). For treatment, see  
20                section 235-110.91;
- 21       [~~(18)~~] (19) Section 291 (with respect to special rules  
22                relating to corporate preference items);





- 1        [~~(27)~~] (28) Subchapter L (sections 801 to 848) (with respect  
2                    to insurance companies). For treatment, see sections  
3                    431:7-202 and 431:7-204;
- 4        [~~(28)~~] (29) Section 853 (with respect to foreign tax credit  
5                    allowed to shareholders). For treatment, see section  
6                    235-55;
- 7        [~~(29)~~] (30) Subchapter N (sections 861 to 999) (with respect  
8                    to tax based on income from sources within or without  
9                    the United States), except sections 985 to 989 (with  
10                   respect to foreign currency transactions). For  
11                   treatment, see sections 235-4, 235-5, and 235-7(b),  
12                   and 235-55;
- 13        [~~(30)~~] (31) Section 1042(g) (with respect to sales of stock  
14                    in agricultural refiners and processors to eligible  
15                    farm cooperatives);
- 16        [~~(31)~~] (32) Section 1055 (with respect to redeemable ground  
17                    rents);
- 18        [~~(32)~~] (33) Section 1057 (with respect to election to treat  
19                    transfer to foreign trust, etc., as taxable exchange);
- 20        [~~(33)~~] (34) Sections 1291 to 1298 (with respect to treatment  
21                    of passive foreign investment companies);



- 1        [~~(34)~~] (35) Subchapter Q (sections 1311 to 1351) (with  
2                    respect to readjustment of tax between years and  
3                    special limitations);
- 4        [~~(35)~~] (36) Subchapter R (sections 1352 to 1359) (with  
5                    respect to election to determine corporate tax on  
6                    certain international shipping activities using per  
7                    ton rate);
- 8        [~~(36)~~] (37) Subchapter U (sections 1391 to 1397F) (with  
9                    respect to designation and treatment of empowerment  
10                    zones, enterprise communities, and rural development  
11                    investment areas). For treatment, see chapter 209E;
- 12        [~~(37)~~] (38) Subchapter W (sections 1400 to 1400C) (with  
13                    respect to District of Columbia enterprise zone);
- 14        [~~(38)~~] (39) Section 14000 (with respect to education tax  
15                    benefits);
- 16        [~~(39)~~] (40) Section 1400P (with respect to housing tax  
17                    benefits);
- 18        [~~(40)~~] (41) Section 1400R (with respect to employment  
19                    relief); and
- 20        [~~(41)~~] (42) Section 1400T (with respect to special rules for  
21                    mortgage revenue bonds)."



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

3 SECTION 4. This Act shall take effect upon its approval  
4 and shall apply to taxable years beginning after December 31,  
5 2008.

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**Report Title:**

Taxable Income; Leasehold property

**Description:**

Taxes a lessor of real property for capital improvements made by a lessee upon the termination of a lease.

