
A BILL FOR AN ACT

RELATING TO TAX DEDUCTIONS.

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

1 SECTION 1. The legislature finds that the growing state
2 budget deficit requires further legislative action to find
3 additional sources of state revenue without creating new taxes.

4 This Act temporarily modifies the current limitation on tax
5 deductions to produce a modest revenue stream that is consistent
6 with the overall integrity of the Hawaii state tax system.

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

9 "**§235-2.4 Operation of certain Internal Revenue Code**
10 **provisions; sections 63 to 530.** (a) Section 63 (with respect
11 to taxable income defined) of the Internal Revenue Code shall be
12 operative for the purposes of this chapter, subject to the
13 following:

14 (1) Sections 63(c)(1)(B) (relating to the additional
15 standard deduction), 63(c)(1)(C) (relating to the real
16 property tax deduction), 63(c)(1)(D) (relating to the
17 disaster loss deduction), 63(c)(4) (relating to
18 inflation adjustments), 63(c)(7) (defining the real



1 property tax deduction), 63(c)(8) (defining the
2 disaster loss deduction), and 63(f) (relating to
3 additional amounts for the aged or blind) of the
4 Internal Revenue Code shall not be operative for
5 purposes of this chapter;

6 (2) Section 63(c)(2) (relating to the basic standard
7 deduction) of the Internal Revenue Code shall be
8 operative, except that the standard deduction amounts
9 provided therein shall instead mean:

10 (A) \$4,000 in the case of:

11 (i) A joint return as provided by section 235-
12 93; or

13 (ii) A surviving spouse (as defined in Section
14 2(a) of the Internal Revenue Code);

15 (B) \$2,920 in the case of a head of household (as
16 defined in Section 2(b) of the Internal Revenue
17 Code);

18 (C) \$2,000 in the case of an individual who is not
19 married and who is not a surviving spouse or head
20 of household; or

21 (D) \$2,000 in the case of a married individual filing
22 a separate return;



1 (3) Section 63(c)(5) (limiting the basic standard
2 deduction in the case of certain dependents) of the
3 Internal Revenue Code shall be operative, except that
4 the limitation shall be the greater of \$500 or such
5 individual's earned income; and

6 (4) The standard deduction amount for nonresidents shall
7 be calculated pursuant to section 235-5.

8 (b) Section 68 (with respect to overall limitation of tax
9 deductions) of the Internal Revenue Code shall be operative for
10 the purposes of this chapter, except that, from July 1, 2010 to
11 December 31, 2015, the applicable amount in section 68(b)(1)
12 shall be \$35,000 for a single filer, \$60,000 for a head of
13 household filer, and \$70,000 for a married couple filing
14 jointly.

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



1 ~~[(e)]~~ (d) Section 121 (with respect to exclusion of gain
2 from sale of principal residence) of the Internal Revenue Code
3 shall be operative for purposes of this chapter, except that for
4 the election under Section 121(f), a reference to Section 1034
5 treatment means a reference to section 235-2.4(n) in effect for
6 taxable year 1997.

7 ~~[(d)]~~ (e) Section 163 (with respect to interest) of the
8 Internal Revenue Code shall be operative for the purposes of
9 this chapter, except that provisions in Section 163(d)(4)(B)
10 (defining net investment income to exclude dividends) shall not
11 be operative for the purposes of this chapter.

12 ~~[(e)]~~ (f) Section 165 (with respect to losses) of the
13 Internal Revenue Code shall be operative for purposes of this
14 chapter, except that Section 165(d) (with respect to wagering
15 losses), the amount prescribed by Section 165(h)(1) (relating to
16 the limitation per casualty) of the Internal Revenue Code shall
17 be a \$100 limitation per casualty, and Sections 165(h)(3)(A) and
18 165(h)(3)(B) (both of which relate to special rules for personal
19 casualty gains and losses in federally declared disasters) of
20 the Internal Revenue Code shall not be operative for purposes of
21 this chapter. Section 165 as operative for this chapter shall
22 also apply to losses sustained from the sale of stocks or other



1 interests issued through the exercise of the stock options or
2 warrants granted by a qualified high technology business as
3 defined in section 235-7.3.

4 ~~[(f)]~~ (g) Section 168 (with respect to the accelerated
5 cost recovery system) of the Internal Revenue Code shall be
6 operative for purposes of this chapter, except that Sections
7 168(j) (relating to property on Indian reservations), 168(k)
8 (relating to the special allowance for certain property acquired
9 during the period specified therein), 168(m) (relating to the
10 special allowance for certain reuse and recycling property), and
11 168(n) (relating to the special allowance for qualified disaster
12 assistance property) of the Internal Revenue Code shall not be
13 operative for purposes of this chapter.

14 ~~[(g)]~~ (h) Section 172 (with respect to net operating loss
15 deductions) of the Internal Revenue Code shall be operative for
16 purposes of this chapter, as further provided in section 235-
17 7(d), except that Sections 172(b)(1)(J) and 172(j) (both of
18 which relate to qualified disaster losses) of the Internal
19 Revenue Code shall not be operative for purposes of this
20 chapter.

21 ~~[(h)]~~ (i) Section 179 (with respect to the election to
22 expense certain depreciable business assets) of the Internal



1 Revenue Code shall be operative for purposes of this chapter,
2 except that provisions relating to:

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

8 (2) The increase of the qualifying investment amount to
9 \$400,000 for taxable years beginning after 2002 and
10 before 2008, and the increase of the qualifying
11 investment amount to \$500,000 for taxable years
12 beginning after 2006 and before 2011, in Section
13 179(b)(2);

14 (3) The increase of the maximum deduction to \$250,000 and
15 the increase of the qualifying investment amount to
16 \$800,000 for taxable years beginning in 2008, in
17 Section 179(b)(7);

18 (4) Defining Section 179 property to include computer
19 software in Section 179(d)(1);

20 (5) Inflation adjustments in Section 179(b)(5);

21 (6) Irrevocable election in Section 179(c)(2); and



1 (7) Special rules for qualified disaster assistance
2 property in Section 179(e),

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

4 ~~[(i)]~~ (j) Section 198A (with respect to the expensing of
5 qualified disaster assistances expenses) of the Internal Revenue
6 Code shall not be operative for purposes of this chapter.

7 ~~[(j)]~~ (k) Section 219 (with respect to retirement savings)
8 of the Internal Revenue Code shall be operative for the purpose
9 of this chapter. For the purpose of computing the limitation on
10 the deduction for active participants in certain pension plans
11 for state income tax purposes, adjusted gross income as used in
12 Section 219 as operative for this chapter means federal adjusted
13 gross income.

14 ~~[(k)]~~ (l) Section 220 (with respect to medical savings
15 accounts) of the Internal Revenue Code shall be operative for
16 the purpose of this chapter, but only with respect to medical
17 services accounts that have been approved by the Secretary of
18 the Treasury of the United States.

19 ~~[(l)]~~ (m) Section 265 (with respect to expenses and
20 interest relating to tax-exempt income) of the Internal Revenue
21 Code shall be operative for purposes of this chapter; except
22 that it shall not apply to expenses for royalties and other



1 income derived from any patents, copyrights, and trade secrets
2 by an individual or a qualified high technology business as
3 defined in section 235-7.3. Such expenses shall be deductible.

4 ~~[(m)]~~ (n) Section 408A (with respect to Roth Individual
5 Retirement Accounts) of the Internal Revenue Code shall be
6 operative for the purposes of this chapter. For the purposes of
7 determining the aggregate amount of contributions to a Roth
8 Individual Retirement Account or qualified rollover contribution
9 to a Roth Individual Retirement Account from an individual
10 retirement plan other than a Roth Individual Retirement Account,
11 adjusted gross income as used in Section 408A as operative for
12 this chapter means federal adjusted gross income.

13 ~~[(n)]~~ (o) In administering the provisions of Sections 410
14 to 417 (with respect to special rules relating to pensions,
15 profit sharing, stock bonus plans, etc.), Sections 418 to 418E
16 (with respect to special rules for multiemployer plans), and
17 Sections 419 and 419A (with respect to treatment of welfare
18 benefit funds) of the Internal Revenue Code, the department of
19 taxation shall adopt rules under chapter 91 relating to the
20 specific requirements under such sections and to such other
21 administrative requirements under those sections as may be



1 necessary for the efficient administration of Sections 410 to
2 419A.

3 In administering Sections 401 to 419A (with respect to
4 deferred compensation) of the Internal Revenue Code, Public Law
5 93-406, Section 1017(i), shall be operative for the purposes of
6 this chapter.

7 In administering Section 402 (with respect to the
8 taxability of beneficiary of employees' trust) of the Internal
9 Revenue Code, the tax imposed on lump sum distributions by
10 Section 402(e) of the Internal Revenue Code shall be operative
11 for the purposes of this chapter and the tax imposed therein is
12 hereby imposed by this chapter at the rate determined under this
13 chapter.

14 [~~(e)~~] (p) In administering section 403 (with respect to
15 taxation of employee annuities) of the Internal Revenue Code,
16 any funds that represent pre-tax employee deferrals or
17 contributions that are distributed from the annuity and used
18 solely to obtain retirement credits under the state employee
19 retirement system shall not be treated as a rollover for
20 purposes of section 403(b)(8)(A) of the Internal Revenue Code,
21 and such funds shall be subject to income tax under this
22 chapter.



1 ~~(p)~~ (q) Section 451 (which provides general rules for
2 taxable year of inclusion) of the Internal Revenue Code shall be
3 operative, except that the provisions of Sections 451(i)(3) and
4 451(i)(6), as they relate to a qualified electric utility, shall
5 not be operative for purposes of this chapter.

6 ~~(q)~~ (r) In administering section 457 (with respect to
7 compensation plans of state and local governments and tax-exempt
8 organizations) of the Internal Revenue Code, any funds that
9 represent pre-tax employee deferrals or contributions that are
10 distributed from the deferred compensation plan and used solely
11 to obtain retirement credits under the state employee retirement
12 system shall not be treated as a rollover for purposes of
13 Section 457(e)(16)(A) of the Internal Revenue Code and such
14 funds shall be subject to income tax under this chapter.

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

21 ~~(s)~~ (t) Section 469 (with respect to passive activities
22 and credits limited) of the Internal Revenue Code shall be



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

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

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

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



1 ~~(u)~~ (v) 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 ~~(v)~~ (w) 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 Section are hereby imposed by this chapter at the rates
13 determined under section 235-71.

14 ~~(w)~~ (x) 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 ~~(x)~~ (y) 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 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2010 and
6 shall apply to taxable years beginning after December 31, 2009
7 and ending before January 1, 2016.

8

INTRODUCED BY:

Calvin K. Ray

JAN 27 2010



Report Title:

Tax Deduction; Limitation

Description:

Adopts the federal tax deduction limitation with modifications.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

