

JAN 23 2009

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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. Section 235-5.5, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:  
3           "(a) There shall be allowed as a deduction from gross  
4 income the amount, not to exceed [~~\$5,000,~~] \$10,000, paid in cash  
5 during the taxable year by an individual taxpayer to an  
6 individual housing account established for the individual's  
7 benefit to provide funding for the purchase of the individual's  
8 first principal residence. A deduction not to exceed [~~\$10,000~~]  
9 \$20,000 shall be allowed for a married couple filing a joint  
10 return. No deduction shall be allowed on any amounts  
11 distributed less than three hundred sixty-five days from the  
12 date on which a contribution is made to the account. Any  
13 deduction claimed for a previous taxable year for amounts  
14 distributed less than three hundred sixty-five days from the  
15 date on which a contribution was made shall be disallowed and  
16 the amount deducted shall be included in the previous taxable  
17 year's gross income and the tax reassessed. The interest paid



1 or accrued within the taxable year on the account shall not be  
2 included in the individual's gross income. For purposes of this  
3 section, the term "first principal residence" means a  
4 residential property purchased with the payment or distribution  
5 from the individual housing account which shall be owned and  
6 occupied as the only home by an individual who did not have any  
7 interest in, individually, or whose spouse did not have any  
8 interest in, if the individual is married, a residential  
9 property within the last five years of opening the individual  
10 housing account.

11 In the case of a married couple filing separate returns,  
12 the sum of the deductions allowable to each of them for the  
13 taxable year shall not exceed [~~\$5,000,~~] \$10,000, or [~~\$10,000~~]  
14 \$20,000 for a joint return, for amounts paid in cash, excluding  
15 interest paid or accrued thereon.

16 The amounts paid in cash allowable as a deduction under  
17 this section to an individual for all taxable years shall not  
18 exceed [~~\$25,000,~~] \$100,000, excluding interest paid or accrued.

19 In the case of married individuals having separate individual  
20 housing accounts, the sum of the separate accounts and the  
21 deduction under this section shall not exceed [~~\$25,000,~~]  
22 \$100,000, excluding interest paid or accrued thereon.



1 (b) For purposes of this section, the term "individual  
2 housing account" means a trust created or organized in Hawaii  
3 for the exclusive benefit of an individual, or, in the case of a  
4 married individual, for the exclusive benefit of the individual  
5 and spouse jointly, but only if the written governing instrument  
6 creating the trust meets the following requirements:

7 (1) Contributions shall not be accepted for the taxable  
8 year in excess of [~~\$5,000~~] \$10,000 (or [~~\$10,000~~]  
9 \$20,000 in the case of a joint return) or in excess of  
10 [~~\$25,000~~] \$100,000 for all taxable years, exclusive of  
11 interest paid or accrued;

12 (2) The trustee is a bank, a savings and loan association,  
13 a credit union, or a depository financial services  
14 loan company, chartered, licensed, or supervised under  
15 federal or state law, whose accounts are insured by  
16 the Federal Deposit Insurance Corporation, the  
17 National Credit Union Administration, or any agency of  
18 this State or any federal agency established for the  
19 purpose of insuring accounts in these financial  
20 institutions. The financial institution must actively  
21 make residential real estate mortgage loans in Hawaii;



- 1           (3) The assets of the trust shall be invested only in  
2           fully insured savings or time deposits. Funds held in  
3           the trust may be commingled for purposes of  
4           investment, but individual records shall be maintained  
5           by the trustee for each individual housing account  
6           holder which show all transactions in detail;
- 7           (4) The entire interest of an individual or married couple  
8           for whose benefit the trust is maintained shall be  
9           distributed to the individual or couple not later than  
10          one hundred twenty months after the date on which the  
11          first contribution is made to the trust;
- 12          (5) Except as provided in subsection (g), the trustee  
13          shall not distribute the funds in the account unless  
14          it:
- 15            (A) [~~verifies~~] Verifies that the money is to be used  
16            for the purchase of a first principal residence  
17            located in Hawaii, and provides that the  
18            instrument of payment is payable to the  
19            mortgagor, construction contractor, or other  
20            vendor of the property purchased; or
- 21            (B) [~~withholds~~] Withholds an amount equal to ten per  
22            cent of the amount withdrawn from the account and



1           remits this amount to the director within ten  
2           days after the date of the withdrawal. The  
3           amount so withheld shall be applied to the  
4           liability of the taxpayer under subsections (c)  
5           and (e); and

6       (6) If any amounts are distributed before the expiration  
7       of three hundred sixty-five days from the date on  
8       which a contribution is made to the account, the  
9       trustee shall so notify in writing the taxpayer and  
10      the director. If the trustee makes the verification  
11      required in paragraph (5)(A), then the department  
12      shall disallow the deduction under subsection (a) and  
13      subsections (c), (e), and (f) shall not apply to that  
14      amount. If the trustee withholds an amount under  
15      paragraph (5)(B), then the department shall disallow  
16      the deduction under subsection (a) and subsection (e)  
17      shall apply, but subsection (c) shall not apply."

18      SECTION 2. Statutory material to be repealed is bracketed  
19      and stricken. New statutory material is underscored.

# S.B. NO. 189

1 SECTION 3. This Act, upon its approval, shall apply to  
2 taxable years beginning after December 31, 2008.

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INTRODUCED BY: Erzanne Chun Caliland

*[Handwritten signatures]*  
John H.  
Mike Hubbard  
Ronald J. Bell



**Report Title:**

Gross Income Deductions; Individual Housing Account; Limits

**Description:**

Increases the allowable annual and lifetime deductions from gross income for a taxpayer's contribution to their individual housing account.

