
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that tax equity and
2 fairness is paramount to the effective administration of the
3 state tax system. The 2005 tax review commission apparently
4 concurred with this policy and recommended that the State
5 provide relief to taxpayers by lowering the individual and
6 corporate income tax rates and increasing the general excise tax
7 to spread the tax burden to the tourism industry.

8 The legislature also finds that modestly increasing the
9 general excise tax and lowering individual and corporate income
10 taxes will boost the State's shrinking economy by generating
11 approximately \$300,000,000 to assist small businesses and
12 stimulate economic growth. The net effect of these tax changes
13 for most taxpayers would be negligible.

14 The purpose of this Act is to provide equity to taxpayers
15 and to boost the economy by increasing the general excise tax,
16 lowering the individual and corporate income tax rates,
17 increasing the food/excise tax credit and making it available to
18 more taxpayers, and reinstating the hotel construction and



1 remodeling tax credit to assist the construction and tourism
2 industries.

3 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§235- Hotel construction and remodeling tax credit.

7 (a) There shall be allowed to each taxpayer subject to the
8 taxes imposed by this chapter and chapter 237D, an income tax
9 credit that shall be deductible from the taxpayer's net income
10 tax liability, if any, imposed by this chapter for the taxable
11 year in which the credit is properly claimed; provided the tax
12 credit is pre-certified by the department of taxation.

13 The amount of the credit shall be four per cent of the
14 construction or renovation costs incurred during the taxable
15 year for each qualified hotel facility located in Hawaii, and
16 shall not include the construction or renovation costs for which
17 another credit was claimed under this chapter for the taxable
18 year. The total amount of tax credits allowed in any taxable
19 year shall not exceed \$4,000,000.

20 In the case of a partnership, S corporation, estate, trust,
21 association of apartment owners of a qualified hotel facility,
22 time share owners association, or any developer of a time share



1 project, the tax credit allowable is for construction or
2 renovation costs incurred by the entity for the taxable year.
3 The cost upon which the tax credit is computed shall be
4 determined at the entity level. Distribution and share of
5 credit shall be determined pursuant to section 235-110.7(a).

6 If a deduction is taken under section 179 (with respect to
7 election to expense depreciable business assets) of the Internal
8 Revenue Code, no tax credit shall be allowed for that portion of
9 the construction or renovation cost for which the deduction is
10 taken.

11 The basis of eligible property for depreciation or
12 accelerated cost recovery system purposes for state income taxes
13 shall be reduced by the amount of credit allowable and claimed.
14 In the alternative, the taxpayer shall treat the amount of the
15 credit allowable and claimed as a taxable income item for the
16 taxable year in which it is properly recognized under the method
17 of accounting used to compute taxable income.

18 (b) The credit allowed under this section shall be claimed
19 against the net income tax liability for the taxable year.

20 (c) If the tax credit under this section exceeds the
21 taxpayer's income tax liability, the excess of credit over
22 liability shall be refunded to the taxpayer; provided that no



1 refunds or payment on account of the tax credits allowed by this
2 section shall be made for amounts less than \$1. All claims for
3 a tax credit under this section shall be filed on or before the
4 end of the twelfth month following the close of the taxable year
5 for which the credit may be claimed. Failure to comply with the
6 foregoing provision shall constitute a waiver of the right to
7 claim the credit.

8 (d) The director of taxation shall prepare any forms that
9 may be necessary to claim a credit under this section. The
10 director may also require the taxpayer to furnish information to
11 ascertain the validity of the claim for credit made under this
12 section and may adopt rules necessary to effectuate the purposes
13 of this section pursuant to chapter 91.

14 (e) The tax credit allowed under this section shall take
15 effect on July 1, 2009, and shall not be available for taxable
16 years beginning after December 31, 2011.

17 (f) To qualify for the income tax credit, the taxpayer
18 shall be in compliance with all applicable federal, state, and
19 county statutes, rules, and regulations and shall be pre-
20 certified with respect to the tax credit by the department
21 pursuant to rules adopted in accordance with chapter 91.

22 (g) As used in this section:



1 "Construction or renovation cost" means any costs incurred
2 after July 1, 2009, for plans, design, construction, and
3 equipment related to new construction, alterations, or
4 modifications to a qualified hotel facility.

5 "Net income tax liability" means income tax liability
6 reduced by all other credits allowed under this chapter.

7 "Qualified hotel facility" means a hotel or hotel-
8 condominium as defined in section 486K-1, and includes a time
9 share facility or project.

10 "Taxpayer" means a taxpayer under this chapter, and
11 includes:

12 (1) Association of apartment owners; or

13 (2) Time share owners association;

14 (h) No taxpayer that claims a credit under this section
15 shall claim a credit under chapter 235D."

16 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§237- Imposition of additional tax. (a) Except as
20 provided in subsection (b) there shall be levied, assessed, and
21 collected as provided in this section on all gross proceeds and
22 gross income taxable under this chapter, an additional of one-



1 half of one per cent on the general excise tax imposed under
2 this chapter. The increase in the tax shall be imposed on the
3 gross proceeds or gross income of all written contracts that
4 require the passing-on of the tax imposed under this chapter;
5 provided that if the gross proceeds or gross income are received
6 as payments beginning in the taxable year in which the increase
7 becomes effective, on contracts entered into before June 30 of
8 the year prior to the taxable year in which the taxes become
9 effective, and the written contracts do not provide for the
10 passing on of increased rates of taxes, the increase shall not
11 be imposed on the gross proceeds or gross income covered under
12 the written contracts. The increase shall be imposed on the
13 gross proceeds or gross income from all contracts entered into
14 on or after June 30 of the year prior to the taxable year in
15 which the taxes become effective, regardless of whether the
16 contract allows for the passing on of any tax or any tax
17 increase.

- 18 (b) The increase shall not apply to:
- 19 (1) The gross income or gross proceeds taxable under this
20 chapter at the one-half per cent tax rate;
- 21 (2) The gross income or gross proceeds taxable under this
22 chapter at the 0.15 per cent tax rate; or



1 (3) Transactions, amounts, persons, gross income, or gross
2 proceeds exempt from tax under this chapter.

3 (c) The director of taxation shall revise the general
4 excise tax forms to accommodate the tax increase under this
5 section.

6 (d) The penalties provided by section 231-39 for failure
7 to file a tax return shall apply to the tax increase under this
8 section.

9 (e) All taxpayers who file on a fiscal year basis whose
10 fiscal year ends after December 31 of the year prior to the
11 taxable year in which the taxes become effective, shall file a
12 short period annual return for the period preceding January 1 of
13 the taxable year in which the taxes become effective. Each
14 fiscal year taxpayer shall also file a short period annual
15 return for the period starting on January 1 of the taxable year
16 in which the taxes become effective, and ending before January 1
17 of the following year."

18 SECTION 4. Section 235-51, Hawaii Revised Statutes, is
19 amended by amending subsections (a), (b), and (c) to read as
20 follows:

21 "(a) There is hereby imposed on the taxable income of (1)
22 every taxpayer who files a joint return under section 235-93;



1 and (2) every surviving spouse a tax determined in accordance
2 with the following table:

3 In the case of any taxable year beginning after
4 December 31, 2001:

5	If the taxable income is:	The tax shall be:
6	Not over \$4,000	1.40% of taxable income
7	Over \$4,000 but	\$56.00 plus 3.20% of
8	not over \$8,000	excess over \$4,000
9	Over \$8,000 but	\$184.00 plus 5.50% of
10	not over \$16,000	excess over \$8,000
11	Over \$16,000 but	\$624.00 plus 6.40% of
12	not over \$24,000	excess over \$16,000
13	Over \$24,000 but	\$1,136.00 plus 6.80% of
14	not over \$32,000	excess over \$24,000
15	Over \$32,000 but	\$1,680.00 plus 7.20% of
16	not over \$40,000	excess over \$32,000
17	Over \$40,000 but	\$2,256.00 plus 7.60% of
18	not over \$60,000	excess over \$40,000
19	Over \$60,000 but	\$3,776.00 plus 7.90% of
20	not over \$80,000	excess over \$60,000
21	Over \$80,000	\$5,356.00 plus 8.25% of
22		Excess over \$80,000.



1 In the case of any taxable year beginning after

2 December 31, 2006:

3	If the taxable income is:	The tax shall be:
4	Not over \$4,800	1.40% of taxable income
5	Over \$4,800 but	\$67.00 plus 3.20% of
6	not over \$9,600	excess over \$4,800
7	Over \$9,600 but	\$221.00 plus 5.50% of
8	not over \$19,200	excess over \$9,600
9	Over \$19,200 but	\$749.00 plus 6.40% of
10	not over \$28,800	excess over \$19,200
11	Over \$28,800 but	\$1,363.00 plus 6.80% of
12	not over \$38,400	excess over \$28,800
13	Over \$38,400 but	\$2,016.00 plus 7.20% of
14	not over \$48,000	excess over \$38,400
15	Over \$48,000 but	\$2,707.00 plus 7.60% of
16	not over \$72,000	excess over \$48,000
17	Over \$72,000 but	\$4,531.00 plus 7.90% of
18	not over \$96,000	excess over \$72,000
19	Over \$96,000	\$6,427.00 plus 8.25% of
20		excess over \$96,000.

21 In the case of any taxable year beginning after

22 December 31, 2008:



1	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
2	<u>Not over \$4,800</u>	<u>1.12% of taxable income</u>
3	<u>Over \$4,800 but</u>	<u>\$53.60 plus 2.56% of</u>
4	<u>not over \$9,600</u>	<u>excess over \$4,800</u>
5	<u>Over \$9,600 but</u>	<u>\$176.80 plus 4.40% of</u>
6	<u>not over \$19,200</u>	<u>excess over \$9,600</u>
7	<u>Over \$19,200 but</u>	<u>\$599.20 plus 5.12% of</u>
8	<u>not over \$28,800</u>	<u>excess over \$19,200</u>
9	<u>Over \$28,800 but</u>	<u>\$1,090.40 plus 5.44% of</u>
10	<u>not over \$38,400</u>	<u>excess over \$28,800</u>
11	<u>Over \$38,400 but</u>	<u>\$1,612.80 plus 5.76% of</u>
12	<u>not over \$48,000</u>	<u>excess over \$38,400</u>
13	<u>Over \$48,000 but</u>	<u>\$2,165.60 plus 6.08% of</u>
14	<u>not over \$72,000</u>	<u>excess over \$48,000</u>
15	<u>Over \$72,000 but</u>	<u>\$3,624.80 plus 6.32% of</u>
16	<u>not over \$96,000</u>	<u>excess over \$72,000</u>
17	<u>Over \$96,000 but</u>	<u>\$5,141.60 plus 6.60% of</u>
18	<u>not over \$108,000</u>	<u>excess over \$96,000</u>
19	<u>Over \$108,000 but</u>	<u>\$ _____ plus 7.45% of</u>
20	<u>not over \$160,000</u>	<u>excess over \$108,000</u>
21	<u>Over \$160,000</u>	<u>\$ _____ plus 8.25% of</u>
22		<u>Excess over \$160,000.</u>



1 (b) There is hereby imposed on the taxable income of every
 2 head of a household a tax determined in accordance with the
 3 following table:

4 In the case of any taxable year beginning after
 5 December 31, 2001:

6	If the taxable income is:	The tax shall be:
7	Not over \$3,000	1.40% of taxable income
8	Over \$3,000 but	\$42.00 plus 3.20% of
9	not over \$6,000	excess over \$3,000
10	Over \$6,000 but	\$138.00 plus 5.50% of
11	not over \$12,000	excess over \$6,000
12	Over \$12,000 but	\$468.00 plus 6.40% of
13	not over \$18,000	excess over \$12,000
14	Over \$18,000	\$852.00 plus 6.80% of
15	but not over \$24,000	excess over \$18,000
16	Over \$24,000 but	\$1,260.00 plus 7.20% of
17	not over \$30,000	excess over \$24,000
18	Over \$30,000 but	\$1,692.00 plus 7.60% of
19	not over \$45,000	excess over \$30,000
20	Over \$45,000 but	\$2,832.00 plus 7.90% of
21	not over \$60,000	excess over \$45,000
22	Over \$60,000	\$4,017.00 plus 8.25% of



1 excess over \$60,000.

2 In the case of any taxable year beginning after
3 December 31, 2006:

4	If the taxable income is:	The tax shall be:
5	Not over \$3,600	1.40% of taxable income
6	Over \$3,600 but	\$50.00 plus 3.20% of
7	not over \$7,200	excess over \$3,600
8	Over \$7,200 but	\$166.00 plus 5.50% of
9	not over \$14,400	excess over \$7,200
10	Over \$14,400 but	\$562.00 plus 6.40% of
11	not over \$21,600	excess over \$14,400
12	Over \$21,600 but	\$1,022.00 plus 6.80% of
13	not over \$28,800	excess over \$21,600
14	Over \$28,800 but	\$1,512.00 plus 7.20% of
15	not over \$36,000	excess over \$28,800
16	Over \$36,000 but	\$2,030.00 plus 7.60% of
17	not over \$54,000	excess over \$36,000
18	Over \$54,000 but	\$3,398.00 plus 7.90% of
19	not over \$72,000	excess over \$54,000
20	Over \$72,000	\$4,820.00 plus 8.25% of
21		excess over \$72,000.



1 In the case of any taxable year beginning after

2 December 31, 2008:

3	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
4	<u>Not over \$3,600</u>	<u>1.12% of taxable income</u>
5	<u>Over \$3,600 but</u>	<u>\$40.00 plus 2.56% of</u>
6	<u>not over \$7,200</u>	<u>excess over \$3,600</u>
7	<u>Over \$7,200 but</u>	<u>\$132.80 plus 4.40% of</u>
8	<u>not over \$14,400</u>	<u>excess over \$7,200</u>
9	<u>Over \$14,400 but</u>	<u>\$449.60 plus 5.12% of</u>
10	<u>not over \$21,600</u>	<u>excess over \$14,400</u>
11	<u>Over \$21,600 but</u>	<u>\$1,022.00 plus 5.44% of</u>
12	<u>not over \$28,800</u>	<u>excess over \$21,600</u>
13	<u>Over \$28,800 but</u>	<u>\$817.60 plus 5.76% of</u>
14	<u>not over \$36,000</u>	<u>excess over \$28,800</u>
15	<u>Over \$36,000 but</u>	<u>\$1,624.00 plus 6.08% of</u>
16	<u>not over \$54,000</u>	<u>excess over \$36,000</u>
17	<u>Over \$54,000 but</u>	<u>\$2,718.40 plus 6.32% of</u>
18	<u>not over \$72,000</u>	<u>excess over \$54,000</u>
19	<u>Over \$72,000</u>	<u>\$3,856.00 plus 6.60% of</u>
20	<u>not over \$108,000</u>	<u>excess over \$72,000</u>
21	<u>Over \$108,000 but</u>	<u>\$ _____ plus 7.45% of</u>
22	<u>not over \$160,000</u>	<u>excess over \$108.00</u>



1	Over \$20,000 but	\$1,128.00 plus 7.60% of
2	not over \$30,000	excess over \$20,000
3	Over \$30,000 but	\$1,888.00 plus 7.90% of
4	not over \$40,000	excess over \$30,000
5	Over \$40,000	\$2,678.00 plus 8.25% of
6		excess over \$40,000.
7	In the case of any taxable year beginning after	
8	December 31, 2006:	
9	If the taxable income is:	The tax shall be:
10	Not over \$2,400	1.40% of taxable income
11	Over \$2,400 but	\$34.00 plus 3.20% of
12	not over \$4,800	excess over \$2,400
13	Over \$4,800 but	\$110.00 plus 5.50% of
14	not over \$9,600	excess over \$4,800
15	Over \$9,600 but	\$374.00 plus 6.40% of
16	not over \$14,400	excess over \$9,600
17	Over \$14,400 but	\$682.00 plus 6.80% of
18	not over \$19,200	excess over \$14,400
19	Over \$19,200 but	\$1,008.00 plus 7.20% of
20	not over \$24,000	excess over \$19,200
21	Over \$24,000 but	\$1,354.00 plus 7.60% of
22	not over \$36,000	excess over \$24,000



1	Over \$36,000 but	\$2,266.00 plus 7.90% of
2	not over \$48,000	excess over \$36,000
3	Over \$48,000	\$3,214.00 plus 8.25% of
4		excess over \$48,000.

5 In the case of any taxable year beginning after
6 December 31, 2008:

7	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
8	<u>Not over \$2,400</u>	<u>1.12% of taxable income</u>
9	<u>Over \$2,400 but</u>	<u>\$27.20 plus 2.56% of</u>
10	<u>not over \$4,800</u>	<u>excess over \$2,400</u>
11	<u>Over \$4,800 but</u>	<u>\$88.00 plus 4.40% of</u>
12	<u>not over \$9,600</u>	<u>excess over \$4,800</u>
13	<u>Over \$9,600 but</u>	<u>\$299.20 plus 5.12% of</u>
14	<u>not over \$14,400</u>	<u>excess over \$9,600</u>
15	<u>Over \$14,400 but</u>	<u>\$545.60 plus 5.44% of</u>
16	<u>not over \$19,200</u>	<u>excess over \$14,400</u>
17	<u>Over \$19,200 but</u>	<u>\$806.40 plus 5.76% of</u>
18	<u>not over \$24,000</u>	<u>excess over \$19,200</u>
19	<u>Over \$24,000 but</u>	<u>\$1,083.20 plus 6.08% of</u>
20	<u>not over \$36,000</u>	<u>excess over \$24,000</u>
21	<u>Over \$36,000 but</u>	<u>\$1,812.80 plus 6.32% of</u>
22	<u>not over \$48,000</u>	<u>excess over \$36,000</u>



1	<u>\$20,000 under \$30,000</u>	<u>55</u>
2	<u>\$30,000 under \$40,000</u>	<u>45</u>
3	<u>\$40,000 under \$50,000</u>	<u>45</u>
4	<u>\$50,000 under \$60,000</u>	<u>25</u>
5	<u>\$60,000 under \$70,000</u>	<u>15</u>
6	<u>\$70,000 and over</u>	<u>0</u>
7	<u>Unmarried individual</u>	
8	<u>Adjusted gross income</u>	<u>Credit per exemption</u>
9	<u>Under \$5,000</u>	<u>\$90</u>
10	<u>\$5,000 under \$10,000</u>	<u>85</u>
11	<u>\$10,000 under \$15,000</u>	<u>75</u>
12	<u>\$15,000 under \$20,000</u>	<u>65</u>
13	<u>\$20,000 under \$30,000</u>	<u>50</u>
14	<u>\$30,000 under \$40,000</u>	<u>40</u>
15	<u>\$40,000 and over</u>	<u>0</u>

16 (2) Each taxpayer sixty-five years of age or over may
 17 claim double the tax credit; and [~~provided that a~~] and
 18 (3) A resident individual who has no income or no income
 19 taxable under this chapter may also claim the tax
 20 credit as set forth in this section."

21 SECTION 6. Section 235-71, Hawaii Revised Statutes, is
 22 amended as follows:



1 1. By amending subsections (a) and (b) to read:

2 "(a) A tax at the rates herein provided shall be assessed,
3 levied, collected, and paid for each taxable year on the taxable
4 income of every corporation, including a corporation carrying on
5 business in partnership, except that in the case of a regulated
6 investment company the tax is as provided by subsection (b) and
7 further that in the case of a real estate investment trust as
8 defined in section 856 of the Internal Revenue Code of 1954 the
9 tax is as provided in subsection (d). "Corporation" includes
10 any professional corporation incorporated pursuant to chapter
11 415A.

12 The tax on all taxable income shall be at the rate of [~~4.4~~
13 3.96 per cent if the taxable income is not over \$25,000, [~~5.4~~
14 4.86 per cent if over \$25,000 but not over \$100,000, and on all
15 over \$100,000, [~~6.4~~ 5.76 per cent.

16 (b) In the case of a regulated investment company there is
17 imposed on the taxable income, computed as provided in sections
18 852 and 855 of the Internal Revenue Code but with the changes
19 and adjustments made by this chapter (without prejudice to the
20 generality of the foregoing, the deduction for dividends paid is
21 limited to such amount of dividends as is attributable to income
22 taxable under this chapter), a tax consisting in the sum of the



1 following: [~~4.4~~] 3.96 per cent if the taxable income is not
2 over \$25,000, [~~5.4~~] 4.86 per cent if over \$25,000 but not over
3 \$100,000, and on all over \$100,000, [~~6.4~~] 5.76 per cent."

4 2. By amending subsection (d) to read:

5 "(d) In the case of a real estate investment trust there
6 is imposed on the taxable income, computed as provided in
7 sections 857 and 858 of the Internal Revenue Code but with the
8 changes and adjustments made by this chapter (without prejudice
9 to the generality of the foregoing, the deduction for dividends
10 paid is limited to such amount of dividends as is attributable
11 to income taxable under this chapter), a tax consisting in the
12 sum of the following: [~~4.4~~] 3.96 per cent if the taxable income
13 is not over \$25,000, [~~5.4~~] 4.86 per cent if over \$25,000 but not
14 over \$100,000, and on all over \$100,000, [~~6.4~~] 5.76 per cent.

15 In addition to any other penalty provided by law any real estate
16 investment trust whose tax liability for any taxable year is
17 deemed to be increased pursuant to section 859(b)(2)(A) or
18 860(c)(1)(A) after December 31, 1978, (relating to interest and
19 additions to tax determined with respect to the amount of the
20 deduction for deficiency dividends allowed) of the Internal
21 Revenue Code shall pay a penalty in an amount equal to the
22 amount of interest for which such trust is liable that is



1 attributable solely to such increase. The penalty payable under
 2 this subsection with respect to any determination shall not
 3 exceed one-half of the amount of the deduction allowed by
 4 section 859(a), or 860(a) after December 31, 1978, of the
 5 Internal Revenue Code for such taxable year."

6 SECTION 7. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2009 and
 9 apply to taxable years beginning after December 31, 2008;
 10 provided that section 3 shall take effect on August 1, 2009.

11

INTRODUCED BY:

[Handwritten signatures: Paul Chung, Mary B. Lee, and another signature]

JAN 28 2009



Report Title:

Income Tax; General Excise Tax; Corporation Tax; Low-Income Household Renters' Tax Credit; Hotel Construction and Remodeling Tax Credit

Description:

Omnibus tax bill to provide tax equity and stimulate the economy by increasing general excise tax rates, reducing income tax rates, and establishing hotel construction and remodeling tax credit.

