
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, subject to the
7 following:

8 (1) Sections 63(c)(1)(B) (relating to the additional
9 standard deduction), 63(c)(1)(C) (relating to the real
10 property tax deduction), 63(c)(1)(D) (relating to the
11 disaster loss deduction), 63(c)(4) (relating to
12 inflation adjustments), 63(c)(7) (defining the real
13 property tax deduction), 63(c)(8) (defining the
14 disaster loss deduction), and 63(f) (relating to
15 additional amounts for the aged or blind) of the
16 Internal Revenue Code shall not be operative for
17 purposes of this chapter;



- 1 (2) Section 63(c)(2) (relating to the basic standard
2 deduction) of the Internal Revenue Code shall be
3 operative, except that the standard deduction amounts
4 provided therein shall instead mean:
- 5 (A) \$4,000 in the case of:
- 6 (i) A joint return as provided by section 235-
7 93; or
- 8 (ii) A surviving spouse (as defined in section
9 2(a) of the Internal Revenue Code);
- 10 (B) \$2,920 in the case of a head of household (as
11 defined in section 2(b) of the Internal Revenue
12 Code);
- 13 (C) \$2,000 in the case of an individual who is not
14 married and who is not a surviving spouse or head
15 of household; or
- 16 (D) \$2,000 in the case of a married individual filing
17 a separate return;
- 18 (3) Section 63(c)(5) (limiting the basic standard
19 deduction in the case of certain dependents) of the
20 Internal Revenue Code shall be operative, except that
21 the limitation shall be the greater of \$500 or such
22 individual's earned income; and



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

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

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

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

21 (e) Section 165 (with respect to losses) of the Internal
22 Revenue Code shall be operative for purposes of this chapter,



1 except that the amount prescribed by section 165(h)(1) (relating
2 to the limitation per casualty) of the Internal Revenue Code
3 shall be a \$100 limitation per casualty, and section 165(d)
4 (with respect to wagering losses) [and] sections 165(h)(3)(A)
5 and 165(h)(3)(B) (both of which relate to special rules for
6 personal casualty gains and losses in federally declared
7 disasters) of the Internal Revenue Code shall not be operative
8 for the purposes of this chapter. Section 165 as operative for
9 this chapter shall also apply to losses sustained from the sale
10 of stocks or other interests issued through the exercise of the
11 stock options or warrants granted by a qualified high technology
12 business as defined in 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 sections 168(j)
16 (relating to property on Indian reservations), 168(k) (relating
17 to the special allowance for certain property acquired during
18 the period specified therein), 168(m) (relating to the special
19 allowance for certain reuse and recycling property), and 168(n)
20 (relating to the special allowance for qualified disaster
21 assistance property) of the Internal Revenue Code shall not be
22 operative for purposes of this chapter.



1 (g) Section 172 (with respect to net operating loss
2 deductions) of the Internal Revenue Code shall be operative for
3 purposes of this chapter, as further provided in section 235-
4 7(d), except that sections 172(b)(1)(J) and 172(j) (both of
5 which relate to qualified disaster losses) of the Internal
6 Revenue Code shall not be operative for purposes of this
7 chapter.

8 (h) Section 179 (with respect to the election to expense
9 certain depreciable business assets) of the Internal Revenue
10 Code shall be operative for purposes of this chapter, except
11 that provisions relating to:

12 (1) The increase of the maximum deduction to \$100,000 for
13 taxable years beginning after 2002 and before 2008,
14 and the increase of the maximum deduction to \$125,000
15 for taxable years beginning after 2006 and before
16 2011, in section 179(b)(1);

17 (2) The increase of the qualifying investment amount to
18 \$400,000 for taxable years beginning after 2002 and
19 before 2008, and the increase of the qualifying
20 investment amount to \$500,000 for taxable years
21 beginning after 2006 and before 2011, in section
22 179(b)(2);



1 (3) The increase of the maximum deduction to \$250,000 and
2 the increase of the qualifying investment amount to
3 \$800,000 for taxable years beginning in 2008, in
4 section 179(b)(7);

5 (4) Defining section 179 property to include computer
6 software in section 179(d)(1);

7 (5) Inflation adjustments in section 179(b)(5);

8 (6) Irrevocable election in section 179(c)(2); and

9 (7) Special rules for qualified disaster assistance
10 property in section 179(e),

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

12 (i) Section 198A (with respect to the expensing of
13 qualified disaster assistances expenses) of the Internal Revenue
14 Code shall not be operative for purposes of this chapter.

15 (j) Section 219 (with respect to retirement savings) of
16 the Internal Revenue Code shall be operative for the purpose of
17 this chapter. For the purpose of computing the limitation on
18 the deduction for active participants in certain pension plans
19 for state income tax purposes, adjusted gross income as used in
20 section 219 as operative for this chapter means federal adjusted
21 gross income.



1 (k) Section 220 (with respect to medical savings accounts)
2 of the Internal Revenue Code shall be operative for the purpose
3 of this chapter, but only with respect to medical services
4 accounts that have been approved by the Secretary of the
5 Treasury of the United States.

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

13 (m) Section 408A (with respect to Roth Individual
14 Retirement Accounts) of the Internal Revenue Code shall be
15 operative for the purposes of this chapter. For the purposes of
16 determining the aggregate amount of contributions to a Roth
17 Individual Retirement Account or qualified rollover contribution
18 to a Roth Individual Retirement Account from an individual
19 retirement plan other than a Roth Individual Retirement Account,
20 adjusted gross income as used in section 408A as operative for
21 this chapter means federal adjusted gross income.



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

12 In administering sections 401 to 419A (with respect to
13 deferred compensation) of the Internal Revenue Code, Public Law
14 93-406, section 1017(i), shall be operative for the purposes of
15 this chapter.

16 In administering section 402 (with respect to the
17 taxability of beneficiary of employees' trust) of the Internal
18 Revenue Code, the tax imposed on lump sum distributions by
19 section 402(e) of the Internal Revenue Code shall be operative
20 for the purposes of this chapter and the tax imposed therein is
21 hereby imposed by this chapter at the rate determined under this
22 chapter.



1 ~~[(o)] In administering section 403 (with respect to~~
2 ~~taxation of employee annuities) of the Internal Revenue Code,~~
3 ~~any funds that represent pre-tax employee deferrals or~~
4 ~~contributions that are distributed from the annuity and used~~
5 ~~solely to obtain retirement credits under the state [employees']~~
6 ~~retirement system shall not be treated as a rollover for~~
7 ~~purposes of section 403(b)(8)(A) of the Internal Revenue Code,~~
8 ~~and such funds shall be subject to income tax under this~~
9 ~~chapter.~~

10 ~~[(p)]~~ (o) Section 451 (which provides general rules for
11 taxable year of inclusion) of the Internal Revenue Code shall be
12 operative, except that the provisions of sections 451(i)(3) and
13 451(i)(6), as they relate to a qualified electric utility, shall
14 not be operative for purposes of this chapter.

15 ~~[(q)] In administering section 457 (with respect to~~
16 ~~compensation plans of state and local governments and tax-exempt~~
17 ~~organizations) of the Internal Revenue Code, any funds that~~
18 ~~represent pre-tax employee deferrals or contributions that are~~
19 ~~distributed from the deferred compensation plan and used solely~~
20 ~~to obtain retirement credits under the state [employees']~~
21 ~~retirement system shall not be treated as a rollover for~~
22 ~~purposes of section 457(e)(16)(A) of the Internal Revenue Code~~



1 ~~and such funds shall be subject to income tax under this~~
2 ~~chapter.~~

3 ~~[(r)]~~ (p) Section 468B (with respect to special rules for
4 designated settlement funds) of the Internal Revenue Code shall
5 be operative for the purposes of this chapter and the tax
6 imposed therein is hereby imposed by this chapter at a rate
7 equal to the maximum rate in effect for the taxable year imposed
8 on estates and trusts under section 235-51.

9 ~~[(s)]~~ (q) Section 469 (with respect to passive
10 activities and credits limited) of the Internal Revenue Code
11 shall be operative for the purposes of this chapter. For the
12 purpose of computing the offset for rental real estate
13 activities for state income tax purposes, adjusted gross income
14 as used in section 469 as operative for this chapter means
15 federal adjusted gross income.

16 ~~[(t)]~~ (r) Sections 512 to 514 (with respect to taxation
17 of business income of certain exempt organizations) of the
18 Internal Revenue Code shall be operative for the purposes of
19 this chapter as provided in this subsection.

20 "Unrelated business taxable income" means the same as in
21 the Internal Revenue Code, except that in the computation
22 thereof sections 235-3 to 235-5, and 235-7 (except subsection



1 (c)), shall apply, and in the determination of the net operating
2 loss deduction there shall not be taken into account any amount
3 of income or deduction that is excluded in computing the
4 unrelated business taxable income. Unrelated business taxable
5 income shall not include any income from a prepaid legal service
6 plan.

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

11 [~~(u)~~] (s) Section 521 (with respect to cooperatives) and
12 Subchapter T (Sections 1381 to 1388, with respect to
13 cooperatives and their patrons) of the Internal Revenue Code
14 shall be operative for the purposes of this chapter as to any
15 cooperative fully meeting the requirements of section 421-23,
16 except that Internal Revenue Code section 521 cooperatives need
17 not be organized in Hawaii.

18 [~~(v)~~] (t) Sections 527 (with respect to political
19 organizations) and 528 (with respect to certain homeowners
20 associations) of the Internal Revenue Code shall be operative
21 for the purposes of this chapter and the taxes imposed in each



1 section are hereby imposed by this chapter at the rates
2 determined under section 235-71.

3 ~~[(w)]~~ (u) Section 529 (with respect to qualified tuition
4 programs) shall be operative for the purposes of this chapter,
5 except that section 529(c)(6) shall not be operative.

6 ~~[(x)]~~ (v) Section 530 (with respect to education
7 individual retirement accounts) of the Internal Revenue Code
8 shall be operative for the purposes of this chapter. For the
9 purpose of determining the maximum amount that a contributor
10 could make to an education individual retirement account for
11 state income tax purposes, modified adjusted gross income as
12 used in section 530 as operative for this chapter means federal
13 modified adjusted gross income as defined in section 530."

14 SECTION 2. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act, upon its approval, shall apply to
17 taxable years beginning after December 31, 2009; provided that
18 the amendments made to section 235-2.4, Hawaii Revised Statutes,
19 by this Act shall not be repealed when section 235-2.4(a) is



H.B. NO. 1947

1 repealed and reenacted on December 31, 2015, by section 6 of Act
2 60, Session Laws of Hawaii 2009.

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INTRODUCED BY:

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JAN 15 2010



Report Title:

Income Tax; Employee Annuities; Compensation Plans

Description:

Repeals applicability of state income tax to rollovers made by employees of state and county agencies and tax exempt organizations from qualifying annuity plans and qualifying deferred compensation plans to eligible retirement plans or individual retirement accounts.

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

