
A BILL FOR AN ACT

RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE
INTERNAL REVENUE CODE.

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

1 SECTION 1. The purpose of this Act is to conform Hawaii
2 income tax law to the Internal Revenue Code.

3 SECTION 2. Section 232-24, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§232-24 Taxes paid pending appeal.** The tax paid upon the
6 amount of any assessment, actually in dispute and in excess of
7 that admitted by the taxpayer, and covered by an appeal to the
8 tax appeal court duly taken, shall, pending the final
9 determination of the appeal, be paid by the director of finance
10 into the "litigated claims fund". If the final determination is
11 in whole or in part in favor of the appealing taxpayer, the
12 director of finance shall repay to the taxpayer out of the fund,
13 or if investment of the fund should result in a deficit therein,
14 out of the general fund of the State, the amount of the tax paid
15 upon the amount held by the court to have been excessive or
16 nontaxable, together with [~~interest at the rate of eight per~~
17 ~~cent a year~~] from the date of each payment into the litigated



1 claims fund, the interest to be paid from the general fund of
2 the State. For purposes of this section, the rate of interest
3 shall be computed by reference to Section 6621(a) (with respect
4 to interest rate determination) of the Internal Revenue Code of
5 1986, as of January 1, 2010. The balance, if any, of the
6 payment made by the appealing taxpayer, or the whole of the
7 payment, in case the decision is wholly in favor of the
8 assessor, shall, upon the final determination become a
9 realization under the tax law concerned.

10 In a case of an appeal to a board of review, the tax paid,
11 if any, upon the amount of the assessment actually in dispute
12 and in excess of that admitted by the taxpayer, shall during the
13 pendency of the appeal and until and unless an appeal is taken
14 to the tax appeal court, be held by the director of finance in a
15 special deposit. In the event of final determination of the
16 appeal in the board of review, the director of finance shall
17 repay to the appealing taxpayer out of the deposit the amount of
18 the tax paid upon the amount held by the board to have been
19 excessive or nontaxable, if any, the balance, if any, or the
20 whole of the deposit, in case the decision is wholly in favor of
21 the assessor, to become a realization under the tax law
22 concerned."



1 SECTION 3. Section 235-2.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-2.3 Conformance to the federal Internal Revenue**
4 **Code; general application.** (a) For all taxable years beginning
5 after December 31, [~~2008~~] 2009, as used in this chapter
6 "Internal Revenue Code" means subtitle A, chapter 1, of the
7 federal Internal Revenue Code of 1986, as amended as of December
8 31, [~~2008~~] 2009, as it applies to the determination of gross
9 income, adjusted gross income, ordinary income and loss, and
10 taxable income, except those provisions of the Internal Revenue
11 Code and federal public laws which, pursuant to this chapter, do
12 not apply or are otherwise limited in application and except for
13 the provisions of Public Law 109-001 which apply to [~~section~~]
14 Section 170 of the Internal Revenue Code. The provisions of
15 Public Law 109-001 to accelerate the deduction for charitable
16 cash contributions for the relief of victims of the 2004 Indian
17 Ocean tsunami are applicable for the calendar year that ended
18 December 31, 2004, and the calendar year ending December 31,
19 2005.

20 Sections 235-2, 235-2.1, and 235-2.2 shall continue to be
21 used to determine:



1 (1) The basis of property, if a taxpayer first determined
2 the basis of property in a taxable year to which such
3 sections apply, and if such determination was made
4 before January 1, 1978; and

5 (2) Gross income, adjusted gross income, ordinary income
6 and loss, and taxable income for a taxable year to
7 which such sections apply where such taxable year
8 begins before January 1, 1978.

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

13 (1) Subchapter A [~~sections~~] (Sections 1 to 59A) (with
14 respect to determination of tax liability), except
15 [~~section~~] Section 1(h)(2) (relating to net capital
16 gain reduced by the amount taken into account as
17 investment income), except [~~sections~~] Sections 2(a),
18 2(b), and 2(c) (with respect to the definition of
19 "surviving spouse" and "head of household"), except
20 [~~section~~] Section 41 (with respect to the credit for
21 increasing research activities), except [~~section~~]
22 Section 42 (with respect to low-income housing



1 credit), [and] except [~~sections~~] Sections 47 and 48,
2 as amended, as of December 31, 1984 (with respect to
3 certain depreciable tangible personal property) [~~],~~
4 and except Section 48(d)(3), as amended, as of
5 February 17, 2009 (with respect to the treatment of
6 United States Department of Treasury grants made under
7 Section 1603 of the American Recovery and Reinvestment
8 Tax Act of 2009). For treatment, see sections 235-
9 110.91, 235-110.7, and 235-110.8;

10 (2) Section 78 (with respect to dividends received from
11 certain foreign corporations by domestic corporations
12 choosing foreign tax credit);

13 (3) Section 86 (with respect to social security and tier 1
14 railroad retirement benefits);

15 (4) Section 103 (with respect to interest on state and
16 local bonds). For treatment, see section 235-7(b);

17 (5) Section 114 (with respect to extraterritorial income).

18 For treatment, any transaction as specified in the
19 transitional rule for 2005 and 2006 as specified in
20 the American Jobs Creation Act of 2004 [~~section~~]

21 Section 101(d) and any transaction that has occurred
22 pursuant to a binding contract as specified in the



- 1 American Jobs Creation Act of 2004 [~~section~~] Section
2 101(f) are inoperative;
- 3 (6) Section 120 (with respect to amounts received under
4 qualified group legal services plans). For treatment,
5 see section 235-7(a)(9) to (11);
- 6 (7) Section 122 (with respect to certain reduced uniformed
7 services retirement pay). For treatment, see section
8 235-7(a)(3);
- 9 (8) Section 135 (with respect to income from United States
10 savings bonds used to pay higher education tuition and
11 fees). For treatment, see section 235-7(a)(1);
- 12 (9) Section 139C (with respect to COBRA premium
13 assistance);
- 14 [~~(9)~~] (10) Subchapter B [~~(sections)~~] (Sections 141 to 150)
15 (with respect to tax exemption requirements for state
16 and local bonds);
- 17 [~~(10)~~] (11) Section 151 (with respect to allowance of
18 deductions for personal exemptions). For treatment,
19 see section 235-54;
- 20 [~~(11)~~] (12) Section 179B (with respect to expensing of
21 capital costs incurred in complying with Environmental
22 Protection Agency sulphur regulations);



- 1 [~~(12)~~] (13) Section 181 (with respect to special rules for
2 certain film and television productions);
- 3 [~~(13)~~] (14) Section 196 (with respect to deduction for
4 certain unused investment credits);
- 5 [~~(14)~~] (15) Section 199 (with respect to the U.S. production
6 activities deduction);
- 7 [~~(15)~~] (16) Section 222 (with respect to qualified tuition
8 and related expenses);
- 9 [~~(16)~~] (17) Sections 241 to 247 (with respect to special
10 deductions for corporations). For treatment, see
11 section 235-7(c);
- 12 [~~(17)~~] (18) Section 280C (with respect to certain expenses
13 for which credits are allowable). For treatment, see
14 section 235-110.91;
- 15 [~~(18)~~] (19) Section 291 (with respect to special rules
16 relating to corporate preference items);
- 17 [~~(19)~~] (20) Section 367 (with respect to foreign
18 corporations);
- 19 [~~(20)~~] (21) Section 501(c)(12), (15), (16) (with respect to
20 exempt organizations);
- 21 [~~(21)~~] (22) Section 515 (with respect to taxes of foreign
22 countries and possessions of the United States);



- 1 [~~(22)~~] (23) Subchapter G (sections 531 to 565) (with respect
2 to corporations used to avoid income tax on
3 shareholders);
- 4 [~~(23)~~] (24) Subchapter H (sections 581 to 597) (with respect
5 to banking institutions), except [~~section~~] Section 584
6 (with respect to common trust funds). For treatment,
7 see chapter 241;
- 8 [~~(24)~~] (25) Section 642(a) and (b) (with respect to special
9 rules for credits and deductions applicable to
10 trusts). For treatment, see sections 235-54(b) and
11 235-55;
- 12 [~~(25)~~] (26) Section 646 (with respect to tax treatment of
13 electing Alaska Native settlement trusts);
- 14 [~~(26)~~] (27) Section 668 (with respect to interest charge on
15 accumulation distributions from foreign trusts);
- 16 [~~(27)~~] (28) Subchapter L (sections 801 to 848) (with respect
17 to insurance companies). For treatment, see sections
18 431:7-202 and 431:7-204;
- 19 [~~(28)~~] (29) Section 853 (with respect to foreign tax credit
20 allowed to shareholders). For treatment, see section
21 235-55;



- 1 (30) Section 853A (with respect to credits from tax credit
2 bonds allowed to shareholders);
- 3 [~~+29~~] (31) Subchapter N [~~+sections~~] (Sections 861 to 999)
4 (with respect to tax based on income from sources
5 within or without the United States), except
6 [~~+sections~~] Sections 985 to 989 (with respect to
7 foreign currency transactions). For treatment, see
8 sections 235-4, 235-5, and 235-7(b), and 235-55;
- 9 [~~+30~~] (32) Section 1042(g) (with respect to sales of stock
10 in agricultural refiners and processors to eligible
11 farm cooperatives);
- 12 [~~+31~~] (33) Section 1055 (with respect to redeemable ground
13 rents);
- 14 [~~+32~~] (34) Section 1057 (with respect to election to treat
15 transfer to foreign trust, etc., as taxable exchange);
- 16 [~~+33~~] (35) Sections 1291 to 1298 (with respect to treatment
17 of passive foreign investment companies);
- 18 [~~+34~~] (36) Subchapter Q (sections 1311 to 1351) (with
19 respect to readjustment of tax between years and
20 special limitations);
- 21 [~~+35~~] (37) Subchapter R (sections 1352 to 1359) (with
22 respect to election to determine corporate tax on



1 certain international shipping activities using per
2 ton rate);

3 [~~36~~] (38) Subchapter U [~~sections~~] (Sections 1391 to
4 1397F) (with respect to designation and treatment of
5 empowerment zones, enterprise communities, and rural
6 development investment areas). For treatment, see
7 chapter 209E;

8 [~~37~~] (39) Subchapter W [~~sections~~] (Sections 1400 to
9 1400C) (with respect to District of Columbia
10 enterprise zone);

11 [~~38~~] (40) Section 14000 (with respect to education tax
12 benefits);

13 [~~39~~] (41) Section 1400P (with respect to housing tax
14 benefits);

15 [~~40~~] (42) Section 1400R (with respect to employment
16 relief); and

17 [~~41~~] (43) Section 1400T (with respect to special rules for
18 mortgage revenue bonds) [~~;~~];

19 (44) Section 1400U-1 (with respect to allocation of
20 recovery zone bonds);

21 (45) Section 1400U-2 (with respect to recovery zone
22 economic development bonds); and



1 (46) Section 1400U-3 (with respect to recovery zone
2 facility bonds)."

3 SECTION 4. Section 235-2.4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§235-2.4 Operation of certain Internal Revenue Code**

6 **provisions; [sections] Sections 63 to 530.** (a) Section 63

7 (with respect to taxable income defined) of the Internal Revenue
8 Code shall be operative for the purposes of this chapter,

9 subject to the following:

10 (1) Sections 63(c)(1)(B) (relating to the additional
11 standard deduction), 63(c)(1)(C) (relating to the real
12 property tax deduction), 63(c)(1)(D) (relating to the
13 disaster loss deduction), 63(c)(1)(E) (relating to the
14 motor vehicle sales tax deduction, 63(c)(4) (relating
15 to inflation adjustments), 63(c)(7) (defining the real
16 property tax deduction), 63(c)(8) (defining the
17 disaster loss deduction), 63(c)(9) (defining the motor
18 vehicle sales tax deduction), and 63(f) (relating to
19 additional amounts for the aged or blind) of the
20 Internal Revenue Code shall not be operative for
21 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 Section 2(a) of the Internal Revenue Code);
- 10 (B) \$2,920 in the case of a head of household (as
11 defined in [~~section~~] Section 2(b) of the Internal
12 Revenue 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~~] Section 72(t)
9 shall not be operative for purposes of this chapter.

10 (c) Section 85 (with respect to unemployment compensation)
11 of the Internal Revenue Code shall be operative for purposes of
12 this chapter, except that Section 85(c) shall not be operative
13 for purposes of this chapter.

14 (d) Section 108 (with respect to income from discharge of
15 indebtedness) of the Internal Revenue Code shall be operative
16 for purposes of this chapter, except that Section 108(i)
17 (relating to deferral and ratable inclusion of income arising
18 from business indebtedness discharged by the reacquisition of a
19 debt instrument) shall not be operative for purposes of this
20 chapter.

21 [~~(e)~~] (e) Section 121 (with respect to exclusion of gain
22 from sale of principal residence) of the Internal Revenue Code



1 shall be operative for purposes of this chapter, except that for
2 the election under ~~[section]~~ Section 121(f), a reference to
3 ~~[section]~~ Section 1034 treatment means a reference to section
4 235-2.4(n) in effect for taxable year 1997.

5 (f) Section 132 (with respect to certain fringe benefits)
6 of the Internal Revenue Code shall be operative for purposes of
7 this chapter, except that the provision in Section 132(f)(2)
8 that equalizes the dollar amounts for Sections 132(f)(2)(A) and
9 (B) after February 17, 2009, until January 1, 2011, shall not be
10 operative and except that Section 132(n) shall not apply to
11 United States Department of Defense Homeowners Assistance
12 program payments authorized by the American Recovery and
13 Reinvestment Act of 2009.

14 ~~[(d)]~~ (g) Section 163 (with respect to interest) of the
15 Internal Revenue Code shall be operative for the purposes of
16 this chapter, except that provisions in ~~[section]~~ Section
17 163(d)(4)(B) (defining net investment income to exclude
18 dividends), Section 163(e)(5)(F) (suspension of applicable high-
19 yield discount obligation (AHYDO) rules) and Section 163(i)(1)
20 as it applies to debt instruments issued after January 1, 2010,
21 (defining AHYDO) shall not be operative for the purposes of this
22 chapter.



1 (h) Section 164 (with respect to taxes) of the Internal
2 Revenue Code shall be operative for the purposes of this
3 chapter, except that Sections 164(a)(6) and 164(b)(6) shall not
4 be operative for the purposes of this chapter.

5 [~~e~~] (i) Section 165 (with respect to losses) of the
6 Internal Revenue Code shall be operative for purposes of this
7 chapter, except that the amount prescribed by [~~section~~] Sections
8 165(h)(1) (relating to the limitation per casualty) of the
9 Internal Revenue Code shall be a \$100 limitation per casualty,
10 and [~~section~~] Section 165(d) (with respect to wagering losses)
11 [~~+~~]and[~~+~~sections] Sections 165(h)(3)(A) and 165(h)(3)(B) (both
12 of which relate to special rules for personal casualty gains and
13 losses in federally declared disasters) of the Internal Revenue
14 Code shall not be operative for the purposes of this chapter.

15 Section 165 as operative for this chapter shall also apply to
16 losses sustained from the sale of stocks or other interests
17 issued through the exercise of the stock options or warrants
18 granted by a qualified high technology business as defined in
19 section 235-7.3.

20 [~~f~~] (j) Section 168 (with respect to the accelerated
21 cost recovery system) of the Internal Revenue Code shall be
22 operative for purposes of this chapter, except that [~~sections~~]



1 Sections 168(j) (relating to property on Indian reservations),
2 168(k) (relating to the special allowance for certain property
3 acquired during the period specified therein), 168(m) (relating
4 to the special allowance for certain reuse and recycling
5 property), and 168(n) (relating to the special allowance for
6 qualified disaster assistance property) of the Internal Revenue
7 Code shall not be operative for purposes of this chapter.

8 ~~[(g)]~~ (k) Section 172 (with respect to net operating loss
9 deductions) of the Internal Revenue Code shall be operative for
10 purposes of this chapter, as further provided in section 235-
11 7(d), except that ~~[sections]~~ Sections 172(b)(1)(J) and 172(j)
12 (both of which relate to qualified disaster losses) of the
13 Internal Revenue Code shall not be operative for purposes of
14 this chapter.

15 ~~[(h)]~~ (l) Section 179 (with respect to the election to
16 expense certain depreciable business assets) of the Internal
17 Revenue Code shall be operative for purposes of this chapter,
18 except that provisions relating to:

19 (1) The increase of the maximum deduction to \$100,000 for
20 taxable years beginning after 2002 and before 2008,
21 and the increase of the maximum deduction to \$125,000



- 1 for taxable years beginning after 2006 and before
2 2011, in ~~[section]~~ Section 179(b)(1);
- 3 (2) The increase of the qualifying investment amount to
4 \$400,000 for taxable years beginning after 2002 and
5 before 2008, and the increase of the qualifying
6 investment amount to \$500,000 for taxable years
7 beginning after 2006 and before 2011, in ~~[section]~~
8 Section 179(b)(2);
- 9 (3) The increase of the maximum deduction to \$250,000 and
10 the increase of the qualifying investment amount to
11 \$800,000 for taxable years beginning in 2008~~[7]~~ or
12 2009, in ~~[section]~~ Section 179(b)(7);
- 13 (4) Defining ~~[section]~~ Section 179 property to include
14 computer software in ~~[section]~~ Section 179(d)(1);
- 15 (5) Inflation adjustments in ~~[section]~~ Section 179(b)(5);
- 16 (6) Irrevocable election in ~~[section]~~ Section 179(c)(2);
17 and
- 18 (7) Special rules for qualified disaster assistance
19 property in ~~[section]~~ Section 179(e),
20 shall not be operative for the purposes of this chapter.



1 ~~[(i)]~~ (m) Section 198A (with respect to the expensing of
2 qualified disaster assistances expenses) of the Internal Revenue
3 Code shall not be operative for purposes of this chapter.

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

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

16 ~~[(l)]~~ (p) Section 265 (with respect to expenses and
17 interest relating to tax-exempt income) of the Internal Revenue
18 Code shall be operative for purposes of this chapter; except
19 that Sections 265(b)(3)(G) and 265(b)(7) shall not be operative
20 and that ~~[(t)]~~ Section 265 shall not apply to expenses for
21 royalties and other income derived from any patents, copyrights,
22 and trade secrets by an individual or a qualified high



1 technology business as defined in section 235-7.3. Such
2 expenses shall be deductible.

3 (q) Section 382 (with respect to limitation on net
4 operating loss carryforwards and certain built-in losses
5 following ownership change) of the Internal Revenue Code shall
6 be operative for the purposes of this chapter, except that
7 Section 382(n) shall not be operative for purposes of this
8 chapter.

9 ~~[(m)]~~ (r) Section 408A (with respect to Roth Individual
10 Retirement Accounts) of the Internal Revenue Code shall be
11 operative for the purposes of this chapter~~[-]~~, including Section
12 408A(d)(3)(A)(iii), except that the inclusion of income shall be
13 for a two-year period. For the purposes of determining the
14 aggregate amount of contributions to a Roth Individual
15 Retirement Account or qualified rollover contribution to a Roth
16 Individual Retirement Account from an individual retirement plan
17 other than a Roth Individual Retirement Account, adjusted gross
18 income as used in ~~[section]~~ Section 408A as operative for this
19 chapter means federal adjusted gross income.

20 ~~[(n)]~~ (s) In administering the provisions of ~~[sections]~~
21 Sections 410 to 417 (with respect to special rules relating to
22 pensions, profit sharing, stock bonus plans, etc.), ~~[sections]~~



1 Sections 418 to 418E (with respect to special rules for
2 multiemployer plans), and [~~sections~~] Sections 419 and 419A (with
3 respect to treatment of welfare benefit funds) of the Internal
4 Revenue Code, the department of taxation shall adopt rules under
5 chapter 91 relating to the specific requirements under such
6 sections and to such other administrative requirements under
7 those sections as may be necessary for the efficient
8 administration of [~~sections~~] Sections 410 to 419A.

9 In administering [~~sections~~] Sections 401 to 419A (with
10 respect to deferred compensation) of the Internal Revenue Code,
11 Public Law 93-406, [~~section~~] Section 1017(i), shall be operative
12 for the purposes of this chapter.

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

20 [~~+(e)+~~] (t) In administering [~~section~~] Section 403 (with
21 respect to taxation of employee annuities) of the Internal
22 Revenue Code, any funds that represent pre-tax employee



1 deferrals or contributions that are distributed from the annuity
2 and used solely to obtain retirement credits under the state
3 ~~[+]employees' [+]~~ retirement system shall not be treated as a
4 rollover for purposes of ~~[section]~~ Section 403(b)(8)(A) of the
5 Internal Revenue Code, and such funds shall be subject to income
6 tax under this chapter.

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

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



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

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

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

18 "Unrelated business taxable income" means the same as in
19 the Internal Revenue Code, except that in the computation
20 thereof sections 235-3 to 235-5, and 235-7 (except subsection
21 (c)), shall apply, and in the determination of the net operating
22 loss deduction there shall not be taken into account any amount



1 of income or deduction that is excluded in computing the
2 unrelated business taxable income. Unrelated business taxable
3 income shall not include any income from a prepaid legal service
4 plan.

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

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

16 [~~(v)~~] (aa) Sections 527 (with respect to political
17 organizations) and 528 (with respect to certain homeowners
18 associations) of the Internal Revenue Code shall be operative
19 for the purposes of this chapter and the taxes imposed in each
20 section are hereby imposed by this chapter at the rates
21 determined under section 235-71.



1 ~~[(w)]~~ (bb) Section 529 (with respect to qualified
2 tuition programs) shall be operative for the purposes of this
3 chapter, except that ~~[section]~~ Sections 529(c)(6) and
4 529(e)(3)(A)(iii) shall not be operative.

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

14 SECTION 5. Section 235-2.4, Hawaii Revised Statutes, is
15 amended by amending its title and subsection (a) to read as
16 follows:

17 "**§235-2.4 Operation of certain Internal Revenue Code**
18 **provisions; ~~[sections]~~ Sections 63 to 530.** (a) Section 63
19 (with respect to taxable income defined) of the Internal Revenue
20 Code shall be operative for the purposes of this chapter,
21 subject to the following:



- 1 (1) Sections 63(c)(1)(B) (relating to the additional
2 standard deduction), 63(c)(1)(C) (relating to the real
3 property tax deduction), 63(c)(1)(D) (relating to the
4 disaster loss deduction), 63(c)(1)(E) (relating to the
5 motor vehicle sales tax deduction), 63(c)(4) (relating
6 to inflation adjustments), 63(c)(7) (defining the real
7 property tax deduction), 63(c)(8) (defining the
8 disaster loss deduction), 63(c)(9) (defining the motor
9 vehicle sales tax deduction), and 63(f) (relating to
10 additional amounts for the aged or blind) of the
11 Internal Revenue Code shall not be operative for
12 purposes of this chapter;
- 13 (2) Section 63(c)(2) (relating to the basic standard
14 deduction) of the Internal Revenue Code shall be
15 operative, except that the standard deduction amounts
16 provided therein shall instead mean:
- 17 (A) \$4,400 in the case of:
- 18 (i) A joint return as provided by section 235-
19 93; or
- 20 (ii) A surviving spouse (as defined in section
21 2(a) of the Internal Revenue Code);



1 (B) \$3,212 in the case of a head of household (as
2 defined in [~~section~~] Section 2(b) of the Internal
3 Revenue Code);

4 (C) \$2,200 in the case of an individual who is not
5 married and who is not a surviving spouse or head
6 of household; or

7 (D) \$2,200 in the case of a married individual filing
8 a separate return;

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

14 (4) The standard deduction amount for nonresidents shall
15 be calculated pursuant to section 235-5."

16 SECTION 6. Section 235-2.45, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§235-2.45 Operation of certain Internal Revenue Code**
19 **provisions; sections 641 to 7518.** (a) Section 641 (with
20 respect to imposition of tax) of the Internal Revenue Code shall
21 be operative for the purposes of this chapter subject to the
22 following:



- 1 (1) The deduction for exemptions shall be allowed as
2 provided in section 235-54(b);
- 3 (2) The deduction for contributions and gifts in
4 determining taxable income shall be limited to the
5 amount allowed in the case of an individual, unless
6 the contributions and gifts are to be used exclusively
7 in the [~~State;~~] state; and
- 8 (3) The tax imposed by [~~section~~] Section 1(e) of the
9 Internal Revenue Code as applied by [~~section~~] Section
10 641 of the Internal Revenue Code is hereby imposed by
11 this chapter at the rate and amount as determined
12 under section 235-51 on estates and trusts.
- 13 (b) Section 667 (with respect to treatment of amounts
14 deemed distributed by trusts in preceding years) of the Internal
15 Revenue Code shall be operative for the purposes of this chapter
16 and the tax imposed therein is hereby imposed by this chapter at
17 the rate determined under this chapter; except that the
18 reference to tax-exempt interest to which [~~section~~] Section 103
19 of the Internal Revenue Code applies in [~~section~~] Section 667(a)
20 of the Internal Revenue Code shall instead be a reference to
21 tax-exempt interest to which section 235-7(b) applies.



1 (c) Section 685 (with respect to treatment of qualified
2 funeral trusts) of the Internal Revenue Code shall be operative
3 for purposes of this chapter, except that the tax imposed under
4 this chapter shall be computed at the tax rates provided under
5 section 235-51, and no deduction for the exemption amount
6 provided in section 235-54(b) shall be allowed. The cost-of-
7 living adjustment determined under [~~section~~] Section 1(f)(3) of
8 the Internal Revenue Code shall be operative for the purpose of
9 applying [~~section~~] Section 685(c)(3) under this chapter.

10 (d) Section 704 of the Internal Revenue Code (with respect
11 to a partner's distributive share) shall be operative for
12 purposes of this chapter; except that [~~section~~] Section
13 704(b)(2) shall not apply to:

14 (1) Allocations of the high technology business investment
15 tax credit allowed by section 235-110.9 for
16 investments made before May 1, 2009;

17 (2) Allocations of net operating loss pursuant to section
18 235-111.5;

19 (3) Allocations of the attractions and educational
20 facilities tax credit allowed by section 235-110.46;

21 or



1 (4) Allocations of low-income housing tax credits among
2 partners under section 235-110.8.

3 (e) Section 1202 (with respect to partial exclusion for
4 gain from certain small business stock) of the Internal Revenue
5 Code shall be operative for purposes of this chapter, except
6 that Section 1202(a)(3) shall not be operative for purposes of
7 this chapter.

8 [~~e~~] (f) Section 1212 (with respect to capital loss
9 carrybacks and carryforwards) of the Internal Revenue Code shall
10 be operative for the purposes of this chapter; except that for
11 the purposes of this chapter, the capital loss carryback
12 provisions of [~~section~~] Section 1212 shall not be operative and
13 the capital loss carryforward allowed by [~~section~~] Section
14 1212(a) shall be limited to five years; except for a qualified
15 high technology business as defined in section 235-7.3, which
16 shall be limited to fifteen years.

17 [~~f~~] (g) Section 1221 (with respect to the definition of
18 capital assets) is operative; provided that the provisions of
19 [~~section~~] Section 301 of Public Law 110-343, which provide that
20 gain or loss from the sale or exchange of any applicable
21 preferred stock by any applicable financial institution (such
22 terms being defined by Public Law 110-343) shall be treated as



1 ordinary income or loss, shall not be operative. A sale or
2 exchange of any applicable preferred stock by any applicable
3 financial institution (as those terms are defined by [~~section~~]
4 Section 301 of Public Law 110-343) shall be treated as a sale of
5 a capital asset and taxed accordingly.

6 [~~(g)~~] (h) Subchapter S (sections 1361 to 1379) (with
7 respect to tax treatment of S corporations and their
8 shareholders) of [~~chapter~~] Chapter 1 of the Internal Revenue
9 Code shall be operative for the purposes of this chapter as
10 provided in part VII~~[-]~~; except that Sections 1374(d)(7)(B) and
11 1374(d)(7)(C) shall not be operative for purposes of this
12 chapter.

13 [~~(h)~~] (i) Section 1400N (with respect to tax benefits for
14 Gulf Opportunity Zone) of the Internal Revenue Code shall be
15 operative for the purposes of this chapter, except that
16 [~~sections~~] Sections 1400N(a) (with respect to tax-exempt bond
17 financing); 1400N(b) (with respect to advance refundings of
18 certain tax-exempt bonds); 1400N(c) (with respect to the low
19 income housing credit); 1400N(d) (with respect to special
20 allowance for certain property acquired on or after August 28,
21 2005); 1400N(e) (with respect to increase in expensing under
22 [~~section~~] Section 179); 1400N(h) (with respect to increase in



1 rehabilitation credit); 1400N(l) (with respect to credit to
2 holders of Gulf tax credit bonds); 1400N(m) (with respect to
3 application of new markets tax credit to investments in
4 community development entities serving Gulf Opportunity Zone);
5 1400N(n) (with respect to treatment of representations regarding
6 income eligibility for purposes of qualified residential rental
7 project requirements) shall not be operative for purposes of
8 this chapter.

9 ~~[(i)]~~ (j) Section 1400S (with respect to additional tax
10 relief provisions) of the Internal Revenue Code shall be
11 operative for the purposes of this chapter, except that
12 ~~[section]~~ Section 1400S(d) (with respect to the special rule for
13 determining earned income) shall not be operative for the
14 purposes of this chapter.

15 ~~[(j)]~~ (k) Section 6015 (with respect to relief from joint
16 and several liability on joint return) of the Internal Revenue
17 Code is operative for purposes of this chapter.

18 ~~[(k)]~~ (l) Sections 6103(i)(3)(C) and 6103(i)(7) (with
19 respect to disclosures of information to the United States
20 Justice Department or appropriate federal or state law
21 enforcement agency for purposes of investigating terrorist
22 incidents, threats, or activities, and for analyzing



1 intelligence concerning investigating terrorist incidents,
2 threats, or activities) of the Internal Revenue Code shall be
3 operative for the purposes of this chapter.

4 ~~[(1)]~~ (m) Subchapter C (sections 6221 to 6233) (with
5 respect to tax treatment of partnership items) of ~~[chapter]~~
6 Chapter 63 of the Internal Revenue Code shall be operative for
7 the purposes of this chapter.

8 ~~[(m)]~~ (n) Subchapter D (sections 6240 to 6255) (with
9 respect to simplified audit procedures for electing large
10 partnerships) of the Internal Revenue Code shall be operative
11 for the purposes of this chapter, with due regard to ~~[chapter]~~
12 Chapter 232 relating to tax appeals.

13 ~~[(n)]~~ (o) Section 6501(e) (with respect to limitation on
14 assessment and collection where there is a substantial omission
15 of items) of the Internal Revenue Code shall be operative for
16 purposes of this chapter.

17 ~~[(o)]~~ (p) Section 6511(h) (with respect to running of
18 periods of limitation suspended while taxpayer is unable to
19 manage financial affairs due to disability) of the Internal
20 Revenue Code shall be operative for purposes of this chapter,
21 with due regard to section 235-111 relating to the limitation
22 period for assessment, levy, collection, or credit.



1 ~~[(p)]~~ (q) Section 7518 (with respect to capital
2 construction fund for commercial fishers) of the Internal
3 Revenue Code shall be operative for the purposes of this
4 chapter. Qualified withdrawals for the acquisition,
5 construction, or reconstruction of any qualified asset that is
6 attributable to deposits made before the effective date of this
7 section shall not reduce the basis of the asset when withdrawn.
8 Qualified withdrawals shall be treated on a first-in-first-out
9 basis."

10 SECTION 7. Section 235-7, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) (1) For taxable years ending before January 1, 1967,
13 the net operating loss deductions allowed as
14 carrybacks and carryovers by the Internal Revenue Code
15 shall not be allowed. In lieu thereof the net
16 operating loss deduction shall consist of the excess
17 of the deductions allowed by this chapter over the
18 gross income, computed with the modifications
19 specified in paragraphs (1) to (4) of ~~[section]~~
20 Section 172(d) of the Internal Revenue Code, and with
21 the further modification stated in paragraph (3)
22 hereof; and shall be allowed as a deduction in



1 computing the taxable income of the taxpayer for the
2 succeeding taxable year;

3 (2) (A) With respect to net operating loss deductions
4 resulting from net operating losses for taxable
5 years ending after December 31, 1966, the net
6 operating loss deduction provisions of the
7 Internal Revenue Code shall apply; provided that
8 there shall be no net operating loss deduction
9 carried back to any taxable year ending prior to
10 January 1, 1967;

11 (B) In the case of a taxable year beginning in 1966
12 and ending in 1967, the entire amount of all net
13 operating loss deductions carried back to the
14 taxable year shall be limited to that portion of
15 taxable income for such taxable year which the
16 number of days in 1967 bears to the total days in
17 the taxable year ending in 1967; and

18 (C) The computation of any net operating loss
19 deduction for a taxable year covered by this
20 subsection shall require the further
21 modifications stated in paragraphs (3), (4), and
22 (5) of this subsection;



- 1 (3) In computing the net operating loss deduction allowed
2 by this subsection, there shall be included in gross
3 income the amount of interest which is excluded from
4 gross income by subsection (a), decreased by the
5 amount of interest paid or accrued which is disallowed
6 as a deduction by subsection (e). In determining the
7 amount of the net operating loss deduction under this
8 subsection of any corporation, there shall be
9 disregarded the net operating loss of such corporation
10 for any taxable year for which the corporation is an
11 electing small business corporation;
- 12 (4) No net operating loss carryback or carryover shall be
13 allowed by this chapter if not allowed under [~~section~~]
14 Section 172 of the Internal Revenue Code;
- 15 (5) The election to relinquish the entire carryback period
16 with respect to a net operating loss allowed under
17 [~~section~~] Section 172(b)(3)(C) of the Internal Revenue
18 Code shall be operative for the purposes of this
19 chapter; provided that no taxpayer shall make such an
20 election as to a net operating loss of a business
21 where such net operating loss occurred in the



1 taxpayer's business prior to the taxpayer entering
2 business in this [~~State; and~~] state;

3 (6) The five-year carryback period for net operating
4 losses for any taxable year ending during 2001 and
5 2002 in [~~section~~] Section 172(b)(1)(H) of the Internal
6 Revenue Code as it read on December 31, 2008, shall
7 not be operative for purposes of this chapter~~[-]~~; and

8 (7) The election for the carryback for 2008 or 2009 net
9 operating losses of small businesses as provided in
10 Section 172(b)(1)(H) of the Internal Revenue Code as
11 it read on December 31, 2009, shall not be operative
12 for purposes of this chapter."

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on January 1, 2050;
16 provided that section 5 shall take effect January 1, 2011.



Report Title:

Income Tax; Conformity to the Internal Revenue Code for 2009

Description:

Conforming amendments to the Hawaii income tax law based upon amendments to the Internal Revenue Code for calendar year 2009. Effective 1/1/2050.

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

