

JAN 22 2010

A BILL FOR AN ACT

RELATING TO PERSONAL RELATIONSHIPS.

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

1 PART I

2 SECTION 1. Section 87A-1, Hawaii Revised Statutes, is
3 amended by amending the definitions of "dependent-beneficiary",
4 "employee-beneficiary", and "qualified beneficiary" to read as
5 follows:

6 ""Dependent-beneficiary" means an employee-beneficiary's:

7 (1) Spouse;

8 (2) Reciprocal beneficiary;

9 ~~[-(2)-]~~ (3) Unmarried child deemed eligible by the board,
10 including a legally adopted child, stepchild, foster
11 child, or recognized natural child who lives with the
12 employee-beneficiary; and

13 ~~[-(3)-]~~ ~~[Unmarried child]~~ (4) Child not married or not in a
14 reciprocal beneficiary relationship regardless of age
15 who is incapable of self-support because of a mental
16 or physical incapacity~~[, which]~~ that existed prior to



1 the [~~unmarried~~] child's reaching the age of nineteen
2 years.

3
4 "Employee-beneficiary" means:

5 (1) An employee;

6 (2) The beneficiary of an employee who is killed in the
7 performance of the employee's duty;

8 (3) An employee who retired prior to 1961;

9 (4) The beneficiary of a retired member of the employees'
10 retirement system; a county pension system; or a
11 police, firefighters, or bandsmen pension system of
12 the State or a county, upon the death of the retired
13 member;

14 (5) The surviving child of a deceased retired employee, if
15 the child is unmarried or not in a reciprocal
16 beneficiary relationship and under the age of
17 nineteen; [~~or~~]

18 (6) The surviving spouse of a deceased retired employee,
19 if the surviving spouse does not subsequently
20 remarry[~~ing~~], or enter into a reciprocal beneficiary
21 relationship; or



1 (7) The surviving reciprocal beneficiary of a deceased
2 retired employee, if the surviving party does not
3 subsequently marry or enter into a reciprocal
4 beneficiary relationship; provided that the employee,
5 the employee's beneficiary, or the beneficiary of the
6 deceased retired employee is deemed eligible by the
7 board to participate in a health benefits plan or
8 long-term care benefits plan under this chapter.

9 "Qualified-beneficiary" means, for purposes of the long-
10 term care benefits plan, a former employee or an employee who is
11 not eligible for benefits due to a reduction in work hours,
12 including the spouse, divorced spouse, reciprocal beneficiary,
13 former reciprocal beneficiary, parents, grandparents, in-law
14 parents, [~~and~~] parents of a reciprocal beneficiary, in-law
15 grandparents, and grandparents of a reciprocal beneficiary of an
16 employee or retiree; provided that the beneficiary was enrolled
17 in the plan before the employee or former employee became
18 ineligible for benefits."

19 SECTION 2. Section 87A-18, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) The board may establish a long-term care benefits
22 plan or plans for employee-beneficiaries; the spouses,



1 reciprocal beneficiaries, parents, parents of a reciprocal
2 beneficiary, grandparents, in-law parents, [~~and~~] in-law parents
3 of a reciprocal beneficiary, in-law grandparents, and in-law
4 grandparents of a reciprocal beneficiary of employee-
5 beneficiaries; and qualified-beneficiaries. The plan or plans
6 shall be at no cost to employers and shall comply with article
7 10H of chapter 431.

8 (b) Notwithstanding any other law to the contrary, long-
9 term care benefits shall be available only to:

10 (1) Employee-beneficiaries and their spouses, reciprocal
11 beneficiaries, parents, and grandparents;

12 (2) Employee-beneficiary in-law parents and
13 grandparents[+], and the parents and grandparents of
14 parties in a reciprocal beneficiary relationship; and

15 (3) Qualified-beneficiaries who enroll between the ages of
16 twenty and eighty-five,
17 who comply with the plan's age, enrollment, medical
18 underwriting, and contribution requirements."

19 SECTION 3. Section 87A-23, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§87A-23 Health benefits plan supplemental to medicare.**

22 The board shall establish a health benefits plan, which takes



1 into account benefits available to an employee-beneficiary and
2 spouse or reciprocal beneficiary under medicare, subject to the
3 following conditions:

4 (1) There shall be no duplication of benefits payable
5 under medicare. The plan under this section, which
6 shall be secondary to medicare, when combined with
7 medicare and any other plan to which the health
8 benefits plan is subordinate under the National
9 Association of Insurance Commissioners' coordination
10 of benefit rules, shall provide benefits that
11 approximate those provided to a similarly situated
12 beneficiary not eligible for medicare;

13 (2) The State, through the department of budget and
14 finance, and the counties, through their respective
15 departments of finance, shall pay to the fund a
16 contribution equal to an amount not less than the
17 medicare part B premium, for each of the following who
18 are enrolled in the medicare part B medical insurance
19 plan: (A) an employee-beneficiary who is a retired
20 employee, (B) an employee-beneficiary's spouse or
21 reciprocal beneficiary while the employee-beneficiary
22 is living, and (C) an employee-beneficiary's spouse[7]



1 or reciprocal beneficiary, after the death of the
2 employee-beneficiary, if the spouse or reciprocal
3 beneficiary qualifies as an employee-beneficiary. For
4 purposes of this section, a "retired employee" means
5 retired members of the employees' retirement system;
6 county pension system; or a police, firefighters, or
7 bandsmen pension system of the State or a county as
8 set forth in chapter 88. If the amount reimbursed by
9 the fund under this section is less than the actual
10 cost of the medicare part B medical insurance plan due
11 to an increase in the medicare part B medical
12 insurance plan rate, the fund shall reimburse each
13 employee-beneficiary and employee-beneficiary's spouse
14 or reciprocal beneficiary for the cost increase within
15 thirty days of the rate change. Each employee-
16 beneficiary and employee-beneficiary's spouse or
17 reciprocal beneficiary who becomes entitled to
18 reimbursement from the fund for medicare part B
19 premiums after July 1, 2006, shall designate a
20 financial institution account into which the fund
21 shall be authorized to deposit reimbursements. This



1 method of payment may be waived by the fund if another
2 method is determined to be more appropriate;

3 (3) The benefits available under this plan, when combined
4 with benefits available under medicare or any other
5 coverage or plan to which this plan is subordinate
6 under the National Association of Insurance
7 Commissioners' coordination of benefit rules, shall
8 approximate the benefits that would be provided to a
9 similarly situated employee-beneficiary not eligible
10 for medicare;

11 (4) All employee-beneficiaries or dependent-beneficiaries
12 who are eligible to enroll in the medicare part B
13 medical insurance plan shall enroll in that plan as a
14 condition of receiving contributions and participating
15 in benefits plans under this chapter. This paragraph
16 shall apply to retired employees, their spouses [7] or
17 reciprocal beneficiaries, and the surviving spouses or
18 reciprocal beneficiaries of deceased retirees and
19 employees killed in the performance of duty; and

20 (5) The board shall determine which of the employee-
21 beneficiaries and dependent-beneficiaries, who are not
22 enrolled in the medicare part B medical insurance



1 plan, may participate in the plans offered by the
2 fund."

3 SECTION 4. Section 87A-32, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The State, through the department of budget and
6 finance, and the counties, through their respective departments
7 of finance, shall pay to the fund a monthly contribution equal
8 to the amount established under chapter 89C or specified in the
9 applicable public sector collective bargaining agreements,
10 whichever is appropriate, for each of their respective employee-
11 beneficiaries and employee-beneficiaries with dependent-
12 beneficiaries, which shall be used toward the payment of costs
13 of a health benefits plan; provided that:

14 (1) The monthly contribution shall be a specified dollar
15 amount;

16 (2) The monthly contribution shall not exceed the actual
17 cost of a health benefits plan;

18 (3) If both husband and wife or reciprocal beneficiaries
19 are employee-beneficiaries, the total contribution by
20 the State or the county shall not exceed the monthly
21 contribution for a family plan; and



1 (4) If the State or any of the counties establish
2 cafeteria plans in accordance with Title 26, United
3 States Code section 125, the Internal Revenue Code of
4 1986, as amended, and part II of chapter 78, the
5 monthly contribution for those employee-beneficiaries
6 who participate in a cafeteria plan shall be made
7 through the cafeteria plan, and the payments made by
8 the State or counties shall include their respective
9 contributions to the fund and their employee-
10 beneficiary's share of the cost of the employee-
11 beneficiary's health benefits plan."

12 SECTION 5. Section 87A-33, Hawaii Revised Statutes, is
13 amended by amending subsections (b) and (c) to read as follows:

14 "(b) Effective July 1, 2003, there is established a base
15 monthly contribution for health benefit plans that the State,
16 through the department of budget and finance, and the counties,
17 through their respective departments of finance, shall pay to
18 the fund, up to the following:

19 (1) \$218 for each employee-beneficiary enrolled in
20 supplemental medicare self plans;

21 (2) \$671 for each employee-beneficiary enrolled in
22 supplemental medicare family plans;



- 1 (3) \$342 for each employee-beneficiary enrolled in non-
- 2 medicare self plans; and
- 3 (4) \$928 for each employee-beneficiary enrolled in non-
- 4 medicare family plans.

5 The monthly contribution by the State or county shall not
6 exceed the actual cost of the health benefits plan or plans. If
7 both husband and wife or reciprocal beneficiaries are employe-
8 beneficiaries, the total contribution by the State or county
9 shall not exceed the monthly contribution for a supplemental
10 medicare family or non-medicare family plan, as appropriate.

11 (c) Effective July 1, 2004, there is established a base
12 monthly contribution for health benefit plans that the State,
13 through the department of budget and finance, and the counties,
14 through their respective departments of finance, shall pay to
15 the fund, up to the following:

- 16 (1) \$254 for each employee-beneficiary enrolled in
- 17 supplemental medicare self plans;
- 18 (2) \$787 for each employee-beneficiary enrolled in
- 19 supplemental medicare family plans;
- 20 (3) \$412 for each employee-beneficiary enrolled in non-
- 21 medicare self plans; and



1 (4) \$1,089 for each employee-beneficiary enrolled in non-
2 medicare family plans.

3 The monthly contribution by the State or county shall not
4 exceed the actual cost of the health benefit plan or plans and
5 shall not be required to cover increased benefits above those
6 initially contracted for by the fund for plan year 2004-2005.
7 If both husband and wife or reciprocal beneficiaries are
8 employee-beneficiaries, the total contribution by the State or
9 county shall not exceed the monthly contribution for a
10 supplemental medicare family or non-medicare family plan, as
11 appropriate."

12 SECTION 6. Section 87A-34, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) The State, through the department of budget and
15 finance, and the counties, through their respective departments
16 of finance, shall pay to the fund a monthly contribution equal
17 to one-half of the base monthly contribution set forth under
18 section 87A-33(b) for retired employees enrolled in medicare or
19 non-medicare health benefits plans. If both husband and wife or
20 reciprocal beneficiaries are employee-beneficiaries, the total
21 contribution by the State or county shall not exceed the monthly



1 contribution for supplemental medicare family or non-medicare
2 family plan, as appropriate."

3 SECTION 7. Section 87A-35, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The State, through the department of budget and
6 finance, and the counties, through their respective departments
7 of finance, shall pay to the fund:

8 (1) For retired employees enrolled in medicare or non-
9 medicare health benefit plans with ten or more years
10 but fewer than fifteen years of service, a monthly
11 contribution equal to one-half of the base monthly
12 contribution set forth under section 87A-33(b); and

13 (2) For retired employees enrolled in medicare or non-
14 medicare health benefit plans with at least fifteen
15 but fewer than twenty-five years of service, a monthly
16 contribution of seventy-five per cent of the base
17 monthly contribution set forth under section 87A-
18 33(b).

19 If both husband and wife or reciprocal beneficiaries are
20 employee-beneficiaries, the total contribution by the State or
21 county shall not exceed the monthly contribution for a



1 supplemental medicare family or non-medicare family plan, as
2 appropriate."

3 SECTION 8. Section 87A-36, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The State, through the department of budget and
6 finance, and the counties, through their respective departments
7 of finance, shall pay to the fund:

- 8 (1) For retired employees based on the self plan with ten
9 or more years but fewer than fifteen years of service,
10 a monthly contribution equal to one-half of the base
11 medicare or non-medicare monthly contribution set
12 forth under section 87A-33(b);
- 13 (2) For retired employees based on the self plan with at
14 least fifteen but fewer than twenty-five years of
15 service, a monthly contribution equal to seventy-five
16 per cent of the base medicare or non-medicare monthly
17 contribution set forth under section 87A-33(b);
- 18 (3) For retired employees based on the self plan with
19 twenty-five or more years of service, a monthly
20 contribution equal to [~~one hundred~~] one hundred per
21 cent of the base medicare or non-medicare monthly
22 contribution set forth under section 87A-33(b); and



1 (4) One-half of the monthly contributions for the
2 employee-beneficiary or employee-beneficiary with
3 dependent-beneficiaries upon the death of the
4 employee, as defined in paragraph (1)(E) of the
5 definition of "employee" in section 87A-1.

6 If both husband and wife or reciprocal beneficiaries are
7 employee-beneficiaries, the total contribution by the State or
8 county shall not exceed the monthly contribution for two
9 supplemental medicare self or non-medicare self plans, as
10 appropriate."

11 SECTION 9. Section 231-57, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§231-57[+] **Apportionment of joint refunds.** In the
14 case of a setoff against a joint income tax refund, the State
15 may make separate refunds of withheld taxes upon request by a
16 husband or wife or a reciprocal beneficiary who has filed the
17 joint return. The refund payable to each spouse or reciprocal
18 beneficiary shall be proportioned to the gross earnings of each
19 shown by the information returns filed by the employer or
20 otherwise shown to the satisfaction of the State."



1 SECTION 10. Section 235-1, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:

4 ""Reciprocal beneficiary" or "reciprocal beneficiaries" has
5 the same meaning as in section 572C-3.

6 "Reciprocal beneficiary relationship" means a relationship
7 that meets the requisites specified in section 572C-4."

8 SECTION 11. Section 235-2.4, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Section 63 (with respect to taxable income defined)
11 of the Internal Revenue Code shall be operative for the purposes
12 of this chapter, subject to the following:

13 (1) Sections 63(c)(1)(B) (relating to the additional
14 standard deduction), 63(c)(1)(C) (relating to the real
15 property tax deduction), 63(c)(1)(D) (relating to the
16 disaster loss deduction), 63(c)(4) (relating to
17 inflation adjustments), 63(c)(7) (defining the real
18 property tax deduction), 63(c)(8) (defining the
19 disaster loss deduction), and 63(f) (relating to
20 additional amounts for the aged or blind) of the
21 Internal Revenue Code shall not be operative for
22 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) [~~+~~] or
10 surviving reciprocal beneficiary;

11 (B) \$2,920 in the case of a head of household (as
12 defined in Section 2(b) of the Internal Revenue
13 Code);

14 (C) \$2,000 in the case of an individual who is not
15 married or in a reciprocal beneficiary
16 relationship and who is not a surviving spouse,
17 surviving reciprocal beneficiary, or head of
18 household; or

19 (D) \$2,000 in the case of a married individual or
20 reciprocal beneficiary filing a separate return;

21 (3) Section 63(c)(5) (limiting the basic standard
22 deduction in the case of certain dependents) of the



1 Internal Revenue Code shall be operative, except that
2 the limitation shall be the greater of \$500 or such
3 individual's earned income; and

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

6 SECTION 12. Section 235-4, Hawaii Revised Statutes, is
7 amended by amending subsections (b) and (c) to read as follows:

8 "(b) Nonresidents. In the case of a nonresident, the tax
9 applies to the income received or derived from property owned,
10 personal services performed, trade, or business carried on, and
11 any and every other source in the State.

12 In the case of a nonresident spouse or reciprocal
13 beneficiary filing a joint return with a resident spouse~~[r]~~ or
14 reciprocal beneficiary, the tax applies to the entire income of
15 the nonresident spouse or reciprocal beneficiary, computed
16 without regard to source in the State.

17 (c) Change of status. Except where a joint return is
18 filed, when the status of a taxpayer changes during the taxable
19 year from resident to nonresident, or from nonresident to
20 resident, the tax imposed by this chapter applies to the entire
21 income earned during the period of residence in the manner
22 provided in subsection (a) [~~of this section~~] and during the



1 period of nonresidence the tax shall apply upon the income
2 received or derived as a nonresident in the manner provided in
3 subsection (b) [~~of this section~~]; provided that if it cannot be
4 determined whether income was received or derived during the
5 period of residence or during the period of nonresidence, there
6 shall be attributed to the State such portion of the income as
7 is determined by applying to such income for the whole taxable
8 year the ratio which the period of residence in the State bears
9 to the whole taxable year, unless the taxpayer shows to the
10 satisfaction of the department of taxation that the result is to
11 attribute to the state income, dependent upon residence,
12 received or derived during the period of nonresidence, in which
13 event the amount of income as to which such showing is made
14 shall be excluded.

15 The apportionment of income provided by this subsection
16 shall not apply where one spouse or reciprocal beneficiary is a
17 resident of this State and a joint return is filed with the
18 nonresident spouse or reciprocal beneficiary in which event the
19 tax shall be computed on their aggregate income in the manner
20 provided in section 235-52 without regard to source in the
21 State. Where, however, both spouses or parties in a reciprocal
22 beneficiary relationship change their status from resident to



1 nonresident or from nonresident to resident, their income shall
2 be apportioned in the manner provided in this subsection."

3 SECTION 13. Section 235-5.5, Hawaii Revised Statutes, is
4 amended as follows:

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

6 "(a) There shall be allowed as a deduction from gross
7 income the amount, not to exceed \$5,000, paid in cash during the
8 taxable year by an individual taxpayer to an individual housing
9 account established for the individual's benefit to provide
10 funding for the purchase of the individual's first principal
11 residence. A deduction not to exceed \$10,000 shall be allowed
12 for a married couple or parties in a reciprocal beneficiary
13 relationship filing a joint return. No deduction shall be
14 allowed on any amounts distributed less than three hundred
15 sixty-five days from the date on which a contribution is made to
16 the account. Any deduction claimed for a previous taxable year
17 for amounts distributed less than three hundred sixty-five days
18 from the date on which a contribution was made shall be
19 disallowed and the amount deducted shall be included in the
20 previous taxable year's gross income and the tax reassessed.
21 The interest paid or accrued within the taxable year on the
22 account shall not be included in the individual's gross income.



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

10 In the case of a married couple [~~file~~] or parties in a
11 reciprocal beneficiary relationship who file separate returns,
12 the sum of the deductions allowable to each of them for the
13 taxable year shall not exceed \$5,000, or \$10,000 for a joint
14 return, for amounts paid in cash, excluding interest paid or
15 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, excluding interest paid or accrued. In the case
19 of married individuals or reciprocal beneficiaries having
20 separate individual housing accounts, the sum of the separate
21 accounts and the deduction under this section shall not exceed
22 \$25,000, 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^[7] or party to a reciprocal beneficiary
5 relationship, for the exclusive benefit of the individual and
6 spouse or reciprocal beneficiary jointly, but only if the
7 written governing instrument creating the trust meets the
8 following requirements:

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

13 (2) The trustee is a bank, a savings and loan association,
14 a credit union, or a depository financial services
15 loan company, chartered, licensed, or supervised under
16 federal or state law, whose accounts are insured by
17 the Federal Deposit Insurance Corporation, the
18 National Credit Union Administration, or any agency of
19 this State or any federal agency established for the
20 purpose of insuring accounts in these financial
21 institutions. The financial institution must actively
22 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
8 couple, or reciprocal beneficiaries for whose benefit
9 the trust is maintained shall be distributed to the
10 individual [~~or~~], couple, or reciprocal beneficiaries
11 not later than one hundred twenty months after the
12 date on which the first contribution is made to the
13 trust;
- 14 (5) Except as provided in subsection (g), the trustee
15 shall not distribute the funds in the account unless
16 it (A) verifies that the money is to be used for the
17 purchase of a first principal residence located in
18 Hawaii, and provides that the instrument of payment is
19 payable to the mortgagor, construction contractor, or
20 other vendor of the property purchased; or (B)
21 withholds an amount equal to ten per cent of the
22 amount withdrawn from the account and remits this



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

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

17 2. By amending subsections (g) and (h) to read:

18 "(g) No tax liability shall be imposed under this section

19 if:

20 (1) The payment or distribution is attributable to the
21 individual dying or becoming totally disabled; or



1 (2) Residential property subject to subsection (f) is
2 transferred by will or by operation of law or sold due
3 to the death or total disability of an individual or
4 an individual's spouse[7] or reciprocal beneficiary,
5 subject to the following:

6 An individual shall not be considered to be totally
7 disabled unless proof is furnished of the total disability in
8 the form and manner as the director may require.

9 Upon the death of an individual for whose benefit an
10 individual housing account has been established, the funds in
11 the account shall be payable to the estate of the individual;
12 provided that if the account was held jointly by the decedent
13 and a spouse or reciprocal beneficiary of the decedent, the
14 account shall terminate and be paid to the surviving spouse[+]
15 or reciprocal beneficiary; or, if the surviving spouse or
16 reciprocal beneficiary so elects, the spouse or reciprocal
17 beneficiary may continue the account as an individual housing
18 account. Upon the total disability of an individual for whose
19 benefit an individual housing account has been established, the
20 individual or the individual's authorized representative may
21 elect to continue the account or terminate the account and be
22 paid the assets; provided that if the account was held jointly



1 by a totally disabled person and a spouse or reciprocal
2 beneficiary of that person, then the spouse or reciprocal
3 beneficiary, or an authorized representative of the spouse or
4 reciprocal beneficiary may elect to continue the account or
5 terminate the account and be paid the assets.

6 (h) If the individual for whose benefit the individual
7 housing account was established subsequently marries a person or
8 enters into a reciprocal beneficiary relationship with a person
9 who has or has had any interest in residential property, the
10 individual's housing account shall be terminated, the funds
11 therein shall be distributed to the individual, and the amount
12 of the funds shall be includable in the individual's gross
13 income for the taxable year in which such marriage took place;
14 provided that the tax liability defined under subsection (f)
15 shall not be imposed."

16 SECTION 14. Section 235-7, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) There shall be excluded from gross income, adjusted
19 gross income, and taxable income:

20 (1) Income not subject to taxation by the State under the
21 Constitution and laws of the United States;



- 1 (2) Rights, benefits, and other income exempted from
2 taxation by section 88-91, having to do with the state
3 retirement system, and the rights, benefits, and other
4 income, comparable to the rights, benefits, and other
5 income exempted by section 88-91, under any other
6 public retirement system;
- 7 (3) Any compensation received in the form of a pension for
8 past services;
- 9 (4) Compensation paid to a patient affected with Hansen's
10 disease employed by the State or the United States in
11 any hospital, settlement, or place for the treatment
12 of Hansen's disease;
- 13 (5) Except as otherwise expressly provided, payments made
14 by the United States or this State, under an act of
15 Congress or a law of this State, which by express
16 provision or administrative regulation or
17 interpretation are exempt from both the normal and
18 surtaxes of the United States, even though not so
19 exempted by the Internal Revenue Code itself;
- 20 (6) Any income expressly exempted or excluded from the
21 measure of the tax imposed by this chapter by any
22 other law of the State, it being the intent of this

1 chapter not to repeal or supersede any express
2 exemption or exclusion;

3 (7) Income received by each member of the reserve
4 components of the Army, Navy, Air Force, Marine Corps,
5 or Coast Guard of the United States of America, and
6 the Hawaii national guard as compensation for
7 performance of duty, equivalent to pay received for
8 forty-eight drills (equivalent of twelve weekends) and
9 fifteen days of annual duty, at an:

10 (A) E-1 pay grade after eight years of service;
11 provided that this subparagraph shall apply to
12 taxable years beginning after December 31, 2004;

13 (B) E-2 pay grade after eight years of service;
14 provided that this subparagraph shall apply to
15 taxable years beginning after December 31, 2005;

16 (C) E-3 pay grade after eight years of service;
17 provided that this subparagraph shall apply to
18 taxable years beginning after December 31, 2006;

19 (D) E-4 pay grade after eight years of service;
20 provided that this subparagraph shall apply to
21 taxable years beginning after December 31, 2007;

22 and



- 1 (E) E-5 pay grade after eight years of service;
2 provided that this subparagraph shall apply to
3 taxable years beginning after December 31, 2008;
- 4 (8) Income derived from the operation of ships or aircraft
5 if the income is exempt under the Internal Revenue
6 Code pursuant to the provisions of an income tax
7 treaty or agreement entered into by and between the
8 United States and a foreign country; provided that the
9 tax laws of the local governments of that country
10 reciprocally exempt from the application of all of
11 their net income taxes, the income derived from the
12 operation of ships or aircraft that are documented or
13 registered under the laws of the United States;
- 14 (9) The value of legal services provided by a prepaid
15 legal service plan to a taxpayer, the taxpayer's
16 spouse[7] or reciprocal beneficiary, and the
17 taxpayer's dependents;
- 18 (10) Amounts paid, directly or indirectly, by a prepaid
19 legal service plan to a taxpayer as payment or
20 reimbursement for the provision of legal services to
21 the taxpayer, the taxpayer's spouse[7] or reciprocal
22 beneficiary, and the taxpayer's dependents;



- 1 (11) Contributions by an employer to a prepaid legal
2 service plan for compensation (through insurance or
3 otherwise) to the employer's employees for the costs
4 of legal services incurred by the employer's
5 employees, their spouses, their reciprocal
6 beneficiaries, and their dependents;
- 7 (12) Amounts received in the form of a monthly surcharge by
8 a utility acting on behalf of an affected utility
9 under section 269-16.3 shall not be gross income,
10 adjusted gross income, or taxable income for the
11 acting utility under this chapter. Any amounts
12 retained by the acting utility for collection or other
13 costs shall not be included in this exemption; and
- 14 (13) One hundred per cent of the gain realized by a fee
15 simple owner from the sale of a leased fee interest in
16 units within a condominium project, cooperative
17 project, or planned unit development to the
18 association of owners under chapter 514A or 514B, or
19 the residential cooperative corporation of the
20 leasehold units.
- 21 For purposes of this paragraph:



1 "Fee simple owner" shall have the same meaning as
2 provided under section 516-1; provided that it shall
3 include legal and equitable owners;

4 "Legal and equitable owner", and "leased fee
5 interest" shall have the same meanings as provided
6 under section 516-1; and

7 "Condominium project" and "cooperative project"
8 shall have the same meanings as provided under section 514C-1."

9 SECTION 15. Section 235-7.5, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) For purposes of this section, the parent whose
12 taxable income shall be taken into account shall be:

13 (1) In the case of parents who are not married (within the
14 meaning of section 235-93), the custodial parent
15 (within the meaning of section 152(e) (with respect to
16 the support test in case of child of divorced parents,
17 etc.) of the Internal Revenue Code) of the child, and

18 (2) In the case of married individuals or reciprocal
19 beneficiaries filing separately, the individual with
20 the greater taxable income."

21 SECTION 16. Section 235-51, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) There is hereby imposed on the taxable income of (1)
3 every taxpayer who files a joint return under section 235-93;
4 and (2) every surviving spouse or reciprocal beneficiary a tax
5 determined in accordance with the following table:

6 In the case of any taxable year beginning after
7 December 31, 2001:

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



1	not over \$80,000	excess over \$60,000
2	Over \$80,000	\$5,356.00 plus 8.25% of
3		excess over \$80,000.

4 In the case of any taxable year beginning after
 5 December 31, 2006:

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

22 Over \$96,000 \$6,427.00 plus 8.25% of



1 excess over \$96,000.

2 In the case of any taxable year beginning after December
3 31, 2008:

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



1	not over \$300,000	excess over \$96,000
2	Over \$300,000 but	\$23,257.00 plus 9.00%
3	of	
4	not over \$350,000	excess over \$300,000
5	Over \$350,000 but	\$27,757.00 plus 10.00% of
6	not over \$400,000	excess over \$350,000
7	Over \$400,000	\$32,757.00 plus 11.00% of
8		excess over \$400,000."

9 2. By amending subsection (c) to read:

10 "(c) There is hereby imposed on the taxable income of (1)

11 every unmarried individual (other than a surviving spouse,

12 surviving reciprocal beneficiary, or the head of a household)

13 and (2) on the taxable income of every married individual or

14 reciprocal beneficiary who does not make a single return jointly

15 with the individual's spouse or reciprocal beneficiary under

16 section 235-93 a tax determined in accordance with the following

17 table:

18 In the case of any taxable year beginning after

19 December 31, 2001:

20	If the taxable income is:	The tax shall be:
21	Not over \$2,000	1.40% of taxable income
22	Over \$2,000 but	\$28.00 plus 3.20% of



S.B. NO. 2505

1	not over \$4,000	excess over \$2,000
2	Over \$4,000 but	\$92.00 plus 5.50% of
3	not over \$8,000	excess over \$4,000
4	Over \$8,000 but	\$312.00 plus 6.40% of
5	not over \$12,000	excess over \$8,000
6	Over \$12,000 but	\$568.00 plus 6.80% of
7	not over \$16,000	excess over \$12,000
8	Over \$16,000 but	\$840.00 plus 7.20% of
9	not over \$20,000	excess over \$16,000
10	Over \$20,000 but	\$1,128.00 plus 7.60% of
11	not over \$30,000	excess over \$20,000
12	Over \$30,000 but	\$1,888.00 plus 7.90% of
13	not over \$40,000	excess over \$30,000
14	Over \$40,000	\$2,678.00 plus 8.25% of
15		excess over \$40,000.

16 In the case of any taxable year beginning after
 17 December 31, 2006:

18	If the taxable income is:	The tax shall be:
19	Not over \$2,400	1.40% of taxable income
20	Over \$2,400 but	\$34.00 plus 3.20% of
21	not over \$4,800	excess over \$2,400
22	Over \$4,800 but	\$110.00 plus 5.50% of



1	not over \$9,600	excess over \$4,800
2	Over \$9,600 but	\$374.00 plus 6.40% of
3	not over \$14,400	excess over \$9,600
4	Over \$14,400 but	\$682.00 plus 6.80% of
5	not over \$19,200	excess over \$14,400
6	Over \$19,200 but	\$1,008.00 plus 7.20% of
7	not over \$24,000	excess over \$19,200
8	Over \$24,000 but	\$1,354.00 plus 7.60% of
9	not over \$36,000	excess over \$24,000
10	Over \$36,000 but	\$2,266.00 plus 7.90% of
11	not over \$48,000	excess over \$36,000
12	Over \$48,000	\$3,214.00 plus 8.25% of
13		excess over \$48,000.

14 In the case of any taxable year beginning after
15 December 31, 2008:

16	If the taxable income is:	The tax shall be:
17	Not over \$2,400	1.40% of taxable income
18	Over \$2,400 but	\$34.00 plus 3.20% of
19	not over \$4,800	excess over \$2,400
20	Over \$4,800 but	\$110.00 plus 5.50% of
21	not over \$9,600	excess over \$4,800
22	Over \$9,600 but	\$374.00 plus 6.40% of



1	not over \$14,400	excess over \$9,600
2	Over \$14,400 but	\$682.00 plus 6.80% of
3	not over \$19,200	excess over \$14,400
4	Over \$19,200 but	\$1,008.00 plus 7.20% of
5	not over \$24,000	excess over \$19,200
6	Over \$24,000 but	\$1,354.00 plus 7.60% of
7	not over \$36,000	excess over \$24,000
8	Over \$36,000 but	\$2,266.00 plus 7.90% of
9	not over \$48,000	excess over \$36,000
10	Over \$48,000 but	\$3,214.00 plus 8.25% of
11	not over \$150,000	excess over \$48,000
12	Over \$150,000 but	\$11,629.00 plus 9.00% of
13	not over \$175,000	excess over \$150,000
14	Over \$175,000 but	\$13,879.00 plus 10.00% of
15	not over \$200,000	excess over \$175,000
16	Over \$200,000	\$16,379.00 plus 11.00% of
17		excess over \$200,000."

18 SECTION 17. Section 235-52, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "**§235-52 Tax in case of joint return or return of**
 21 **surviving spouse[-] or surviving reciprocal beneficiary.** In the
 22 case of a joint return of a husband and wife or parties to a



1 reciprocal beneficiary relationship under section 235-93, the
2 tax imposed, as near as may be, by this chapter shall be twice
3 the tax which would be imposed if the taxable income were cut in
4 half. For purposes of this section and section 235-53, a return
5 of a surviving spouse, as defined in the Internal Revenue Code,
6 or surviving reciprocal beneficiary shall be treated as a joint
7 return of a husband and wife under section 235-93."

8 SECTION 18. Section 235-54, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) In computing the taxable income personal exemptions
11 allowed by the Internal Revenue Code of 1986, as amended, and
12 except as provided in subsection (c), personal exemptions
13 computed as follows: Ascertain the number of exemptions which
14 the individual can lawfully claim under the Internal Revenue
15 Code, add an additional exemption for the taxpayer or the
16 taxpayer's spouse or reciprocal beneficiary who is sixty-five
17 years of age or older within the taxable year, and multiply that
18 number by \$1,040, for taxable years beginning after December 31,
19 1984. A nonresident shall prorate the personal exemptions on
20 account of income from sources outside the State as provided in
21 section 235-5. In the case of an individual with respect to
22 whom an exemption under this section is allowable to another



1 taxpayer for a taxable year beginning in the calendar year in
2 which the individual's taxable year begins, the personal
3 exemption amount applicable to such individual under this
4 subsection for such individual's taxable year shall be zero."

5 SECTION 19. Section 235-55.6, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending subsection (b) to read:

8 "(b) Definitions of qualifying individual and employment-
9 related expenses. For purposes of this section:

10 (1) Qualifying individual. The term "qualifying
11 individual" means:

12 (A) A dependent of the taxpayer who is under the age
13 of thirteen and with respect to whom the taxpayer
14 is entitled to a deduction under section 235-
15 54(a),

16 (B) A dependent of the taxpayer who is physically or
17 mentally incapable of caring for oneself, or

18 (C) The spouse or reciprocal beneficiary of the
19 taxpayer, if the spouse or reciprocal beneficiary
20 is physically or mentally incapable of caring for
21 oneself.

22 (2) Employment-related expenses.



1 (A) In general. The term "employment-related
2 expenses" means amounts paid for the following
3 expenses, but only if such expenses are incurred
4 to enable the taxpayer to be gainfully employed
5 for any period for which there are one or more
6 qualifying individuals with respect to the
7 taxpayer:

- 8 (i) Expenses for household services, and
- 9 (ii) Expenses for the care of a qualifying
10 individual.

11 Such term shall not include any amount paid for
12 services outside the taxpayer's household at a
13 camp where the qualifying individual stays
14 overnight.

15 (B) Exception. Employment-related expenses described
16 in subparagraph (A) which are incurred for
17 services outside the taxpayer's household shall
18 be taken into account only if incurred for the
19 care of:

- 20 (i) A qualifying individual described in
21 paragraph (1)(A), or



1 (ii) A qualifying individual (not described in
2 paragraph (1)(A)) who regularly spends at
3 least eight hours each day in the taxpayer's
4 household.

5 (C) Dependent care centers. Employment-related
6 expenses described in subparagraph (A) which are
7 incurred for services provided outside the
8 taxpayer's household by a dependent care center
9 (as defined in subparagraph (D)) shall be taken
10 into account only if:

11 (i) Such center complies with all applicable
12 laws, rules, and regulations of this State,
13 if the center is located within the
14 jurisdiction of this State; or

15 (ii) Such center complies with all applicable
16 laws, rules, and regulations of the
17 jurisdiction in which the center is located,
18 if the center is located outside the State;
19 and

20 (iii) The requirements of subparagraph (B) are
21 met.



1 (D) Dependent care center defined. For purposes of
2 this paragraph, the term "dependent care center"
3 means any facility which:

4 (i) Provides care for more than six individuals
5 (other than individuals who reside at the
6 facility), and

7 (ii) Receives a fee, payment, or grant for
8 providing services for any of the
9 individuals (regardless of whether such
10 facility is operated for profit)."

11 2. By amending subsections (d) and (e) to read:

12 "(d) Earned income limitation.

13 (1) In general. Except as otherwise provided in this
14 subsection, the amount of the employment-related
15 expenses incurred during any taxable year which may be
16 taken into account under subsection (a) shall not
17 exceed:

18 (A) In the case of an individual who is not married
19 or not in a reciprocal beneficiary relationship
20 at the close of such year, such individual's
21 earned income for such year, or



1 (B) In the case of an individual who is married or in
2 a reciprocal beneficiary relationship at the
3 close of such year, the lesser of [~~such~~] the
4 individual's earned income or the earned income
5 of the individual's spouse or reciprocal
6 beneficiary for such year.

7 (2) Special rule for spouse or reciprocal beneficiary who
8 is a student or incapable of caring for oneself. In
9 the case of a spouse or reciprocal beneficiary who is
10 a student or a qualified individual described in
11 subsection (b)(1)(C), for purposes of paragraph (1),
12 [~~such~~] the spouse or reciprocal beneficiary shall be
13 deemed for each month during which [~~such~~] the spouse
14 or reciprocal beneficiary is a full-time student at an
15 educational institution, or is [~~such~~] a qualifying
16 individual, to be gainfully employed and to have
17 earned income of not less than:

18 (A) \$200 if subsection (c)(1) applies for the taxable
19 year, or

20 (B) \$400 if subsection (c)(2) applies for the taxable
21 year.



1 In the case of any husband and wife, or parties in a
2 reciprocal beneficiary relationship, this paragraph
3 shall apply with respect to only one spouse or
4 reciprocal beneficiary for any one month.

5 (e) Special rules. For purposes of this section:

6 (1) Maintaining household. An individual shall be treated
7 as maintaining a household for any period only if over
8 half the cost of maintaining the household for the
9 period is furnished by the individual (or, if the
10 individual is married or a party in a reciprocal
11 beneficiary relationship during the period, is
12 furnished by the individual and the individual's
13 spouse[~~+-~~] or reciprocal beneficiary).

14 (2) Married couples [~~must~~] and parties in a reciprocal
15 beneficiary relationship shall file joint return. If
16 the taxpayer is married or a party in a reciprocal
17 beneficiary relationship at the close of the taxable
18 year, the credit shall be allowed under subsection (a)
19 only if the taxpayer and the taxpayer's spouse or
20 reciprocal beneficiary file a joint return for the
21 taxable year.



1 (3) Marital status. An individual legally separated from
2 the individual's spouse under a decree of divorce or
3 of separate maintenance shall not be considered as
4 married.

5 (4) Certain married individuals living apart. If:

6 (A) An individual who is married and who files a
7 separate return:

8 (i) Maintains as the individual's home a
9 household that constitutes for more than
10 one-half of the taxable year the principal
11 place of abode of a qualifying individual,
12 and

13 (ii) Furnishes over half of the cost of
14 maintaining the household during the taxable
15 year, and

16 (B) During the last six months of the taxable year
17 the individual's spouse is not a member of the
18 household,

19 the individual shall not be considered as married.

20 (5) Special dependency test in case of divorced parents,
21 etc. If:



1 (A) Paragraph (2) or (4) of section 152(e) of the
2 Internal Revenue Code of 1986, as amended,
3 applies to any child with respect to any calendar
4 year, and

5 (B) The child is under age thirteen or is physically
6 or mentally incompetent of caring for the child's
7 self,

8 in the case of any taxable year beginning in the
9 calendar year, the child shall be treated as a
10 qualifying individual described in subsection
11 (b)(1)(A) or (B) (whichever is appropriate) with
12 respect to the custodial parent (within the meaning of
13 section 152(e)(1) of the Internal Revenue Code of
14 1986, as amended), and shall not be treated as a
15 qualifying individual with respect to the noncustodial
16 parent.

17 (6) Payments to related individuals. No credit shall be
18 allowed under subsection (a) for any amount paid by
19 the taxpayer to an individual:

20 (A) With respect to whom, for the taxable year, a
21 deduction under section 151(c) of the Internal
22 Revenue Code of 1986, as amended (relating to



1 deduction for personal exemptions for dependents)
2 is allowable either to the taxpayer or the
3 taxpayer's spouse[7] or reciprocal beneficiary;
4 or

5 (B) Who is a child of the taxpayer (within the
6 meaning of section 151(c)(3) of the Internal
7 Revenue Code of 1986, as amended) who has not
8 attained the age of nineteen at the close of the
9 taxable year.

10 For purposes of this paragraph, the term "taxable
11 year" means the taxable year of the taxpayer in which
12 the service is performed.

13 (7) Student. The term "student" means an individual who,
14 during each of five calendar months during the taxable
15 year, is a full-time student at an educational
16 organization.

17 (8) Educational organization. The term "educational
18 organization" means a school operated by the
19 department of education under chapter 302A, an
20 educational organization described in section
21 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,



1 as amended, or a university, college, or community
2 college.

3 (9) Identifying information required with respect to
4 service provider. No credit shall be allowed under
5 subsection (a) for any amount paid to any person
6 unless:

7 (A) The name, address, taxpayer identification
8 number, and general excise tax license number of
9 the person are included on the return claiming
10 the credit,

11 (B) If the person is located outside the State, the
12 name, address, and taxpayer identification
13 number, if any, of the person and a statement
14 indicating that the service provider is located
15 outside the State and that the general excise tax
16 license and, if applicable, the taxpayer
17 identification numbers are not required, or

18 (C) If the person is an organization described in
19 section 501(c)(3) of the Internal Revenue Code
20 and exempt from tax under section 501(a) of the
21 Internal Revenue Code, the name and address of



1 the person are included on the return claiming
2 the credit.

3 In the case of a failure to provide the information
4 required under the preceding sentence, the preceding
5 sentence shall not apply if it is shown that the
6 taxpayer exercised due diligence in attempting to
7 provide the information so required."

8 SECTION 20. Section 235-55.7, Hawaii Revised Statutes, is
9 amended by amending subsection (e) to read as follows:

10 "(e) The tax credits shall be deductible from the
11 taxpayer's individual net income tax for the tax year in which
12 the credits are properly claimed; provided that a husband and
13 wife or parties in a reciprocal beneficiary relationship filing
14 separate returns for a taxable year for which a joint return
15 could have been made by them shall claim only the tax credits to
16 which they would have been entitled had a joint return been
17 filed. In the event the allowed tax credits exceed the amount
18 of the income tax payments due from the taxpayer, the excess of
19 credits over payments due shall be refunded to the taxpayer;
20 provided that allowed tax credits properly claimed by an
21 individual who has no income tax liability shall be paid to the
22 individual; and provided further that no refunds or payments on



1 account of the tax credits allowed by this section shall be made
2 for amounts less than \$1."

3 SECTION 21. Section 235-55.85, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Each resident individual taxpayer may claim a
6 refundable food/excise tax credit multiplied by the number of
7 qualified exemptions to which the taxpayer is entitled in
8 accordance with the table below; provided that a husband and
9 wife or parties in a reciprocal beneficiary relationship filing
10 separate tax returns for a taxable year for which a joint return
11 could have been filed by them shall claim only the tax credit to
12 which they would have been entitled had a joint return been
13 filed.

Adjusted gross income	Credit per exemption
Under \$5,000	\$85
\$5,000 under \$10,000	75
\$10,000 under \$15,000	65
\$15,000 under \$20,000	55
\$20,000 under \$30,000	45
\$30,000 under \$40,000	35
\$40,000 under \$50,000	25
\$50,000 and over	0."



1 SECTION 22. Section 235-61, Hawaii Revised Statutes, is
2 amended to read as follows:

3 1. By amending subsection (c) to read:

4 "(c) For each withholding period (whether weekly,
5 biweekly, monthly, or otherwise) the amount of tax to be
6 withheld under this section shall be at a rate which, for the
7 taxable year, will yield the tax imposed by section 235-51 upon
8 each employee's annual wage, as estimated from the employee's
9 current wage in any withholding period, but for the purposes of
10 this subsection of the rates provided by section 235-51 the
11 maximum to be taken into consideration shall be eight per cent.

12 The tax for the taxable year shall be calculated upon the
13 following assumptions:

14 (1) That the employee's annual wage, as estimated from the
15 employee's current wage in the withholding period,
16 will be the employee's sole income for the taxable
17 year;

18 (2) That there will be no deductions therefrom in
19 determining adjusted gross income;

20 (3) That in determining taxable income there shall be a
21 standard deduction allowance which shall be an amount
22 equal to one exemption (or more than one exemption if



1 so prescribed by the director) unless (A) the taxpayer
2 is married or a party to a reciprocal beneficiary
3 relationship and the taxpayer's spouse or reciprocal
4 beneficiary is an employee receiving wages subject to
5 withholding, or (B) the taxpayer has withholding
6 exemption certificates in effect with respect to more
7 than one employer. For the purposes of this section,
8 any standard deduction allowance under this paragraph
9 shall be treated as if it were denominated a
10 withholding exemption;

11 (4) That in determining taxable income there also will be
12 deducted the amount of exemptions and withholding
13 allowances granted to the employee in the computation
14 of taxable income, as shown by a certificate to be
15 filed with the employer as provided by subsection (f);

16 and

17 (5) If it appears from the certificate filed pursuant to
18 subsection (f) that the employee, under section 235-
19 93, is entitled to make a joint return, that the
20 employee and the employee's spouse or reciprocal
21 beneficiary will so elect."

22 2. By amending subsections (f) and (g) to read:



1 "(f) On or before the date of the commencement of
2 employment with an employer, the employee shall furnish the
3 employer with a signed certificate relating to the number of
4 exemptions which the employee claims, which shall in no event
5 exceed the number to which the employee is entitled on the basis
6 of the existing facts, and also showing whether the employee is
7 married or a party to a reciprocal beneficiary relationship and
8 is, under section 235-93, entitled to make a joint return. The
9 certificate shall be in such form and contain such information
10 as may be prescribed by the department.

11 If, on any day during the calendar year, there is a change
12 in the employee's marital or reciprocal beneficiary status and
13 the employee no longer is entitled to make a joint return, or
14 the number of exemptions to which the employee is entitled is
15 less than the number of exemptions claimed by the employee on
16 the certificate then in effect with respect to the employee, the
17 employee shall within ten days thereafter furnish the employer
18 with a new certificate showing the employee's present marital or
19 reciprocal beneficiary status, or relating to the number of
20 exemptions which the employee then claims, which shall in no
21 event exceed the number to which the employee is entitled on the
22 basis of the existing facts. If, on any day during the calendar



1 year, there is a change in the employee's marital or reciprocal
2 beneficiary status and though previously not entitled to make a
3 joint return the employee now is so entitled, or the number of
4 exemptions to which the employee is entitled is greater than the
5 number of exemptions claimed, the employee may furnish the
6 employer with a new certificate showing the employee's present
7 marital status, or relating to the number of exemptions which
8 the employee then claims, which shall in no event exceed the
9 number to which the employee is entitled on the basis of the
10 existing facts.

11 Such certificate shall take effect at the times set forth
12 in the Internal Revenue Code.

13 (g) In determining the deduction allowed by subsection
14 (c)(4) an employee shall be entitled to withholding allowances
15 or additional reductions in withholding under this subsection.
16 In determining the number of additional withholding allowances
17 or the amount of additional reductions in withholding under this
18 subsection, the employee may take into account (to the extent
19 and in the manner provided by rules) estimated itemized
20 deductions and tax credits allowable under this chapter; and
21 such additional deductions and other items as may be specified
22 by the director in rules. For the purposes of this subsection a



1 fractional number shall not be taken into account unless it
2 amounts to one-half or more, in which case it shall be increased
3 to the next whole number.

4 (1) As used in this subsection, unless the context
5 otherwise requires:

6 (A) "Estimated itemized deductions" means the
7 aggregate amount which the employee reasonably
8 expects will be allowed as deductions under
9 sections 235-2.3, 235-2.4, 235-2.45, and 235-7,
10 other than the deductions referred to in Internal
11 Revenue Code section 151 and those deductions
12 required to be taken into account in determining
13 adjusted gross income under Internal Revenue Code
14 section 62(a) (with the exception of paragraph 10
15 thereof) for the estimation year. In no case
16 shall the aggregate amount be greater than the
17 sum of:

18 (i) The amount of the deductions reflected in
19 the employee's net income tax return for the
20 taxable year preceding the estimation year
21 of (if a return has not been filed for the
22 preceding taxable year at the time the



- 1 withholding exemption certificate is
2 furnished the employer) the second taxable
3 year preceding the estimation year; or
4 (ii) The amount of estimated itemized deductions
5 and tax credits allowable under this chapter
6 and any additional deductions to which
7 entitled; and
8 (iii) The amount of the employee's determinable
9 additional deductions for the estimation
10 year.
- 11 (B) "Estimated wages" means the aggregate amount
12 which the employee reasonably expects will
13 constitute wages for the estimation year;
- 14 (C) "Determinable additional deductions" means those
15 estimated itemized deductions which:
16 (i) Are in excess of the deductions referred to
17 in subparagraph (A) reflected on the
18 employee's net income tax return for the
19 taxable year preceding the estimation year;
20 and
21 (ii) Are demonstrably attributable to an
22 identifiable event during the estimation



1 year or the preceding taxable year which can
2 reasonably be expected to cause an increase
3 in the amount of such deductions on the net
4 income tax return for the estimation year.

5 (D) "Estimation year", in the case of an employee who
6 files the employee's return on the basis of a
7 calendar year, means the calendar year in which
8 the wages are paid; provided that in the case of
9 an employee who files the employee's return on a
10 basis other than the calendar year, the
11 employee's estimation year, and the amounts
12 deducted and withheld to be governed by the
13 estimation year, shall be determined under rules
14 prescribed by the director of taxation.

15 (2) Under this subsection, the following special rules
16 shall apply:

17 (A) Married individuals~~[-]~~ or parties in a reciprocal
18 beneficiary relationship. The number of
19 withholding allowances to which a husband and
20 wife or reciprocal beneficiaries are entitled
21 under this subsection shall be determined on the
22 basis of their combined wages and deductions.



1 This subparagraph shall not apply to a husband
2 and wife or reciprocal beneficiaries who filed
3 separate returns for the taxable year preceding
4 the estimation year and who reasonably expect to
5 file separate returns for the estimation year;

6 (B) Limitation. In the case of employees whose
7 estimated wages are at levels at which the
8 amounts deducted and withheld under this chapter
9 generally are insufficient (taking into account a
10 reasonable allowance for deductions and
11 exceptions) to offset the liability for tax under
12 this chapter with respect to the wages from which
13 the amounts are deducted and withheld, the
14 director may by rule reduce the withholding
15 allowances to which those employees would, but
16 for this subparagraph, be entitled under this
17 subsection;

18 (C) Treatment of allowances. For purposes of this
19 chapter, any withholding allowance under this
20 subsection shall be treated as if it were
21 denominated a withholding exemption.



1 (3) The director may prescribe tables by rule under
2 chapter 91 pursuant to which employees shall determine
3 the number of withholding allowances to which they are
4 entitled under this subsection."

5 SECTION 23. Section 235-93, Hawaii Revised Statutes, is
6 amended by amending subsection (a) and (b) to read as follows:

7 "(a) A husband and wife, having that status for purposes
8 of the Internal Revenue Code and entitled to make a joint
9 federal return for the taxable year; and reciprocal
10 beneficiaries who entered into the reciprocal beneficiary
11 relationship during or prior to the taxable year may make a
12 single return jointly of taxes under this chapter for the
13 taxable year. In that case the tax shall be computed on their
14 aggregate income as provided in section 235-52, and the
15 liability with respect to the tax shall be joint and several.
16 For purposes of this chapter "aggregate income" means the income
17 of both spouses or reciprocal beneficiaries without regard to
18 source in the State.

19 (b) If an individual has filed a separate return for a
20 taxable year for which a joint return could have been made by
21 the taxpayer and the taxpayer's spouse[7] or reciprocal
22 beneficiary, an election thereafter to make a joint return for



1 the taxable year shall be made only upon compliance with rules
2 of the department of taxation, which may limit the election and
3 prescribe the terms and provisions applicable in such cases as
4 nearly as may be in conformity with the Internal Revenue Code."

5 SECTION 24. Section 235-102.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§235-102.5 Income check-off authorized.** (a) Any
8 individual whose state income tax liability for any taxable year
9 is \$3 or more may designate \$3 of the liability to be paid over
10 to the Hawaii election campaign fund, any other law to the
11 contrary notwithstanding, when submitting a state income tax
12 return to the department. In the case of a joint return of a
13 husband and wife or reciprocal beneficiaries having a state
14 income tax liability of \$6 or more, each spouse or reciprocal
15 beneficiary may designate that \$3 be paid to the fund. The
16 director of taxation shall revise the individual state income
17 tax form to allow the designation of contributions to the fund
18 on the face of the tax return and immediately above the
19 signature lines. An explanation shall be included which clearly
20 states that the check-off does not constitute an additional tax
21 liability. If no designation was made on the original tax
22 return when filed, a designation may be made by the individual



1 on an amended return filed within twenty months and ten days
2 after the due date for the original return for such taxable
3 year. A designation once made whether by an original or amended
4 return may not be revoked.

5 (b) Notwithstanding any law to the contrary, any
6 individual whose state income tax refund for any taxable year is
7 \$2 or more may designate \$2 of the refund to be deposited into
8 the school-level minor repairs and maintenance special fund
9 established by section 302A-1504.5, when submitting a state
10 income tax return to the department. In the case of a joint
11 return of a husband and wife or parties in a reciprocal
12 beneficiary relationship having a state income tax refund of \$4
13 or more, each spouse or reciprocal beneficiary may designate
14 that \$2 be deposited into the special fund. The director of
15 taxation shall revise the individual state income tax return
16 form to allow the designation of contributions to the special
17 fund on the face of the tax return and immediately above the
18 signature lines. If no designation was made on the original tax
19 return when filed, a designation may be made by the individual
20 on an amended return filed within twenty months and ten days
21 after the due date for the original return for such taxable



1 year. A designation once made, whether by an original or
2 amended return, may not be revoked.

3 (c) Notwithstanding any law to the contrary, any
4 individual whose state income tax refund for any taxable year is
5 \$2 or more may designate \$2 of the refund to be paid over to the
6 libraries special fund established by section 312-3.6, when
7 submitting a state income tax return to the department. In the
8 case of a joint return of a husband and wife or parties in a
9 reciprocal beneficiary relationship having a state income tax
10 refund of \$4 or more, each spouse or reciprocal beneficiary may
11 designate that \$2 be deposited into the special fund. The
12 director of taxation shall revise the individual state income
13 tax form to allow the designation of contributions to the fund
14 on the face of the tax return and immediately above the
15 signature lines. If no designation was made on the original tax
16 return when filed, a designation may be made by the individual
17 on an amended return filed within twenty months and ten days
18 after the due date for the original return for such taxable
19 year. A designation once made, whether by an original or
20 amended return, may not be revoked.

21 (d) Notwithstanding any law to the contrary, any
22 individual whose state income tax refund for any taxable year is



1 \$5 or more may designate \$5 of the refund to be paid over as
2 follows:

3 (1) One-third to the Hawaii children's trust fund under
4 section 350B-2; and

5 (2) Two-thirds to be divided equally among:

6 (A) The domestic violence and sexual assault special
7 fund under the department of health in section
8 321-1.3;

9 (B) The spouse and child abuse special account under
10 the department of human services in section
11 346-7.5; and

12 (C) The spouse and child abuse special account under
13 the judiciary in section 601-3.6.

14 When designated by a taxpayer submitting a state income tax
15 return to the department, the department of budget and finance
16 shall allocate the moneys among the several funds as provided in
17 this subsection. In the case of a joint return of a husband and
18 wife or parties in a reciprocal beneficiary relationship having
19 a state income tax refund of \$10 or more, each spouse or
20 reciprocal beneficiary may designate that \$5 be paid over as
21 provided in this subsection. The director of taxation shall
22 revise the individual state income tax form to allow the



1 designation of contributions pursuant to this subsection on the
2 face of the tax return and immediately above the signature
3 lines. If no designation was made on the original tax return
4 when filed, a designation may be made by the individual on an
5 amended return filed within twenty months and ten days after the
6 due date for the original return for such taxable year. A
7 designation once made, whether by an original or amended return,
8 may not be revoked."

9 SECTION 25. Section 235-110.6, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) The tax credit claimed under this section by the
12 principal operator shall be deductible from the principal
13 operator's individual or corporate income tax liability, if any,
14 for the tax year in which the credit is properly claimed;
15 provided that a husband and wife or parties in a reciprocal
16 beneficiary relationship filing separate returns for a taxable
17 year for which a joint return could have been made by them shall
18 claim only the tax credit to which they would have been entitled
19 had a joint return been filed. If the tax credit claimed by the
20 principal operator under this section exceeds the amount of the
21 income tax payments due from the principal operator, the excess
22 of credit over payments due shall be refunded to the principal



1 operator; provided that the tax credit properly claimed by a
2 principal operator who has no income tax liability shall be paid
3 to the principal operator; and provided further no refunds or
4 payments on account of the tax credit allowed by this section
5 shall be made for amounts less than \$1."

6 PART II

7 SECTION 26. Section 572-1.5, Hawaii Revised Statutes, is
8 amended to read as follows:"

9 "[~~§~~572-1.5[~~§~~] **Definition of marriage.** Whenever used in
10 the statutes or other laws of Hawaii, "marriage" means the union
11 of one man and one woman as husband and wife who are licensed
12 under section 572-1."

13 SECTION 27. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act, which can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 28. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 29. This Act shall take effect upon its approval,
22 provided that:



- 1 (1) The amendments made to section 235-7, Hawaii Revised
- 2 Statutes, by section 14 of this Act shall not be
- 3 repealed when section 235-7, Hawaii Revised Statutes,
- 4 is reenacted on January 1, 2013, pursuant to section 3
- 5 of Act 166, Session Laws of Hawaii 2007; and
- 6 (2) Sections 9 through 25 of this Act shall apply to
- 7 taxable years beginning after December 31, 2009.
- 8

INTRODUCED BY: Will Eyo
Ranston

Report Title:

Personal Relationships; Marriage; Reciprocal Beneficiaries;
Rights and Benefits

Description:

Extends benefits under the Hawaii employer-union benefit trust fund to reciprocal beneficiaries and allows reciprocal beneficiaries to jointly file state income tax returns. Amends definition of marriage,

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