

STAND. COM. REP. NO. 2500

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2747
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 2747, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE,"

begs leave to report as follows:

The purpose of this measure is to conform state tax law to the latest amendments to the Internal Revenue Code for calendar year 2009.

Specifically, the following sections are affected:

- (1) 139C, with respect to COBRA assistance, nonconformance to the exclusion from gross income for a taxpayer's subsidy for continuation of COBRA coverage;
- (2) 853A, with respect to credits from tax credit bonds allowed to shareholders, nonconformance to the pass-through of the credit from tax credit bonds to shareholders of regulated investment companies and real estate investment trusts;
- (3) 1400U-1, with respect to allocation of recovery zone bonds, nonconformance to the national limitations on recovery zone bonds since this does not affect Hawaii state tax;



- (4) 1400U-2, with respect to recovery zone economic development bonds, nonconformance to the issuance of economic development bonds since this does not affect Hawaii state tax;
- (5) 1400U-3, with respect to recovery zone facility bonds, nonconformance to issuance of economic development bonds since this does not affect Hawaii state tax;
- (6) 63, relating to the standard deduction, nonconformance to the addition of motor vehicle sales taxes to the standard deduction;
- (7) 85, relating to unemployment compensation, nonconformance to the exclusion from gross income of up to \$2,400 of unemployment compensation benefits for 2009;
- (8) 108, relating to income from discharge of indebtedness, nonconformance to section 108i, which provides that income from reacquisition of business debt at a discount in 2009 and 2010 is deferred for up to five years, then included ratably over five years;
- (9) 132, relating to fringe benefits, nonconformance to section 132(f)(2), which provides that the monthly exclusion for employer-provided transit passes and vanpooling benefits increased to the same level as employer-provided parking for 2009 and 2010. In addition, this section does not conform to section 132(n), that provides an income tax exclusion for United States Department of Defense Homeowner's Assistance Program payments authorized by the American Recovery and Reinvestment Act of 2009;
- (10) 163, relating to interest deduction, nonconformance to section 163(i)(1) and 163(e)(5)(F), which relaxes interest deduction rules for applicable high-yield discount obligations to address distressed conditions in the debt capital markets;
- (11) 164, relating to deductions for state and local taxes, nonconformance to section 164(a)(6) and 164(b)(6), which provide an itemized deduction for general excise tax on



sales of most new motor vehicles purchased on or after February 17, 2009, and before January 1, 2010;

- (12) 179, with respect to the election to expense certain depreciable assets, nonconformance to the increased maximum deduction and phase-out amounts for 2009;
- (13) 265, with respect to expenses and interest relating to tax-exempt income, nonconformance to the expansion of tax-exempt interest safe harbors for banks and small issuers for obligations in 2009 and 2010;
- (14) 382, with respect to limitation on net operating loss carryforwards, nonconformance to the elimination of certain loss limitation rules for restructurings under the Trouble Asset Relief Program authorized by the Emergency Economic Stabilization Act of 2008;
- (15) 408A, with respect to Roth Individual Retirement Accounts, nonconformance to section 408A(d)(3)(A)(iii) that provides for the ratable inclusion of the income from conversion of a traditional IRA to a Roth IRA over a four-year period;
- (16) 529, with respect to qualified tuition programs, nonconformance to including computer technology equipment and internet access and related services as qualifying higher education expenses for section 529 college savings plans for 2009 and 2010;
- (17) 1202, with respect to exclusion for gain from certain small business stock, nonconformance to the increase of the amount of gain on the sale or exchange of qualified small business stock that noncorporate taxpayers can exclude from 50 per cent or 60 per cent to 75 per cent; and
- (18) 1374, with respect to tax treatment of S corporation built-in gains, nonconformance to the reduction of the built-in gain recognition period to seven years from ten years.

In addition, this measure provides that the net operating loss carryback period for Hawaii state tax purposes will remain at two years. This measure specifically provides that Hawaii does



not conform to the election to allow small businesses to carryback net operating losses up to five years for 2008 and the expansion of the five-year carryback to most businesses for 2009.


Your Committee received testimony in support of this measure from the Department of Taxation. Island Pacific Energy and the Tax Foundation of Hawaii submitted comments on the measure. The written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that, in this economic environment, the Hawaii tax laws should not conform to any Internal Revenue Code sections that would result in a negative impact to the State's general fund.

Your Committee has amended the measure by qualifying that section 408A(a)(3)(A)(iii) of the Internal Revenue Code with respect to Roth individual retirement accounts applies to amounts included in gross income for two years instead of four years.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2747, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2747, S.D. 2, and be placed on the calendar for Third Reading.

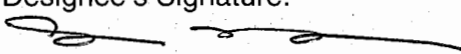
Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONNA MERCADO KIM, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2747 SD1	WAM	2/24/10		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	/			
TSUTSUI, Shan S. (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
FUKUNAGA, Carol	/			
GALUTERIA, Brickwood	/			
HEE, Clayton	/			
HOOSER, Gary L.	/			
KIDANI, Michelle N.	/			
KOKUBUN, Russell S.	/			
TOKUDA, Jill N.	/			
HEMMINGS, Fred				/
TOTAL	11	0	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes