
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The purpose of this Act is to amend Hawaii tax
2 law to institute improvements and equity amongst taxpayers.

3 More specifically, this Act:

4 (1) Provides for the taxation of the pension income of:

5 (A) An individual filer with federal adjusted gross
6 income of \$100,000 or more;

7 (B) A joint filer with federal adjusted gross income
8 of \$200,000 or more; and

9 (C) A head of household or surviving spouse with
10 federal adjusted gross income of \$150,000 or
11 more;

12 (2) Repeals the deduction for state taxes paid, with a
13 phaseout for taxpayers with lower incomes; and

14 (3) Modifies the exclusion for royalties.

15 PART I. TAXATION OF PENSION INCOME

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



1 "§235- Taxation of pension income. For taxable years
2 beginning after December 31, 2010, sections 88-91, 235-7(a)(2),
3 and 235-7(a)(3) shall apply only to taxpayers with federal
4 adjusted gross income of:

5 (1) Less than \$100,000 for a taxpayer filing a single
6 return or a married person filing separately;

7 (2) Less than \$150,000 for a taxpayer filing as a head of
8 household or surviving spouse; or

9 (3) Less than \$200,000 for a taxpayer filing a joint
10 return."

11 SECTION 3. Section 88-91, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§88-91 Exemption from taxation and execution.** The right
14 of a person to a pension, an annuity or a retirement allowance,
15 to the return of contributions, the pension, annuity or
16 retirement allowance itself, any optional benefit or death
17 benefit, any other right accrued or accruing to any person under
18 this part and the moneys in the various funds created under this
19 part are exempted from any tax of the State, subject to the
20 limitations contained in section 235- ; and, except as in
21 section 88-92 provided, shall not be subject to execution,



1 garnishment or any other process and shall be unassignable
2 except as in this part specifically provided."

3 SECTION 4. Section 235-7, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

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

9 (2) Rights, benefits, and other income exempted from
10 taxation by section 88-91, having to do with the state
11 retirement system, and the rights, benefits, and other
12 income, comparable to the rights, benefits, and other
13 income exempted by section 88-91, under any other
14 public retirement system~~[+]~~, subject to the
15 limitations contained in section 235- ;

16 (3) Any compensation received in the form of a pension for
17 past services~~[+]~~, subject to the limitations contained
18 in section 235- ;

19 (4) Compensation paid to a patient affected with Hansen's
20 disease employed by the State or the United States in
21 any hospital, settlement, or place for the treatment
22 of Hansen's disease;



- 1 (5) Except as otherwise expressly provided, payments made
2 by the United States or this State, under an act of
3 Congress or a law of this State, which by express
4 provision or administrative regulation or
5 interpretation are exempt from both the normal and
6 surtaxes of the United States, even though not so
7 exempted by the Internal Revenue Code itself;
- 8 (6) Any income expressly exempted or excluded from the
9 measure of the tax imposed by this chapter by any
10 other law of the State, it being the intent of this
11 chapter not to repeal or supersede any express
12 exemption or exclusion;
- 13 (7) Income received by each member of the reserve
14 components of the Army, Navy, Air Force, Marine Corps,
15 or Coast Guard of the United States of America, and
16 the Hawaii national guard as compensation for
17 performance of duty, equivalent to pay received for
18 forty-eight drills (equivalent of twelve weekends) and
19 fifteen days of annual duty, at an:
- 20 (A) E-1 pay grade after eight years of service;
21 provided that this subparagraph shall apply to
22 taxable years beginning after December 31, 2004;



- 1 (B) E-2 pay grade after eight years of service;
- 2 provided that this subparagraph shall apply to
- 3 taxable years beginning after December 31, 2005;
- 4 (C) E-3 pay grade after eight years of service;
- 5 provided that this subparagraph shall apply to
- 6 taxable years beginning after December 31, 2006;
- 7 (D) E-4 pay grade after eight years of service;
- 8 provided that this subparagraph shall apply to
- 9 taxable years beginning after December 31, 2007;
- 10 and
- 11 (E) E-5 pay grade after eight years of service;
- 12 provided that this subparagraph shall apply to
- 13 taxable years beginning after December 31, 2008;
- 14 (8) Income derived from the operation of ships or aircraft
- 15 if the income is exempt under the Internal Revenue
- 16 Code pursuant to the provisions of an income tax
- 17 treaty or agreement entered into by and between the
- 18 United States and a foreign country; provided that the
- 19 tax laws of the local governments of that country
- 20 reciprocally exempt from the application of all of
- 21 their net income taxes, the income derived from the



- 1 operation of ships or aircraft that are documented or
2 registered under the laws of the United States;
- 3 (9) The value of legal services provided by a prepaid
4 legal service plan to a taxpayer, the taxpayer's
5 spouse, and the taxpayer's dependents;
- 6 (10) Amounts paid, directly or indirectly, by a prepaid
7 legal service plan to a taxpayer as payment or
8 reimbursement for the provision of legal services to
9 the taxpayer, the taxpayer's spouse, and the
10 taxpayer's dependents;
- 11 (11) Contributions by an employer to a prepaid legal
12 service plan for compensation (through insurance or
13 otherwise) to the employer's employees for the costs
14 of legal services incurred by the employer's
15 employees, their spouses, and their dependents;
- 16 (12) Amounts received in the form of a monthly surcharge by
17 a utility acting on behalf of an affected utility
18 under section 269-16.3 shall not be gross income,
19 adjusted gross income, or taxable income for the
20 acting utility under this chapter. Any amounts
21 retained by the acting utility for collection or other
22 costs shall not be included in this exemption; and



1 (13) One hundred per cent of the gain realized by a fee
 2 simple owner from the sale of a leased fee interest in
 3 units within a condominium project, cooperative
 4 project, or planned unit development to the
 5 association of owners under chapter 514A or 514B, or
 6 the residential cooperative corporation of the
 7 leasehold units.

8 For purposes of this paragraph:

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

12 "Legal and equitable owner", and "leased fee
 13 interest" shall have the same meanings as provided
 14 under section 516-1; and

15 "Condominium project" and "cooperative project"
 16 shall have the same meanings as provided under section
 17 514C-1."

18 PART II. STATE TAX DEDUCTION

19 SECTION 5. Section 235-2.4, Hawaii Revised Statutes, is
 20 amended by amending subsection (h) to read as follows:

21 "(h) Section 164 (with respect to taxes) of the Internal
 22 Revenue Code shall be operative for the purposes of this



1 chapter, except that sections 164(a)(6) and 164(b)(6) shall not
2 be operative for the purposes of this chapter~~[]~~; provided that
3 amounts allowed as a deduction under sections 164(a)(3) and
4 164(b)(5), shall be reduced as follows:

5 (1) For a taxpayer filing a single return or a married
6 person filing separately, the deduction shall be
7 reduced in accordance with the following table:

| | |
|------------------------------|---|
| 8 <u>If federal adjusted</u> | |
| 9 <u>gross income is:</u> | <u>The reduction shall be:</u> |
| 10 <u>Less than \$75,000</u> | <u>50% for taxable years beginning</u> |
| 11 | <u>after December 31, 2010;</u> |
| 12 | <u>75% for taxable years beginning</u> |
| 13 | <u>after December 31, 2011;</u> |
| 14 | <u>100% for taxable years beginning</u> |
| 15 | <u>after December 31, 2012.</u> |
| 16 <u>\$75,000 and over</u> | <u>100% for taxable years beginning</u> |
| 17 | <u>after December 31, 2010.</u> |

18 (2) For a taxpayer filing as a head of household or
19 surviving spouse, the deduction shall be reduced in
20 accordance with the following table:

| | |
|-------------------------------|--------------------------------|
| 21 <u>If federal adjusted</u> | |
| 22 <u>gross income is:</u> | <u>The reduction shall be:</u> |



| | | |
|---|----------------------------|---|
| 1 | <u>Less than \$112,500</u> | <u>50% for taxable years beginning</u> |
| 2 | | <u>after December 31, 2010;</u> |
| 3 | | <u>75% for taxable years beginning</u> |
| 4 | | <u>after December 31, 2011;</u> |
| 5 | | <u>100% for taxable years beginning</u> |
| 6 | | <u>after December 31, 2012.</u> |
| 7 | <u>\$112,500 and over</u> | <u>100% for taxable years beginning</u> |
| 8 | | <u>after December 31, 2010.</u> |

9 (3) For a taxpayer filing a joint return, the deduction
10 shall be reduced in accordance with the following
11 table:

12 If federal adjusted
13 gross income is:

The reduction shall be:

| | | |
|----|----------------------------|---|
| 14 | <u>Less than \$150,000</u> | <u>50% for taxable years beginning</u> |
| 15 | | <u>after December 31, 2010;</u> |
| 16 | | <u>75% for taxable years beginning</u> |
| 17 | | <u>after December 31, 2011;</u> |
| 18 | | <u>100% for taxable years beginning</u> |
| 19 | | <u>after December 31, 2012.</u> |
| 20 | <u>\$150,000 and over</u> | <u>100% for taxable years beginning</u> |
| 21 | | <u>after December 31, 2010."</u> |



1 PART III. ROYALTIES EXCLUSION

2 SECTION 6. Section 235-7.3, Hawaii Revised Statutes, is
3 amended to read as follows:

4 **"§235-7.3 Royalties derived from patents, copyrights, or**
5 **trade secrets excluded from gross income.** (a) In addition to
6 the exclusions in section 235-7, there shall be excluded from
7 gross income, adjusted gross income, and taxable income, amounts
8 received by an individual or a qualified high technology
9 business as royalties and other income derived from any patents,
10 copyrights, and trade secrets:

11 (1) Owned by the individual or qualified high technology
12 business; and

13 (2) Developed and arising out of a qualified high
14 technology business.

15 ~~[(b) With respect to performing arts products, this~~
16 ~~exclusion shall extend to:~~

17 ~~(1) The authors of performing arts products, or any parts~~
18 ~~thereof, without regard to the application of the~~
19 ~~work-for-hire doctrine under United States copyright~~
20 ~~law;~~



1 ~~(2) The authors of performing arts products, or any parts~~
2 ~~thereof, under the work-for-hire doctrine under United~~
3 ~~States copyright law; and~~

4 ~~(3) The assignors, licensors, and licensees of any~~
5 ~~copyright rights in performing arts products, or any~~
6 ~~parts thereof.~~

7 ~~(e)]~~ (b) For the purposes of this section:

8 "Performing arts products" means:

9 (1) Audio files, video files, audiovideo files, computer
10 animation, and other entertainment products perceived
11 by or through the operation of a computer; and

12 (2) Commercial television and film products for sale or
13 license, and reuse or residual fee payments from these
14 products.

15 "Qualified high technology business" means a business that
16 conducts more than fifty per cent of its activities in qualified
17 research~~[-]~~ in Hawaii.

18 "Qualified research" means:

19 (1) The same as in section 41(d) of the Internal Revenue
20 Code;

21 (2) The development and design of computer software for
22 ultimate commercial sale, lease, license or to be



1 otherwise marketed, for economic consideration. With
2 respect to the software's development and design, the
3 business shall have substantial control and retain
4 substantial rights to the resulting intellectual
5 property;

6 (3) Biotechnology;

7 (4) Performing arts products;

8 (5) Sensor and optic technologies;

9 (6) Ocean sciences;

10 (7) Astronomy; or

11 (8) Nonfossil fuel energy-related technology."

12 PART IV. MISCELLANEOUS PROVISIONS

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

15 SECTION 8. This Act shall take effect on approval, and
16 shall apply to taxable years beginning after December 31, 2010;
17 provided that the amendments made to section 235-7(a), Hawaii
18 Revised Statutes, by this Act shall not be repealed when that
19 section is reenacted on January 1, 2013, by section 3 of Act
20 166, Session Laws of Hawaii 2007.



Report Title:

Taxation; Tax Improvement

Description:

Makes various amendments to the tax laws: excluding pension income from income tax only for certain persons; eliminating the deduction for state income taxes paid; and eliminating the income tax exclusion for certain persons involved in copyrights. (HD1 Proposed #1)

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