
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 pension income that
5 exceeds the following thresholds:

6 (A) \$75,000 for an individual filer;

7 (B) \$150,000 for joint filers; and

8 (C) \$112,500 for a head of household or surviving
9 spouse;

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

12 (3) Modifies the exclusion for royalties.

13 PART I. TAXATION OF PENSION INCOME

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

17 "§235- Taxation of pension income. (a) For the
18 purpose of this section, "pension income" includes the



1 compensation, rights, benefits, and other income described in
2 section 235-(7) (a) (2) and (3).

3 (b) For taxable years beginning after December 31, 2010,
4 there shall be excluded from gross income, adjusted gross
5 income, and taxable income the following:

6 (1) \$75,000 of pension income of a taxpayer filing a
7 single return or a married person filing separately;

8 (2) \$112,500 of pension income of a taxpayer filing as a
9 head of household or surviving spouse; or

10 (3) \$150,000 of pension income taxpayers filing a joint
11 return."

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

14 "~~§88-91 [Exemption]~~ **Exclusion from taxation and exemption**
15 **from execution.** [~~The~~] (a) Section 235- and section 235-
16 7(a) (2) and (3) shall apply to the exclusion from taxation by
17 the State of the right of a person to a pension, an annuity or a
18 retirement allowance, to the return of contributions, the
19 pension, annuity or retirement allowance itself, any optional
20 benefit or death benefit, any other right accrued or accruing to
21 any person under this part and the moneys in the various funds



1 created under this part [~~are exempted from any tax of the State~~
2 and, ~~except~~].

3 (b) Except as provided in section 88-92 [provided], the
4 right, benefit, and moneys listed under subsection (a) accrued
5 or accruing to a person shall not be subject to execution,
6 garnishment or any other process and shall be unassignable
7 except as specifically provided in this part [~~specifically~~
8 ~~provided~~]."

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

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

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

15 (2) Rights, benefits, and other income exempted from
16 taxation by section 88-91, having to do with the state
17 retirement system, and the rights, benefits, and other
18 income, comparable to the rights, benefits, and other
19 income exempted by section 88-91, under any other
20 public retirement system~~[+]~~, up to the limits
21 contained in section 235- ;



- 1 (3) Any compensation received in the form of a pension for
2 past services~~[+]~~, up to the limits contained in
3 section 235- ;
- 4 (4) Compensation paid to a patient affected with Hansen's
5 disease employed by the State or the United States in
6 any hospital, settlement, or place for the treatment
7 of Hansen's disease;
- 8 (5) Except as otherwise expressly provided, payments made
9 by the United States or this State, under an act of
10 Congress or a law of this State, which by express
11 provision or administrative regulation or
12 interpretation are exempt from both the normal and
13 surtaxes of the United States, even though not so
14 exempted by the Internal Revenue Code itself;
- 15 (6) Any income expressly exempted or excluded from the
16 measure of the tax imposed by this chapter by any
17 other law of the State, it being the intent of this
18 chapter not to repeal or supersede any express
19 exemption or exclusion;
- 20 (7) Income received by each member of the reserve
21 components of the Army, Navy, Air Force, Marine Corps,
22 or Coast Guard of the United States of America, and



1 the Hawaii national guard as compensation for
2 performance of duty, equivalent to pay received for
3 forty-eight drills (equivalent of twelve weekends) and
4 fifteen days of annual duty, at an:

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

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

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

14 (D) E-4 pay grade after eight years of service;
15 provided that this subparagraph shall apply to
16 taxable years beginning after December 31, 2007;
17 and

18 (E) E-5 pay grade after eight years of service;
19 provided that this subparagraph shall apply to
20 taxable years beginning after December 31, 2008;

21 (8) Income derived from the operation of ships or aircraft
22 if the income is exempt under the Internal Revenue



- 1 Code pursuant to the provisions of an income tax
2 treaty or agreement entered into by and between the
3 United States and a foreign country; provided that the
4 tax laws of the local governments of that country
5 reciprocally exempt from the application of all of
6 their net income taxes, the income derived from the
7 operation of ships or aircraft that are documented or
8 registered under the laws of the United States;
- 9 (9) The value of legal services provided by a prepaid
10 legal service plan to a taxpayer, the taxpayer's
11 spouse, and the taxpayer's dependents;
- 12 (10) Amounts paid, directly or indirectly, by a prepaid
13 legal service plan to a taxpayer as payment or
14 reimbursement for the provision of legal services to
15 the taxpayer, the taxpayer's spouse, and the
16 taxpayer's dependents;
- 17 (11) Contributions by an employer to a prepaid legal
18 service plan for compensation (through insurance or
19 otherwise) to the employer's employees for the costs
20 of legal services incurred by the employer's
21 employees, their spouses, and their dependents;



1 (12) Amounts received in the form of a monthly surcharge by
2 a utility acting on behalf of an affected utility
3 under section 269-16.3 shall not be gross income,
4 adjusted gross income, or taxable income for the
5 acting utility under this chapter. Any amounts
6 retained by the acting utility for collection or other
7 costs shall not be included in this exemption; and

8 (13) One hundred per cent of the gain realized by a fee
9 simple owner from the sale of a leased fee interest in
10 units within a condominium project, cooperative
11 project, or planned unit development to the
12 association of owners under chapter 514A or 514B, or
13 the residential cooperative corporation of the
14 leasehold units.

15 For purposes of this paragraph:

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

19 "Legal and equitable owner", and "leased fee
20 interest" shall have the same meanings as provided
21 under section 516-1; and



1 "Condominium project" and "cooperative project"
2 shall have the same meanings as provided under section
3 514C-1."

4 PART II. STATE TAX DEDUCTION

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

7 "(h) Section 164 (with respect to taxes) of the Internal
8 Revenue Code shall be operative for the purposes of this
9 chapter, except that sections 164(a)(6) and 164(b)(6) shall not
10 be operative for the purposes of this chapter~~[-]~~; provided that
11 amounts allowed as a deduction under sections 164(a)(3) and
12 164(b)(5), shall be reduced as follows:

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

16 <u>If federal adjusted</u>	
17 <u>gross income is:</u>	<u>The reduction shall be:</u>
18 <u>Less than \$75,000</u>	<u>50% for taxable years beginning</u>
19	<u>after December 31, 2010;</u>
20	<u>75% for taxable years beginning</u>
21	<u>after December 31, 2011;</u>
22	<u>100% for taxable years beginning</u>



1 after December 31, 2012.
 2 \$75,000 and over 100% for taxable years beginning
 3 after December 31, 2010.

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

7 <u>If federal adjusted</u>	
8 <u>gross income is:</u>	<u>The reduction shall be:</u>
9 <u>Less than \$112,500</u>	<u>50% for taxable years beginning</u>
10	<u>after December 31, 2010;</u>
11	<u>75% for taxable years beginning</u>
12	<u>after December 31, 2011;</u>
13	<u>100% for taxable years beginning</u>
14	<u>after December 31, 2012.</u>
15 <u>\$112,500 and over</u>	<u>100% for taxable years beginning</u>
16	<u>after December 31, 2010.</u>

17 (3) For a taxpayer filing a joint return, the deduction
 18 shall be reduced in accordance with the following
 19 table:

20 <u>If federal adjusted</u>	
21 <u>gross income is:</u>	<u>The reduction shall be:</u>
22 <u>Less than \$150,000</u>	<u>50% for taxable years beginning</u>



1 after December 31, 2010;
2 75% for taxable years beginning
3 after December 31, 2011;
4 100% for taxable years beginning
5 after December 31, 2012.
6 \$150,000 and over 100% for taxable years beginning
7 after December 31, 2010."

PART III. ROYALTIES EXCLUSION

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

11 "**§235-7.3 Royalties derived from patents, copyrights, or**
12 **trade secrets excluded from gross income.** (a) In addition to
13 the exclusions in section 235-7, there shall be excluded from
14 gross income, adjusted gross income, and taxable income, amounts
15 received by an individual or a qualified high technology
16 business as royalties and other income derived from any patents,
17 copyrights, and trade secrets:

- 18 (1) Owned by the individual or qualified high technology
- 19 business; and
- 20 (2) Developed and arising out of a qualified high
- 21 technology business.



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

3 ~~(1) The authors of performing arts products, or any parts~~
4 ~~thereof, without regard to the application of the~~
5 ~~work-for-hire doctrine under United States copyright~~
6 ~~law;~~

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

10 ~~(3) The assignors, licensors, and licensees of any~~
11 ~~copyright rights in performing arts products, or any~~
12 ~~parts thereof.~~

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

14 "Performing arts products" means:

15 (1) Audio files, video files, audiovideo files, computer
16 animation, and other entertainment products perceived
17 by or through the operation of a computer; and

18 (2) Commercial television and film products for sale or
19 license, and reuse or residual fee payments from these
20 products.



1 "Qualified high technology business" means a business that
2 conducts more than fifty per cent of its activities in qualified
3 research~~[]~~ in Hawaii.

4 "Qualified research" means:

- 5 (1) The same as in section 41(d) of the Internal Revenue
6 Code;
- 7 (2) The development and design of computer software for
8 ultimate commercial sale, lease, license or to be
9 otherwise marketed, for economic consideration. With
10 respect to the software's development and design, the
11 business shall have substantial control and retain
12 substantial rights to the resulting intellectual
13 property;
- 14 (3) Biotechnology;
- 15 (4) Performing arts products;
- 16 (5) Sensor and optic technologies;
- 17 (6) Ocean sciences;
- 18 (7) Astronomy; or
- 19 (8) Nonfossil fuel energy-related technology."

20 PART IV. MISCELLANEOUS PROVISIONS

21 SECTION 7. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on approval, and
2 shall apply to taxable years beginning after December 31, 2010;
3 provided that the amendments made to section 235-7(a), Hawaii
4 Revised Statutes, by this Act shall not be repealed when that
5 section is reenacted on January 1, 2013, by section 3 of Act
6 166, 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 #2)

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