
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 address taxation.

2 More specifically, this Act:

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

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

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

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

10 (2) Makes the deduction for state taxes paid, inoperative
11 for the same taxpayers;

12 (3) Limits the amount of itemized deductions that may be
13 claimed by the same taxpayers; and

14 (4) Delays the standard deduction and personal exemption
15 increases approved under Act 60, Session Laws of
16 Hawaii, 2009, but makes the increases permanent.

17 PART I



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

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

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

10 (2) Less than \$150,000 for a taxpayer filing as a head of
11 household; or

12 (3) Less than \$200,000 for a taxpayer filing a joint
13 return or as a surviving spouse."

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

16 "**§88-91 Exemption from taxation and execution.** The right
17 of a person to a pension, an annuity or a retirement allowance,
18 to the return of contributions, the pension, annuity or
19 retirement allowance itself, any optional benefit or death
20 benefit, any other right accrued or accruing to any person under
21 this part and the moneys in the various funds created under this
22 part are exempted from any tax of the State, subject to the



1 limitations established in section 235-A; and, except as
2 provided in section 88-92 [~~provided~~], shall not be subject to
3 execution, garnishment or any other process and shall be
4 unassignable except as specifically provided in this part
5 [~~specifically provided~~]."

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

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

- 10 (1) Income not subject to taxation by the State under the
11 Constitution and laws of the United States;
- 12 (2) Rights, benefits, and other income exempted from
13 taxation by section 88-91, having to do with the state
14 retirement system, and the rights, benefits, and other
15 income, comparable to the rights, benefits, and other
16 income exempted by section 88-91, under any other
17 public retirement system[~~+~~], subject to the
18 limitations established in section 235-A;
- 19 (3) Any compensation received in the form of a pension for
20 past services[~~+~~], subject to the limitations
21 established in section 235-A;



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

5 (5) Except as otherwise expressly provided, payments made
6 by the United States or this State, under an act of
7 Congress or a law of this State, which by express
8 provision or administrative regulation or
9 interpretation are exempt from both the normal and
10 surtaxes of the United States, even though not so
11 exempted by the Internal Revenue Code itself;

12 (6) Any income expressly exempted or excluded from the
13 measure of the tax imposed by this chapter by any
14 other law of the State, it being the intent of this
15 chapter not to repeal or supersede any express
16 exemption or exclusion;

17 (7) Income received by each member of the reserve
18 components of the Army, Navy, Air Force, Marine Corps,
19 or Coast Guard of the United States of America, and
20 the Hawaii national guard as compensation for
21 performance of duty, equivalent to pay received for



1 forty-eight drills (equivalent of twelve weekends) and
2 fifteen days of annual duty, at an:

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

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

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

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

15 and

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

19 (8) Income derived from the operation of ships or aircraft
20 if the income is exempt under the Internal Revenue
21 Code pursuant to the provisions of an income tax
22 treaty or agreement entered into by and between the



1 United States and a foreign country; provided that the
2 tax laws of the local governments of that country
3 reciprocally exempt from the application of all of
4 their net income taxes, the income derived from the
5 operation of ships or aircraft that are documented or
6 registered under the laws of the United States;

7 (9) The value of legal services provided by a prepaid
8 legal service plan to a taxpayer, the taxpayer's
9 spouse, and the taxpayer's dependents;

10 (10) Amounts paid, directly or indirectly, by a prepaid
11 legal service plan to a taxpayer as payment or
12 reimbursement for the provision of legal services to
13 the taxpayer, the taxpayer's spouse, and the
14 taxpayer's dependents;

15 (11) Contributions by an employer to a prepaid legal
16 service plan for compensation (through insurance or
17 otherwise) to the employer's employees for the costs
18 of legal services incurred by the employer's
19 employees, their spouses, and their dependents;

20 (12) Amounts received in the form of a monthly surcharge by
21 a utility acting on behalf of an affected utility
22 under section 269-16.3 shall not be gross income,



1 adjusted gross income, or taxable income for the
2 acting utility under this chapter. Any amounts
3 retained by the acting utility for collection or other
4 costs shall not be included in this exemption; and

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

12 For purposes of this paragraph:

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

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 PART V

2 SECTION 9. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 10. This Act shall take effect upon its approval,
5 and shall apply to taxable years beginning after December 31,
6 2010; provided that:

7 (1) The amendments made to section 235-7(a), Hawaii
8 Revised Statutes, by section 4 of this Act shall not
9 be repealed when that section is reenacted on January
10 1, 2013, by section 3 of Act 166, Session Laws of
11 Hawaii 2007;

12 (2) Section 235-B, Hawaii Revised Statutes, shall be
13 repealed on January 1, 2016; and

14 (3) Part IV shall take effect retroactively to December
15 30, 2010.



Report Title:

Taxation; Pension, State Tax Deduction, Itemized Deductions, Standard Deduction and Personal Exemption

Description:

Provides for the taxation of the pension income of: (1) An individual filer with federal adjusted gross income of \$100,000 or more; (2) A joint or surviving spouse filer with federal adjusted gross income of \$200,000 or more; and (3) A head of household with federal adjusted gross income of \$150,000 or more. Makes the deduction for state taxes paid, inoperative for the same taxpayers. Limits the amount of itemized deductions that may be claimed by the same taxpayers. Delays the standard deduction and personal exemption increases approved under Act 60, SLH 2009, but makes the increases permanent. (HD1 Proposed)

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