
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 among 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 or surviving spouse filer with federal
8 adjusted gross income of \$200,000 or more; and

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

11 (2) Makes the deduction for state taxes paid, inoperative
12 for the same taxpayers.

13 PART I

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. For taxable years
18 beginning after December 31, 2010, sections 88-91, 235-7(a)(2),



1 and 235-7(a)(3) shall apply only to taxpayers with federal
2 adjusted gross income of:

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

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

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

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

11 "**§88-91 Exemption from taxation and execution.** The right
12 of a person to a pension, an annuity or a retirement allowance,
13 to the return of contributions, the pension, annuity or
14 retirement allowance itself, any optional benefit or death
15 benefit, any other right accrued or accruing to any person under
16 this part and the moneys in the various funds created under this
17 part are exempted from any tax of the State, subject to the
18 limitations established in section 235- ; and, except as
19 provided in section 88-92 [~~provided~~], shall not be subject to
20 execution, garnishment or any other process and shall be
21 unassignable except as specifically provided in this part
22 [~~specifically provided~~]."



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

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

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

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

14 (3) Any compensation received in the form of a pension for
15 past services[+], subject to the limitations
16 established in section 235-_____;

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

21 (5) Except as otherwise expressly provided, payments made
22 by the United States or this State, under an act of



1 Congress or a law of this State, which by express
2 provision or administrative regulation or
3 interpretation are exempt from both the normal and
4 surtaxes of the United States, even though not so
5 exempted by the Internal Revenue Code itself;

6 (6) Any income expressly exempted or excluded from the
7 measure of the tax imposed by this chapter by any
8 other law of the State, it being the intent of this
9 chapter not to repeal or supersede any express
10 exemption or exclusion;

11 (7) Income received by each member of the reserve
12 components of the Army, Navy, Air Force, Marine Corps,
13 or Coast Guard of the United States of America, and
14 the Hawaii national guard as compensation for
15 performance of duty, equivalent to pay received for
16 forty-eight drills (equivalent of twelve weekends) and
17 fifteen days of annual duty, at an:

18 (A) E-1 pay grade after eight years of service;
19 provided that this subparagraph shall apply to
20 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 "Condominium project" and "cooperative project"
10 shall have the same meanings as provided under section
11 514C-1.

12 "Fee simple owner" shall have the same meaning as
13 provided under section 516-1; provided that it shall
14 include legal and equitable owners[+].

15 "Legal and equitable owner", and "leased fee
16 interest" shall have the same meanings as provided
17 under section 516-1[+and].

18 [~~"Condominium project" and "cooperative project" shall~~
19 ~~have the same meanings as provided under section 514C-~~
20 ~~1.] "~~



1 PART II

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

4 "(h) Section 164 (with respect to taxes) of the Internal
5 Revenue Code shall be operative for the purposes of this
6 chapter, except that [~~sections~~]:

7 (1) Sections 164(a)(6) and 164(b)(6) shall not be
8 operative for the purposes of this chapter[-]; and

9 (2) The deductions under sections 164(a)(3) and 164(b)(5)
10 shall not be operative for corporate taxpayers and
11 shall be operative only for the following individual
12 taxpayers:

13 (A) A taxpayer filing a single return or a married
14 person filing separately with a federal adjusted
15 gross income of less than \$100,000;

16 (B) A taxpayer filing as a head of household with a
17 federal adjusted gross income of less than
18 \$150,000; and

19 (C) A taxpayer filing a joint return or as a
20 surviving spouse with a federal adjusted gross
21 income of less than \$200,000."



1 PART III

2 SECTION 6. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 7. This Act shall take effect upon its approval,
5 and shall apply to taxable years beginning after December 31,
6 2010; provided that the amendments made to section 235-7(a),
7 Hawaii Revised Statutes, by section 4 of this Act shall not be
8 repealed when that section is reenacted on January 1, 2013, by
9 section 3 of Act 166, Session Laws of Hawaii 2007.



Report Title:

Taxation; Tax Improvement

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. Effective upon its approval and applicable to taxpayer years beginning after December 31, 2010. (HB1092 HD1)

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