
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 temporarily:

2 (1) Disallow the deduction for out-of-state traveling
3 expenses incurred in the pursuit of a trade or
4 business; and

5 (2) Prohibit a publicly held corporation from deducting
6 more than \$129,660 for employee remuneration in the
7 taxable year beginning after December 31, 2010, and
8 \$143,748 in the taxable year beginning after December
9 31, 2011.

10 The legislature prefers to pursue policies that promote the
11 circulation of money within the State to revitalize the local
12 economy, rather than indirectly subsidizing expenditures made
13 outside the State.

14 The legislature finds that establishing a ceiling on the
15 amount that publicly held corporations may deduct for the
16 remuneration of highly paid employees should result in
17 additional tax revenues that may be used to fund essential
18 public health, safety, and education services. A ceiling of



1 \$129,660 for the taxable year beginning after December 31, 2010,
2 and \$143,748 for taxable years beginning after December 31,
3 2011, is equivalent to the salary levels that the governor would
4 be entitled to in those taxable years, which would be rational
5 and appropriate ceiling amounts.

6 SECTION 2. Section 235-2.4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§235-2.4 Operation of certain Internal Revenue Code
9 provisions; sections 63 to 530. (a) Section 63 (with respect
10 to taxable income defined) of the Internal Revenue Code shall be
11 operative for the purposes of this chapter, subject to the
12 following:

13 (1) Sections 63(c)(1)(B) (relating to the additional
14 standard deduction), 63(c)(1)(C) (relating to the real
15 property tax deduction), 63(c)(1)(D) (relating to the
16 disaster loss deduction), 63(c)(1)(E) (relating to the
17 motor vehicle sales tax deduction), 63(c)(4) (relating
18 to inflation adjustments), 63(c)(7) (defining the real
19 property tax deduction), 63(c)(8) (defining the
20 disaster loss deduction), 63(c)(9) (defining the motor
21 vehicle sales tax deduction), and 63(f) (relating to
22 additional amounts for the aged or blind) of the



1 Internal Revenue Code shall not be operative for
2 purposes of this chapter;

3 (2) Section 63(c)(2) (relating to the basic standard
4 deduction) of the Internal Revenue Code shall be
5 operative, except that the standard deduction amounts
6 provided therein shall instead mean:

7 (A) \$4,400 in the case of:

8 (i) A joint return as provided by section 235-
9 93; or

10 (ii) A surviving spouse (as defined in section
11 2(a) of the Internal Revenue Code);

12 (B) \$3,212 in the case of a head of household (as
13 defined in section 2(b) of the Internal Revenue
14 Code);

15 (C) \$2,200 in the case of an individual who is not
16 married and who is not a surviving spouse or head
17 of household; or

18 (D) \$2,200 in the case of a married individual filing
19 a separate return;

20 (3) Section 63(c)(5) (limiting the basic standard
21 deduction in the case of certain dependents) of the
22 Internal Revenue Code shall be operative, except that



1 the limitation shall be the greater of \$500 or such
2 individual's earned income; and

3 (4) The standard deduction amount for nonresidents shall
4 be calculated pursuant to section 235-5.

5 (b) Section 72 (with respect to annuities; certain
6 proceeds of endowment and life insurance contracts) of the
7 Internal Revenue Code shall be operative for purposes of this
8 chapter and be interpreted with due regard to section 235-7(a),
9 except that the ten per cent additional tax on early
10 distributions from retirement plans in section 72(t) shall not
11 be operative for purposes of this chapter.

12 (c) Section 85 (with respect to unemployment compensation)
13 of the Internal Revenue Code shall be operative for purposes of
14 this chapter, except that section 85(c) shall not be operative
15 for purposes of this chapter.

16 (d) Section 108 (with respect to income from discharge of
17 indebtedness) of the Internal Revenue Code shall be operative
18 for purposes of this chapter, except that section 108(i)
19 (relating to deferral and ratable inclusion of income arising
20 from business indebtedness discharged by the reacquisition of a
21 debt instrument) shall not be operative for purposes of this
22 chapter.



1 (e) Section 121 (with respect to exclusion of gain from
2 sale of principal residence) of the Internal Revenue Code shall
3 be operative for purposes of this chapter, except that for the
4 election under section 121(f), a reference to section 1034
5 treatment means a reference to section 235-2.4(s) in effect for
6 taxable year 1997.

7 (f) Section 132 (with respect to certain fringe benefits)
8 of the Internal Revenue Code shall be operative for purposes of
9 this chapter, except that the provision in section 132(f)(2)
10 that equalizes the dollar amounts for sections 132(f)(2)(A) and
11 (B) after February 17, 2009, until January 1, 2011, shall not be
12 operative and except that section 132(n) shall not apply to
13 United States Department of Defense Homeowners Assistance
14 Program payments authorized by the American Recovery and
15 Reinvestment Act of 2009.

16 (g) Section 162 (with respect to trade or business
17 expenses) of the Internal Revenue Code shall be operative for
18 purposes of this chapter, except that:

19 (1) No deduction shall be allowed for traveling expenses,
20 as described under section 162(a)(2) of the Internal
21 Revenue Code, while away from home and out-of-state in
22 the pursuit of a trade or business. For the purpose



1 of this paragraph, transportation expenses between a
2 point in the State and a point outside the State in
3 the pursuit of a trade or business shall be deemed to
4 have been incurred while away from home and out-of-
5 state; and

6 (2) Notwithstanding section 162(m)(1) of the Internal
7 Revenue Code, for a publicly held corporation:

8 (A) In the taxable year beginning after December 31,
9 2010, no deduction shall be allowed for
10 applicable employee remuneration with respect to
11 any covered employee to the extent that the
12 amount of the remuneration for the taxable year
13 with respect to the employee exceeds \$129,660;
14 and

15 (B) In the taxable year beginning after December 31,
16 2011, no deduction shall be allowed for
17 applicable employee remuneration with respect to
18 any covered employee to the extent that the
19 amount of the remuneration for the taxable year
20 with respect to the employee exceeds \$143,748.



1 This subsection shall not be operative for the taxable year
2 beginning after December 31, 2012, and any subsequent taxable
3 year.

4 [~~g~~] (h) Section 163 (with respect to interest) of the
5 Internal Revenue Code shall be operative for the purposes of
6 this chapter, except that provisions in section 163(d)(4)(B)
7 (defining net investment income to exclude dividends), section
8 163(e)(5)(F) (suspension of applicable high-yield discount
9 obligation (AHYDO) rules) and section 163(i)(1) as it applies to
10 debt instruments issued after January 1, 2010, (defining AHYDO)
11 shall not be operative for the purposes of this chapter.

12 [~~h~~] (i) Section 164 (with respect to taxes) of the
13 Internal Revenue Code shall be operative for the purposes of
14 this chapter, except that sections 164(a)(6) and 164(b)(6) shall
15 not be operative for the purposes of this chapter.

16 [~~i~~] (j) Section 165 (with respect to losses) of the
17 Internal Revenue Code shall be operative for purposes of this
18 chapter, except that the amount prescribed by sections 165(h)(1)
19 (relating to the limitation per casualty) of the Internal
20 Revenue Code shall be a \$100 limitation per casualty, and
21 sections 165(h)(3)(A) and 165(h)(3)(B) (both of which relate to
22 special rules for personal casualty gains and losses in

1 federally declared disasters) of the Internal Revenue Code shall
2 not be operative for the purposes of this chapter. Section 165
3 as operative for this chapter shall also apply to losses
4 sustained from the sale of stocks or other interests issued
5 through the exercise of the stock options or warrants granted by
6 a qualified high technology business as defined in section 235-
7 7.3.

8 ~~[(j)]~~ (k) Section 168 (with respect to the accelerated
9 cost recovery system) of the Internal Revenue Code shall be
10 operative for purposes of this chapter, except that sections
11 168(j) (relating to property on Indian reservations), 168(k)
12 (relating to the special allowance for certain property acquired
13 during the period specified therein), 168(m) (relating to the
14 special allowance for certain reuse and recycling property), and
15 168(n) (relating to the special allowance for qualified disaster
16 assistance property) of the Internal Revenue Code shall not be
17 operative for purposes of this chapter.

18 ~~[(k)]~~ (1) Section 172 (with respect to net operating loss
19 deductions) of the Internal Revenue Code shall be operative for
20 purposes of this chapter, as further provided in section 235-
21 7(d), except that sections 172(b)(1)(J) and 172(j) (both of
22 which relate to qualified disaster losses) of the Internal



1 Revenue Code shall not be operative for purposes of this
2 chapter.

3 ~~[(1)]~~ (m) Section 179 (with respect to the election to
4 expense certain depreciable business assets) of the Internal
5 Revenue Code shall be operative for purposes of this chapter,
6 except that provisions relating to:

7 (1) The increase of the maximum deduction to \$100,000 for
8 taxable years beginning after 2002 and before 2008,
9 and the increase of the maximum deduction to \$125,000
10 for taxable years beginning after 2006 and before
11 2011, in section 179(b)(1);

12 (2) The increase of the qualifying investment amount to
13 \$400,000 for taxable years beginning after 2002 and
14 before 2008, and the increase of the qualifying
15 investment amount to \$500,000 for taxable years
16 beginning after 2006 and before 2011, in section
17 179(b)(2);

18 (3) The increase of the maximum deduction to \$250,000 and
19 the increase of the qualifying investment amount to
20 \$800,000 for taxable years beginning in 2008 or 2009,
21 in section 179(b)(7);



1 (4) Defining section 179 property to include computer
2 software in section 179(d) (1);
3 (5) Inflation adjustments in section 179(b) (5);
4 (6) Irrevocable election in section 179(c) (2); and
5 (7) Special rules for qualified disaster assistance
6 property in section 179(e),
7 shall not be operative for the purposes of this chapter.

8 ~~[(m)]~~ (n) Section 198A (with respect to the expensing of
9 qualified disaster assistances expenses) of the Internal Revenue
10 Code shall not be operative for purposes of this chapter.

11 ~~[(n)]~~ (o) Section 219 (with respect to retirement savings)
12 of the Internal Revenue Code shall be operative for the purpose
13 of this chapter. For the purpose of computing the limitation on
14 the deduction for active participants in certain pension plans
15 for state income tax purposes, adjusted gross income as used in
16 section 219 as operative for this chapter means federal adjusted
17 gross income.

18 ~~[(o)]~~ (p) Section 220 (with respect to medical savings
19 accounts) of the Internal Revenue Code shall be operative for
20 the purpose of this chapter, but only with respect to medical
21 services accounts that have been approved by the Secretary of
22 the Treasury of the United States.



1 [~~p~~] (q) Section 265 (with respect to expenses and
2 interest relating to tax-exempt income) of the Internal Revenue
3 Code shall be operative for purposes of this chapter; except
4 that sections 265(b)(3)(G) and 265(b)(7) shall not be operative
5 and that section 265 shall not apply to expenses for royalties
6 and other income derived from any patents, copyrights, and trade
7 secrets by an individual or a qualified high technology business
8 as defined in section 235-7.3. Such expenses shall be
9 deductible.

10 [~~q~~] (r) Section 382 (with respect to limitation on net
11 operating loss carryforwards and certain built-in losses
12 following ownership change) of the Internal Revenue Code shall
13 be operative for the purposes of this chapter, except that
14 section 382(n) shall not be operative for purposes of this
15 chapter.

16 [~~r~~] (s) Section 408A (with respect to Roth Individual
17 Retirement Accounts) of the Internal Revenue Code shall be
18 operative for the purposes of this chapter, except that section
19 408A(d)(3)(A)(iii) shall not be operative for purposes of this
20 chapter. For the purposes of determining the aggregate amount
21 of contributions to a Roth Individual Retirement Account or
22 qualified rollover contribution to a Roth Individual Retirement



1 Account from an individual retirement plan other than a Roth
2 Individual Retirement Account, adjusted gross income as used in
3 section 408A as operative for this chapter means federal
4 adjusted gross income.

5 ~~(s)~~ (t) In administering the provisions of sections 410
6 to 417 (with respect to special rules relating to pensions,
7 profit sharing, stock bonus plans, etc.), sections 418 to 418E
8 (with respect to special rules for multiemployer plans), and
9 sections 419 and 419A (with respect to treatment of welfare
10 benefit funds) of the Internal Revenue Code, the department of
11 taxation shall adopt rules under chapter 91 relating to the
12 specific requirements under such sections and to such other
13 administrative requirements under those sections as may be
14 necessary for the efficient administration of sections 410 to
15 419A.

16 In administering sections 401 to 419A (with respect to
17 deferred compensation) of the Internal Revenue Code, Public Law
18 93-406, section 1017(i), shall be operative for the purposes of
19 this chapter.

20 In administering section 402 (with respect to the
21 taxability of beneficiary of employees' trust) of the Internal
22 Revenue Code, the tax imposed on lump sum distributions by



1 section 402(e) of the Internal Revenue Code shall be operative
2 for the purposes of this chapter and the tax imposed therein is
3 hereby imposed by this chapter at the rate determined under this
4 chapter.

5 ~~[(t)]~~ (u) In administering section 403 (with respect to
6 taxation of employee annuities) of the Internal Revenue Code,
7 any funds that represent pre-tax employee deferrals or
8 contributions that are distributed from the annuity and used
9 solely to obtain retirement credits under the state employees'
10 retirement system shall not be treated as a rollover for
11 purposes of section 403(b)(8)(A) of the Internal Revenue Code,
12 and such funds shall be subject to income tax under this
13 chapter.

14 ~~[(u)]~~ (v) Section 451 (which provides general rules for
15 taxable year of inclusion) of the Internal Revenue Code shall be
16 operative, except that the provisions of sections 451(i)(3) and
17 451(i)(6), as they relate to a qualified electric utility, shall
18 not be operative for purposes of this chapter.

19 ~~[(v)]~~ (w) In administering section 457 (with respect to
20 compensation plans of state and local governments and tax-exempt
21 organizations) of the Internal Revenue Code, any funds that
22 represent pre-tax employee deferrals or contributions that are



1 distributed from the deferred compensation plan and used solely
2 to obtain retirement credits under the state employees'
3 retirement system shall not be treated as a rollover for
4 purposes of section 457(e)(16)(A) of the Internal Revenue Code
5 and such funds shall be subject to income tax under this
6 chapter.

7 ~~[(w)]~~ (x) Section 468B (with respect to special rules for
8 designated settlement funds) of the Internal Revenue Code shall
9 be operative for the purposes of this chapter and the tax
10 imposed therein is hereby imposed by this chapter at a rate
11 equal to the maximum rate in effect for the taxable year imposed
12 on estates and trusts under section 235-51.

13 ~~[(x)]~~ (y) Section 469 (with respect to passive activities
14 and credits limited) of the Internal Revenue Code shall be
15 operative for the purposes of this chapter. For the purpose of
16 computing the offset for rental real estate activities for state
17 income tax purposes, adjusted gross income as used in section
18 469 as operative for this chapter means federal adjusted gross
19 income.

20 ~~[(y)]~~ (z) Sections 512 to 514 (with respect to taxation of
21 business income of certain exempt organizations) of the Internal



1 Revenue Code shall be operative for the purposes of this chapter
2 as provided in this subsection.

3 "Unrelated business taxable income" means the same as in
4 the Internal Revenue Code, except that in the computation
5 thereof sections 235-3 to 235-5, and 235-7 (except subsection
6 (c)), shall apply, and in the determination of the net operating
7 loss deduction there shall not be taken into account any amount
8 of income or deduction that is excluded in computing the
9 unrelated business taxable income. Unrelated business taxable
10 income shall not include any income from a prepaid legal service
11 plan.

12 For a person described in section 401 or 501 of the
13 Internal Revenue Code, as modified by section 235-2.3, the tax
14 imposed by section 235-51 or 235-71 shall be imposed upon the
15 person's unrelated business taxable income.

16 ~~[-(z)-]~~ (aa) Section 521 (with respect to cooperatives) and
17 subchapter T (sections 1381 to 1388, with respect to
18 cooperatives and their patrons) of the Internal Revenue Code
19 shall be operative for the purposes of this chapter as to any
20 cooperative fully meeting the requirements of section 421-23,
21 except that Internal Revenue Code section 521 cooperatives need
22 not be organized in Hawaii.



1 ~~(aa)~~ (bb) Sections 527 (with respect to political
2 organizations) and 528 (with respect to certain homeowners
3 associations) of the Internal Revenue Code shall be operative
4 for the purposes of this chapter and the taxes imposed in each
5 section are hereby imposed by this chapter at the rates
6 determined under section 235-71.

7 ~~(bb)~~ (cc) Section 529 (with respect to qualified tuition
8 programs) shall be operative for the purposes of this chapter,
9 except that sections 529(c)(6) and 529(e)(3)(A)(iii) shall not
10 be operative.

11 ~~(ee)~~ (dd) Section 530 (with respect to education
12 individual retirement accounts) of the Internal Revenue Code
13 shall be operative for the purposes of this chapter. For the
14 purpose of determining the maximum amount that a contributor
15 could make to an education individual retirement account for
16 state income tax purposes, modified adjusted gross income as
17 used in section 530 as operative for this chapter means federal
18 modified adjusted gross income as defined in section 530."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act, upon its approval, shall apply to
22 taxable years beginning after December 31, 2010, and shall be



1 repealed on December 31, 2012; provided that section 235-2.4,
2 Hawaii Revised Statutes, shall be reenacted in the form in which
3 it existed on the day before the date of approval of this Act.

4

INTRODUCED BY:

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JAN 21 2011



Report Title:

Trade Or Business Expense Deduction; Modification

Description:

Temporarily modifies the trade or business expense deduction under the income tax as follows: (1) prohibits a deduction for traveling expenses while away from home and out-of-state, and (2) establishes a ceiling on the deduction for the remuneration of a high-paid employee.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

