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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. 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- Taxation of pension income. For taxable years  
5 beginning after December 31, 2010, the exemption from taxation  
6 in section 88-91 and the exclusion from income in sections  
7 235-7(a)(2) and 235-7(a)(3) shall apply only to taxpayers with  
8 federal adjusted gross income of less than:

- 9 (1) \$75,000 for a taxpayer filing a single return or a  
10 married person filing separately;  
11 (2) \$100,000 for a taxpayer filing as a head of household  
12 or surviving spouse; or  
13 (3) \$125,000 for a taxpayer filing a joint return."

14 SECTION 2. 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  
18 allowance[-]; to the return of contributions, the pension,



1 annuity, or retirement allowance itself~~[7]~~; any optional benefit  
2 or death benefit~~[7]~~; any other right accrued or accruing to any  
3 person under this part and the moneys in the various funds  
4 created under this part; are exempted from any tax of the State,  
5 subject to the limitations contained in section 235- and~~[7]~~  
6 except as provided in section 88-92 [~~provided~~7] shall not be  
7 subject to execution, garnishment, or any other process and  
8 shall be unassignable except as specifically provided in this  
9 part [~~specifically provided~~]."

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

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

- 14 (1) Income not subject to taxation by the State under the  
15 Constitution and laws of the United States;
- 16 (2) Rights, benefits, and other income exempted from  
17 taxation by section 88-91, having to do with the state  
18 retirement system, and the rights, benefits, and other  
19 income, comparable to the rights, benefits, and other  
20 income exempted by section 88-91, under any other  
21 public retirement [~~system~~7] system, subject to the  
22 limitations contained in section 235- ;



- 1           (3) Any compensation received in the form of a pension for  
2           past [~~services,~~] services, subject to the limitations  
3           contained in 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           SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 5. This Act shall take effect upon its approval;  
7 provided that this Act shall apply to taxable years beginning  
8 after December 31, 2010.

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**Report Title:**

Taxation; Pension Income

**Description:**

Taxes pension income of taxpayers with a certain federal adjusted gross income and filing status for taxable years beginning after 12/31/10. (PROPOSED SD1).

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

