
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I.

2 SECTION 1. Section 236D-2, Hawaii Revised Statutes, is
3 amended as follows:

4 1. By amending the definitions of "federal credit" and
5 "Internal Revenue Code" to read:

6 "Federal credit" means:

- 7 (1) [~~For a transfer, the maximum amount of the credit for~~
8 ~~state death taxes allowed by section 2011 of the~~
9 ~~Internal Revenue Code, as it existed on December 31,~~
10 ~~2000, for the decedent's adjusted taxable estate;~~
11 ~~(2)] For a generation-skipping transfer, the maximum amount
12 of the credit for state taxes allowed by section 2604
13 of the Internal Revenue Code as it existed on December
14 31, 2000; and
15 [~~(3)] (2) For a noncitizen transfer, the maximum amount of
16 the credit for state death taxes allowed by section
17 2102 of the Internal Revenue Code, as it existed on~~~~



1 December 31, 2000, for the decedent's adjusted taxable
2 estate.

3 "Internal Revenue Code" means the Internal Revenue Code of
4 1986, as amended and renumbered, as of December 31, 2009;
5 provided that sections [~~2011~~] 2102[~~7~~] and 2604 of the Internal
6 Revenue Code shall mean those sections as of December 31, 2000;
7 and provided further that section 2058 shall not be operative
8 for purposes of this chapter. "Internal Revenue Code" includes
9 the federal tax principles of alter ego, nominee, sham
10 transaction, substance over form, economic substance, or
11 business purpose, as those principles are developed by statute
12 or common law. The Internal Revenue Code, for purposes of this
13 chapter, shall be applied using changes in nomenclature and
14 other language, including the omission of inapplicable language
15 or the insertion of interpretive language, where necessary to
16 effectuate the intent of this chapter."

17 2. By repealing the definition of "section 2011":

18 [~~"Section 2011" means section 2011 of the Internal Revenue~~
19 ~~Code as it existed on December 31, 2000."~~]

20 SECTION 2. Section 236D-3, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§236D-3[+] Residents; tax imposed; credit for tax paid

2 other state. (a) A tax in [~~an amount equal to the federal~~

3 ~~credit~~] accordance with the following table is imposed on the

4 transfer of the taxable estate of every resident[-]:

5 If the taxable estate is: The tax shall be:

6 Not over \$3,560,000 Zero

7 Over \$3,560,000 but not over

8 \$3,600,000 9.6% of the amount by which

9 the taxable estate exceeds

10 \$3,560,000

11 Over \$3,600,000 but not over

12 \$4,100,000 \$3,840 plus 10.4% of the

13 amount by which the taxable

14 estate exceeds \$3,600,000

15 Over \$4,100,000 but not over

16 \$5,100,000 \$55,840 plus 11.2% of the

17 amount by which the taxable

18 estate exceeds \$4,100,000

19 Over \$5,100,000 but not over

20 \$6,100,000 \$167,840 plus 12% of the

21 amount by which the taxable

22 estate exceeds \$5,100,000



1 Over \$6,100,000 but not over

2 \$7,100,000

\$287,840 plus 12.8% of the

3 amount by which the taxable

4 estate exceeds \$6,100,000

5 Over \$7,100,000 but not over

6 \$8,100,000

\$415,840 plus 13.6% of the

7 amount by which the taxable

8 estate exceeds \$7,100,000

9 Over \$8,100,000 but not over

10 \$9,100,000

\$551,840 plus 14.4% of the

11 amount by which the taxable

12 estate exceeds \$8,100,000

13 Over \$9,100,000 but not over

14 \$10,100,000

\$695,840 plus 15.2% of the

15 amount by which the taxable

16 estate exceeds \$9,100,000

17 Over \$10,100,000

\$847,840 plus 16% of the

18 amount by which the taxable

19 estate exceeds \$10,100,000

20 (b) If any property of a resident is subject to a death
21 tax imposed by another state [~~for which a credit is allowed by~~
22 ~~section 2011~~]; and, if the tax imposed by the other state is not



1 qualified by a reciprocal provision allowing the property to be
2 taxed in the state of decedent's domicile, the amount of the tax
3 due under this section shall be credited with the lesser of:

4 (1) The amount of the death tax paid the other state and
5 credited against the federal estate tax; or

6 (2) An amount computed by multiplying the [~~federal credit~~]
7 tax imposed under subsection (a) by a fraction, the
8 numerator of which is the value of the property
9 subject to the death tax imposed by the other state,
10 and the denominator of which is the value of the
11 decedent's gross estate."

12 SECTION 3. Section 236D-4, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) The tax shall be computed by multiplying the [~~federal~~
15 ~~credit~~] the tax imposed on the transfer of the decedent's
16 taxable estate under section 236D-3(a) by a fraction, the
17 numerator of which is the value of the property located in
18 Hawaii, and the denominator of which is the value of the
19 decedent's gross estate."

20 SECTION 4. Section 236D-2.5, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§236D-2.5] Taxation under chapter 236D; applicable~~
 2 ~~exclusion amount. Notwithstanding any other law to the~~
 3 ~~contrary, a decedent shall be entitled to all applicable~~
 4 ~~exclusion or exemption amounts as determined under the Internal~~
 5 ~~Revenue Code as of December 31, 2009, before being subject to~~
 6 ~~any taxes imposed under this chapter, including up to a~~
 7 ~~\$3,500,000 applicable exclusion amount allowed by section 2010~~
 8 ~~of the Internal Revenue Code on December 31, 2009, as further~~
 9 ~~adjusted by law."]~~

PART II.

11 SECTION 5. Section 235-55, Hawaii Revised Statutes, is
 12 repealed.

13 ~~["§235-55 Tax credits for resident taxpayers. (a)~~
 14 ~~Whenever an individual or person liable to the taxes imposed~~
 15 ~~upon individuals, who is a resident of the State or who has~~
 16 ~~filed a joint resident return under section 235-93, has become~~
 17 ~~liable for income taxes to a state, or to the District of~~
 18 ~~Columbia, Puerto Rico, or any other territory or possession of~~
 19 ~~the United States, or to a foreign country upon any part of the~~
 20 ~~individual's or person's taxable income for the taxable year,~~
 21 ~~derived or received from sources without the State and taxed~~
 22 ~~under the laws of such other jurisdiction irrespective of the~~



1 ~~residence or domicile of the recipient, there shall be credited~~
2 ~~against the tax payable by the individual or person under this~~
3 ~~chapter the tax so paid by the individual or person to the other~~
4 ~~jurisdiction upon the individual's or person's producing for the~~
5 ~~department of taxation satisfactory evidence:~~

6 ~~(1) Of such tax payment; and~~

7 ~~(2) That the laws of the other jurisdiction do not allow~~
8 ~~the individual or person a credit against the taxes~~
9 ~~imposed by such jurisdiction for the taxes paid or~~
10 ~~payable under this chapter, or do allow such credit in~~
11 ~~an amount which has been deducted in computing the~~
12 ~~amount of credit sought under this section.~~

13 ~~(b) The application of such credit, however:~~

14 ~~(1) Shall not be allowed with respect to any taxable~~
15 ~~income or any tax which under subchapter N of chapter~~
16 ~~1 of the Internal Revenue Code of 1954 (which is~~
17 ~~applicable for federal purposes but not for state~~
18 ~~purposes) is or may be the subject of an exclusion,~~
19 ~~exemption, or tax credit; and~~

20 ~~(2) Shall not operate to reduce the tax payable under this~~
21 ~~chapter to an amount less than that which would have~~
22 ~~been payable had the taxpayer been taxable only on the~~



1 ~~income from property owned, personal services~~
2 ~~performed, trade or business carried on, and other~~
3 ~~sources in the State.~~

4 ~~(c) If any taxes paid to another jurisdiction for which a~~
5 ~~taxpayer has been allowed a credit under this section are at any~~
6 ~~time credited or refunded to the taxpayer, such fact shall be~~
7 ~~reported by the taxpayer to the department within twenty days~~
8 ~~after the credit or refund. Failure to make such report shall~~
9 ~~be deemed failure to make a return and subject to the penalties~~
10 ~~imposed by law in such cases. A tax equal to the credit allowed~~
11 ~~for the taxes so credited or refunded shall be due and payable~~
12 ~~from the taxpayer upon notice and demand from the department.~~
13 ~~If the amount of such tax is not paid within ten days from the~~
14 ~~date of the notice and demand, the taxpayer shall be subject to~~
15 ~~the usual penalties and interest for delinquency in payment.~~

16 ~~(d) Nothing in this section shall be construed to permit a~~
17 ~~credit against the taxes imposed by this chapter on account of~~
18 ~~federal income taxes."]~~

19 PART III.

20 SECTION 6. The Hawaii Revised Statutes is amended by
21 adding a new chapter to be appropriately designated and to read
22 as follows:



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"CHAPTER

EXCISE TAX ON DIRECT BROADCAST SATELLITE SERVICE PROVIDERS

§ -1 **Definitions.** For the purposes of this chapter:

"Department" means the department of taxation.

"Direct broadcast satellite service" means the distribution or broadcasting of video programming or services by satellite directly to a subscriber's or paying customer's receiving equipment.

"Gross revenue":

(1) Means revenues derived from supplying of regular subscriber direct broadcast satellite service and includes installation fees, disconnect and reconnect fees, and fees for regular direct broadcast satellite service benefits;

(2) But does not include per-program or per-channel charges, leased channel revenues, advertising revenues, and other income not derived from the supplying of regular subscriber direct broadcast satellite service.

"Provider" means a provider of direct broadcast satellite service.



1 § **-2 Imposition of tax.** (a) There is hereby levied and
2 shall be assessed and collected annually privilege taxes against
3 providers on account of their business and other activities in
4 the State measured by gross revenue derived from the sale of
5 direct broadcast satellite services, multiplied by per
6 cent.

7 (b) The tax imposed by subsection (a) shall not apply to
8 internet access services, including services purchased, used, or
9 sold to provide direct broadcast satellite services.

10 § **-3 Remittance.** The tax imposed by this chapter is due
11 and payable to the department on or before the last day of the
12 first month following the end of each calendar quarter.

13 § **-4 Report; when due.** (a) A provider subject to the
14 tax imposed by this chapter shall file a report with the
15 department on a form prescribed by the department. The report
16 is due on the date the tax is due under section -3.

17 (b) The report shall include a statement of the gross
18 revenues received from the provision of direct broadcast
19 satellite services and tax due during the preceding quarterly
20 period and any other information required by the department.

21 § **-5 Records.** (a) A provider subject to the tax
22 imposed by this chapter shall maintain the necessary records and



1 any other information required by the department to determine
2 the amounts of the tax that the provider is required to remit
3 and any credit that the provider is entitled to claim under this
4 chapter.

5 (b) The records shall be open at all times to inspection
6 by the department.

7 § -6 **Information shown on subscriber bill.** A provider
8 may show, as a separate line item on each bill of each
9 subscriber, the amount of the total bill resulting from any tax
10 imposed under this chapter.

11 § -7 **Rules.** The department may adopt rules under
12 chapter 91 necessary to enforce this chapter.

13 § -8 **Allocation of revenue.** The revenue from the tax
14 imposed by this chapter shall be deposited to the credit of the
15 general fund."

16 PART IV.

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect upon its approval;
20 provided that:

21 (1) Parts I and II shall apply to taxable years beginning
22 after December 31, 2010; and



1 (2) Part III shall take effect on January 1, 2012, and
2 shall apply to taxable years beginning after December
3 31, 2011.
4



Report Title:

Estate and Transfer Tax; Tax Credits for Resident Taxpayers;
Excise Tax on Direct Broadcast Satellite Service Providers

Description:

Amends the method of computing the estate and transfer tax.
Repeals income tax credit for resident taxpayers for income
taxes paid to other jurisdictions. Imposes an excise tax on
direct broadcast satellite service providers. (HD1 Proposed)

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