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# 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 "generation-skipping  
5 transfer", "Internal Revenue Code", and "taxable estate" to  
6 read:

7 "Generation-skipping transfer" means a generation-skipping  
8 transfer as defined and used in section 2611 of the Internal  
9 Revenue Code~~[-]~~ that occurs at the same time as, or as a result  
10 of, the death of an individual. A "generation-skipping  
11 transfer" does not include a direct skip described in section  
12 2612(c) of the Internal Revenue Code.

13 "Internal Revenue Code" means the Internal Revenue Code of  
14 1986, as amended and renumbered, as of December 31, 2009;  
15 provided that sections ~~[2011, 2102, and 2604 of the Internal~~  
16 ~~Revenue Code shall mean those sections as of December 31, 2000;~~  
17 ~~and provided further that section]~~ 2058 and 2106(a)(4) shall not  
18 be operative for purposes of this chapter. "Internal Revenue



1 Code" includes the federal tax principles of alter ego, nominee,  
2 sham transaction, substance over form, economic substance, or  
3 business purpose, as those principles are developed by statute  
4 or common law. The Internal Revenue Code, for purposes of this  
5 chapter, shall be applied using changes in nomenclature and  
6 other language, including the omission of inapplicable language  
7 or the insertion of interpretive language, where necessary to  
8 effectuate the intent of this chapter.

9 "Taxable estate" means taxable estate as defined in  
10 sections 2051 to [~~2056~~] 2056A of the Internal Revenue Code. For  
11 purposes of section 236D-4.5, "taxable estate" means a taxable  
12 estate as defined and used [in section 2106] pursuant to  
13 sections 2106(a) (1), (2), and (3), and 2106(b) of the Internal  
14 Revenue Code [~~, with situs in Hawaii~~]."

15 2. By repealing the definitions of "federal credit" and  
16 "section 2011".

17 [~~"Federal credit" means:~~

18 ~~(1) For a transfer, the maximum amount of the credit for~~  
19 ~~state death taxes allowed by section 2011 of the~~  
20 ~~Internal Revenue Code, as it existed on December 31,~~  
21 ~~2000, for the decedent's adjusted taxable estate;~~



1       ~~(2) For a generation skipping transfer, the maximum amount~~  
2       ~~of the credit for state taxes allowed by section 2604~~  
3       ~~of the Internal Revenue Code as it existed on~~  
4       ~~December 31, 2000; and~~

5       ~~(3) For a noncitizen transfer, the maximum amount of the~~  
6       ~~credit for state death taxes allowed by section 2102~~  
7       ~~of the Internal Revenue Code, as it existed on~~  
8       ~~December 31, 2000, for the decedent's adjusted taxable~~  
9       ~~estate.~~

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

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

14       "~~+~~§236D-3~~+~~ Residents; tax imposed; credit for tax paid  
15       other state. (a) A tax in ~~[an amount equal to the federal~~  
16       ~~credit]~~ accordance with the following table is imposed on the  
17       transfer of the taxable estate of every resident~~[-]~~:

18 <u>If the taxable estate is:</u>	<u>The tax shall be:</u>
19 <u>Not over \$3,560,000</u>	<u>Zero</u>
20 <u>Over \$3,560,000 but not over</u>	



1	<u>\$3,600,000</u>	<u>9.6% of the amount by which</u>
2		<u>the taxable estate exceeds</u>
3		<u>\$3,560,000</u>
4	<u>Over \$3,600,000 but not over</u>	
5	<u>\$4,100,000</u>	<u>\$3,840 plus 10.4% of the</u>
6		<u>amount by which the taxable</u>
7		<u>estate exceeds \$3,600,000</u>
8	<u>Over \$4,100,000 but not over</u>	
9	<u>\$5,100,000</u>	<u>\$55,840 plus 11.2% of the</u>
10		<u>amount by which the taxable</u>
11		<u>estate exceeds \$4,100,000</u>
12	<u>Over \$5,100,000 but not over</u>	
13	<u>\$6,100,000</u>	<u>\$167,840 plus 12% of the</u>
14		<u>amount by which the taxable</u>
15		<u>estate exceeds \$5,100,000</u>
16	<u>Over \$6,100,000 but not over</u>	
17	<u>\$7,100,000</u>	<u>\$287,840 plus 12.8% of the</u>
18		<u>amount by which the taxable</u>
19		<u>estate exceeds \$6,100,000</u>



1 Over \$7,100,000 but not over  
2 \$8,100,000 \$415,840 plus 13.6% of the  
3 amount by which the taxable  
4 estate exceeds \$7,100,000

5 Over \$8,100,000 but not over  
6 \$9,100,000 \$551,840 plus 14.4% of the  
7 amount by which the taxable  
8 estate exceeds \$8,100,000

9 Over \$9,100,000 but not over  
10 \$10,100,000 \$695,840 plus 15.2% of the  
11 amount by which the taxable  
12 estate exceeds \$9,100,000

13 Over \$10,100,000 \$847,840 plus 16% of the  
14 amount by which the taxable  
15 estate exceeds \$10,100,000.

16 (b) If any property of a resident is subject to a death  
17 tax imposed by another state [~~for which a credit is allowed by~~  
18 ~~section 2011~~]; and, if the tax imposed by the other state is not  
19 qualified by a reciprocal provision allowing the property to be  
20 taxed in the state of decedent's domicile, the amount of the tax  
21 due under this section shall be credited with the lesser of:



- 1 (1) The amount of the death tax paid the other state [~~and~~  
2 ~~credited against the federal estate tax~~]; or
- 3 (2) An amount computed by multiplying the [~~federal credit~~]  
4 tax imposed under subsection (a) by a fraction, the  
5 numerator of which is the value of the property  
6 subject to the death tax imposed by the other state,  
7 and the denominator of which is the value of the  
8 decedent's gross estate."

9 SECTION 3. Section 236D-3.5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~+~~§236D-3.5~~+~~ **Generation-skipping transfers; tax**  
12 **imposed; credit for tax paid other state.** (a) A tax in an  
13 amount equal to [~~the federal credit~~] 2.25 per cent is imposed on  
14 every generation-skipping transfer exceeding an aggregate  
15 exclusion of \$3,560,000 per decedent of:

16 (1) Property located in this State; and

17 (2) Property from a resident trust.

18 (b) If the generation-skipping transfer is subject in  
19 another state to a similar tax [~~and qualifies for the federal~~  
20 ~~credit~~], the amount of the tax due under this section shall be  
21 credited with the lesser of:



- 1 (1) The amount of the tax paid to the other state [~~and~~
- 2 ~~credited against the federal tax~~]; or
- 3 (2) An amount computed by multiplying the [~~federal credit~~]
- 4 tax imposed under subsection (a) by a fraction, the
- 5 numerator of which is the value of the property
- 6 subject to the generation-skipping transfer tax paid
- 7 to the other state, and the denominator of which is
- 8 the value of all property subject to the federal
- 9 generation-skipping transfer tax.

10 [~~If paragraph (1) or (2) results in an amount less than the~~

11 ~~total federal credit allowed being paid to all states which may~~

12 ~~claim any part of the credit, then the interested states may~~

13 ~~agree to a fair and equitable apportionment of the credit~~

14 ~~without regard to the residence of the trust.]"~~

15 SECTION 4. Section 236D-4, Hawaii Revised Statutes, is

16 amended by amending subsection (b) to read as follows:

17 "(b) The tax shall be computed by multiplying the [~~federal~~

18 ~~credit~~] tax imposed on the transfer of the decedent's taxable

19 estate under section 236D-3(a) by a fraction, the numerator of

20 which is the value of the property located in Hawaii, and the

21 denominator of which is the value of the decedent's gross

22 estate."



1 SECTION 5. Section 236D-4.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The tax shall be computed by multiplying the [~~federal~~  
4 ~~credit~~] tax imposed on the transfer of the decedent's taxable  
5 estate in accordance with the following table by a fraction, the  
6 numerator of which is the value of the property with a situs in  
7 Hawaii, and the denominator of which is the value of the  
8 decedent's gross estate[~~-~~] under section 2103 of the Internal  
9 Revenue Code.

10 <u>If the taxable estate is:</u>	<u>The tax shall be:</u>
11 <u>Not over \$120,000</u>	<u>Zero</u>
12 <u>Over \$120,000 but not over</u>	
13 <u>\$150,000</u>	<u>0.8% of the amount by which</u>
14	<u>the taxable estate exceeds</u>
15	<u>\$120,000</u>
16 <u>Over \$150,000 but not over</u>	
17 <u>\$200,000</u>	<u>\$240 plus 1.6% of the amount</u>
18	<u>by which the taxable estate</u>
19	<u>exceeds \$150,000</u>





1	<u>Over \$200,000 but not over</u>	
2	<u>\$300,000</u>	<u>\$1,040 plus 2.4% of the</u>
3		<u>amount by which the taxable</u>
4		<u>estate exceeds \$200,000</u>
5	<u>Over \$300,000 but not over</u>	
6	<u>\$500,000</u>	<u>\$3,440 plus 3.2% of the</u>
7		<u>amount by which the taxable</u>
8		<u>estate exceeds \$300,000</u>
9	<u>Over \$500,000 but not over</u>	
10	<u>\$700,000</u>	<u>\$9,840 plus 4% of the amount</u>
11		<u>by which the taxable estate</u>
12		<u>exceeds \$500,000</u>
13	<u>Over \$700,000 but not over</u>	
14	<u>\$900,000</u>	<u>\$17,840 plus 4.8% of the</u>
15		<u>amount by which the taxable</u>
16		<u>estate exceeds \$700,000</u>
17	<u>Over \$900,000 but not over</u>	
18	<u>\$1,100,000</u>	<u>\$27,440 plus 5.6% of the</u>
19		<u>amount by which the taxable</u>
20		<u>estate exceeds \$900,000</u>



1	<u>Over \$1,100,000 but not over</u>	
2	<u>\$1,600,000</u>	<u>\$38,640 plus 6.4% of the</u>
3		<u>amount by which the taxable</u>
4		<u>estate exceeds \$1,100,000</u>
5	<u>Over \$1,600,000 but not over</u>	
6	<u>\$2,100,000</u>	<u>\$70,640 plus 7.2% of the</u>
7		<u>amount by which the taxable</u>
8		<u>estate exceeds \$1,600,000</u>
9	<u>Over \$2,100,000 but not over</u>	
10	<u>\$2,600,000</u>	<u>\$106,640 plus 8% of the</u>
11		<u>amount by which the taxable</u>
12		<u>estate exceeds \$2,100,000</u>
13	<u>Over \$2,600,000 but not over</u>	
14	<u>\$3,100,000</u>	<u>\$146,640 plus 8.8% of the</u>
15		<u>amount by which the taxable</u>
16		<u>estate exceeds \$2,600,000</u>
17	<u>Over \$3,100,000 but not over</u>	
18	<u>\$3,600,000</u>	<u>\$190,640 plus 9.6% of the</u>
19		<u>amount by which the taxable</u>
20		<u>estate exceeds \$3,100,000</u>



1	<u>Over \$3,600,000 but not over</u>	
2	<u>\$4,100,000</u>	<u>\$238,640 plus 10.4% of the</u>
3		<u>amount by which the taxable</u>
4		<u>estate exceeds \$3,600,000</u>
5	<u>Over \$4,100,000 but not over</u>	
6	<u>\$5,100,000</u>	<u>\$290,640 plus 11.2% of the</u>
7		<u>amount by which the taxable</u>
8		<u>estate exceeds \$4,100,000</u>
9	<u>Over \$5,100,000 but not over</u>	
10	<u>\$6,100,000</u>	<u>\$402,640 plus 12% of the</u>
11		<u>amount by which the taxable</u>
12		<u>estate exceeds \$5,100,000</u>
13	<u>Over \$6,100,000 but not over</u>	
14	<u>\$7,100,000</u>	<u>\$522,640 plus 12.8% of the</u>
15		<u>amount by which the taxable</u>
16		<u>estate exceeds \$6,100,000</u>
17	<u>Over \$7,100,000 but not over</u>	
18	<u>\$8,100,000</u>	<u>\$650,640 plus 13.6% of the</u>
19		<u>amount by which the taxable</u>
20		<u>estate exceeds \$7,100,000</u>



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

2       \$9,100,000                               \$786,640 plus 14.4% of the  
3   amount by which the taxable  
4   estate exceeds \$8,100,000

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

6       \$10,100,000                               \$930,640 plus 15.2% of the  
7   amount by which the taxable  
8   estate exceeds \$9,100,000

9 Over \$10,100,000                               \$1,082,640 plus 16% of the  
10   amount by which the taxable  
11   estate exceeds \$10,100,000."

12       SECTION 6. Section 236D-2.5, Hawaii Revised Statutes, is  
13 repealed.

14       ["~~§236D-2.5~~ ~~Taxation under chapter 236D; applicable~~  
15 ~~exclusion amount.~~ Notwithstanding any other law to the  
16 contrary, a decedent shall be entitled to all applicable  
17 exclusion or exemption amounts as determined under the Internal  
18 Revenue Code as of December 31, 2009, before being subject to  
19 any taxes imposed under this chapter, including up to a  
20 \$3,500,000 applicable exclusion amount allowed by section 2010  
21 of the Internal Revenue Code on December 31, 2009, as further  
22 adjusted by law."]



PART II.

SECTION 7. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of "eligible business activity" to read as follows:

"Eligible business activity" means the:

- (1) Manufacture of tangible personal property, the wholesale sale of tangible personal property as described in section 237-4, or a service business as defined in this section;
- (2) Production of agricultural products where the business is a producer as defined in section 237-5, or the processing of agricultural products, all or some of which were grown within an enterprise zone;
- (3) Research, development, sale, or production of all types of genetically-engineered medical, agricultural, or maritime biotechnology products; [e]
- (4) Production of electric power from [wind] renewable energy as defined in section 269-91, for sale primarily to a public utility company for resale to the public[-]; or
- (5) Ownership, control, operation, or management of any seawater air conditioning district cooling project."



1 PART III.

2 SECTION 8. If any provision of this Act, or the  
3 application thereof to any person or circumstance is held  
4 invalid, the invalidity does not affect other provisions or  
5 applications of the Act, which can be given effect without the  
6 invalid provision or application, and to this end the provisions  
7 of this Act are severable.

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

10 SECTION 10. This Act shall take effect on July 1, 2030.



**Report Title:**

Estate and Transfer Tax; Enterprise Zones

**Description:**

Amends the method of computing the estate and transfer tax, generation-skipping transfer tax, and the estate tax for noncitizens. Amends the definition of "eligible business activity" in the State's enterprise zone program to include production of certain electric power from renewable energy, and owning, controlling, operating, or managing a seawater air conditioning district cooling project. Effective 7/1/2030.  
(SD2)

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

