

# S.B. NO. 2867

JAN 25 2012

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## A BILL FOR AN ACT

RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE  
INTERNAL REVENUE CODE.

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

1           SECTION 1. The purpose of this Act is to conform Hawaii  
2 income tax law to the Internal Revenue Code.

3           SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) For all taxable years beginning after December 31,  
6 [~~2010~~] 2011, as used in this chapter, except as provided in  
7 section 235-2.35, "Internal Revenue Code" means subtitle A,  
8 chapter 1, of the federal Internal Revenue Code of 1986, as  
9 amended as of December 31, [~~2010~~] 2011, as it applies to the  
10 determination of gross income, adjusted gross income, ordinary  
11 income and loss, and taxable income, except those provisions of  
12 the Internal Revenue Code and federal public laws which,  
13 pursuant to this chapter, do not apply or are otherwise limited  
14 in application and except for the provisions of Public Law 109-  
15 001 which apply to section 170 of the Internal Revenue Code.  
16 The provisions of Public Law 109-001 to accelerate the deduction  
17 for charitable cash contributions for the relief of victims of

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1 the 2004 Indian Ocean tsunami are applicable for the calendar  
2 year that ended December 31, 2004, and the calendar year ending  
3 December 31, 2005.

4 Sections 235-2, 235-2.1, and 235-2.2 shall continue to be  
5 used to determine:

6 (1) The basis of property, if a taxpayer first determined  
7 the basis of property in a taxable year to which such  
8 sections apply, and if such determination was made  
9 before January 1, 1978; and

10 (2) Gross income, adjusted gross income, ordinary income  
11 and loss, and taxable income for a taxable year to  
12 which such sections apply where such taxable year  
13 begins before January 1, 1978."

14 SECTION 3. Section 235-2.35, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§235-2.35 Operation of certain Internal Revenue Code**  
17 **provisions not operative under section 235-2.3.** The following  
18 sections of the federal Internal Revenue Code of 1986, as  
19 amended, shall be operative for purposes of this chapter:

20 [~~(1) Section 6041 as applicable to persons under section~~  
21 ~~6041(h) (with respect to information returns at the~~  
22 ~~source for certain corporations);]~~

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1           ~~[-(2)]~~ (1) Section 6038D (with respect to information with  
2           respect to foreign financial assets). With respect to  
3           persons required to report information under this  
4           section, section 6662(j) (with respect to imposition  
5           of accuracy-related penalties on underpayments) and  
6           section 6501(e)(1)(A)(ii) (with respect to limitations  
7           on assessment and collection) shall also be operative  
8           for purposes of this chapter and shall be applied  
9           consistently with the correlating provisions of  
10          sections 231-36.6 and 235-111;

11          ~~[-(3)]~~ (2) Section 6045B (with respect to returns relating  
12          to actions affecting basis in securities); and

13          ~~[-(4)]~~ (3) Section 6050W (with respect to returns relating  
14          to payments made in settlement of payment card and  
15          third party network transactions)."

16          SECTION 5. Statutory material to be repealed is bracketed  
17          and stricken. New statutory material is underscored.

18          SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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**Report Title:**

Income Tax; Conformity to the Internal Revenue Code for 2011

**Description:**

Provides a measure for conforming amendments to the Hawaii income tax law based upon amendments to the Internal Revenue Code made in calendar year 2011.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE.

PURPOSE: To amend Hawaii's income tax law to conform with changes to the Internal Revenue Code made in calendar year 2011.

MEANS: Amend sections 235-2.3(a) and 235-2.35, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 235-2.5(c), HRS, mandates that the Department of Taxation submit to each regular session of the Legislature a bill that amends Hawaii's income tax law to conform to changes in the Internal Revenue Code. This bill amends section 235-2.3(a), HRS, by changing the date from 2010 to 2011 to reflect tax law changes made in the 2011 calendar year. This bill amends section 235-2.35 by deleting paragraph (1) to reflect the elimination of this requirement in the federal income tax law. Additional amendments to conforming provisions are anticipated.

Impact on the public: Conformity through amendments to the operative provisions of the Internal Revenue Code will minimize the burden on taxpayers to comply with the requirements of Hawaii's income tax law.

Impact on the department and other agencies: Conforming Hawaii's income tax law to that of the Internal Revenue Code will increase consistency between the state and federal jurisdictions.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.