

JAN 24 2013

S.B. NO. 1188

A BILL FOR AN ACT

RELATING TO THE ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.

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

1 SECTION 1. Act 220, Session Laws of Hawaii 2012, enacted
2 the Estate and Generation-Skipping Transfer Tax Reform Act,
3 designated as chapter 236E, Hawaii Revised Statutes, which
4 established the estate and generation skipping transfer taxes
5 based on the valuations, deduction, and expenses allowed for
6 federal transfer tax purposes but with tax rates independent of
7 the federal transfer taxes.

8 The purpose of this Act is to make technical,
9 nonsubstantive corrections to Act 220 and make clear that a
10 decedent who was in a civil union or recognized equivalent under
11 the laws of the State computes the amount of any transfer tax
12 due to the State as if the civil union or recognized equivalent
13 were recognized as a marriage under the Internal Revenue Code.

14 SECTION 2. Section 236E-2, Hawaii Revised Statutes, is
15 amended by adding a new definition to be appropriately inserted
16 and to read as follows:

1 "Nonresident not citizen" means a decedent required to
2 file under subchapter B of chapter 11 of the Internal Revenue
3 Code."

4 SECTION 3. Section 236E-6, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) An exclusion from the Hawaii taxable estate shall be
7 allowed to the estate of every decedent against the tax imposed
8 by section 236E-8. For purposes of this section, the applicable
9 exclusion amount is the same as the federal applicable exclusion
10 amount, or the exemption equivalent of the unified credit,
11 without reduction for taxable gifts as set forth for the
12 decedent in chapter 11 of the Internal Revenue Code as further
13 adjusted below:

14 (1) For residents, 100 percent of the applicable exclusion
15 amount;

16 (2) For nonresidents, an amount computed by multiplying
17 the applicable exclusion amount by a fraction, the
18 numerator of which is the value of the property in the
19 State subject to tax under this chapter, and the
20 denominator of which is the federal gross estate; and

1 (3) For [~~nonresidents who are not citizens,~~] nonresident
2 not citizen, an amount computed by multiplying the
3 exemption equivalent of the unified credit by a
4 fraction, the numerator of which is the value of the
5 property in the State subject to tax under this
6 chapter, and the denominator of which is the federal
7 gross estate. "

8 SECTION 4. Section 236E-7, Hawaii Revised Statutes, is
9 amended as follows:

10 "**§236E-7 Hawaii taxable estate.** For the purposes of this
11 chapter, "Hawaii taxable estate" means:

12 (1) For residents, the federal taxable estate under section
13 2051, et. seq., of the Internal Revenue Code but without
14 regard for the deduction for state death taxes paid under
15 section 2058 of the Internal Revenue Code;

16 (2) For non-residents, the federal taxable estate under section
17 2051, et. seq., of the Internal Revenue Code but without
18 regard for the deduction for state death taxes paid under
19 section 2058 of the Internal Revenue Code, multiplied by a
20 fraction, the numerator of which is the value of the
21 property in the State subject to tax under this chapter,

1 and the denominator of which is the federal gross estate;
2 and

3 (3) For nonresident not citizen, the federal taxable estate
4 determined under section 2106 of the Internal Revenue [-]
5 Code, but without regard for the deduction for state death
6 taxes paid under section 2106(a)(4) of the Internal Revenue
7 Code, multiplied by a fraction, the numerator of which is
8 the value of the property with a situs in the State subject
9 to tax under this chapter, and the denominator of which is
10 the federal gross estate."

11 SECTION 5. Section 236E-21, Hawaii Revised Statutes is
12 amended by amending subsection (a) to read as follows:

13 "(a) If the amount paid with respect to any taxable
14 transfer is less than the amount due under this chapter, the
15 department shall assess such underpayment from the person
16 responsible for payment; provided that a proceeding to assess
17 the underpayment amount shall commence within:

18 (1) Three years from the date the federal estate tax
19 return was filed; or

20 (2) One year after the date of final determination of the
21 related federal transfer tax,

1 whichever is later.

2 Amounts set forth on a duly filed and accepted federal
3 return for valuations of property, the gross estate, federal
4 taxable estate, and applicable exclusion amount shall be
5 conclusive for purposes of this chapter, and the return required
6 under this chapter shall use the same amounts as the
7 corresponding amounts on the federal return[-], provided that a
8 decedent which was in a valid civil union or recognized
9 equivalent under the laws of the State but that is not
10 recognized by the Internal Revenue Code as a marriage for
11 federal tax purposes shall compute the valuations of property,
12 the gross estate, federal taxable estate, and applicable
13 exclusion amount as if it were recognized as a marriage."

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect upon its approval
17 and shall apply to decedents dying or taxable transfers
18 occurring after December 31, 2012.

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INTRODUCED BY:



21

BY REQUEST

Report Title:

Estate and Generation-skipping Transfer Tax Reform Act.

Description:

Amends the definition of the applicable exclusion amount and clarifies the application of estate and generation-skipping taxes for civil union couples and makes technical, housekeeping amendments for consistency.

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 THE ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.

PURPOSE: Act 220, Session Laws of Hawaii 2012, enacted the Estate and Generation-Skipping Transfer Tax Reform Act, designated as chapter 236E, Hawaii Revised Statutes, which established the estate and generation skipping transfer taxes based on the valuations, deduction, and expenses allowed for federal transfer tax purposes but with tax rates independent of the federal transfer taxes. The purpose of this Act is to make technical, nonsubstantive corrections to Act 220 and make clear that a decedent who was in a civil union or recognized equivalent under the laws of the State computes the amount of any transfer tax due to the State as if the civil union or recognized equivalent were recognized as a marriage under the Internal Revenue Code.

MEANS: Amends sections 236E-2, 236E-6(a), 236E-7, and 236E-21(a), Hawaii Revised Statutes.

JUSTIFICATION: Act 220, Session Laws of Hawaii 2012, established the estate and generation skipping transfer taxes based on the valuations, deduction, and expenses allowed for federal transfer tax purposes but with tax rates independent of the federal transfer taxes. The purposes of this bill are (1) to make technical, nonsubstantive corrections to Act 220 and make clear that a decedent who was in a civil union or recognized equivalent under the laws of

the State computes the amount of any transfer tax due to the State as if the civil union or recognized equivalent were recognized as a marriage under the Internal Revenue Code.

Technical and nonsubstantive portions of this bill: (1) adds a definition of "nonresident not citizen"; and (2) corrects the reference to the Internal Revenue Code in section 236E-7, Hawaii Revised Statutes which erroneously failed to include the word "code".

Impact on the public: None, as the changes provide clarity.

Impact on the department and other agencies: None, as the changes provide clarity.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval, effective for decedents dying or taxable transfers occurring after December 31, 2012.