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# 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, that  
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 chapter 236E, Hawaii Revised  
10 Statutes, and make clear that a decedent who was in a civil  
11 union or recognized equivalent under the laws of the State  
12 computes the amount of any transfer tax due to the State as if  
13 the civil union or recognized equivalent were recognized as a  
14 marriage under the Internal Revenue Code.

15           SECTION 2. Section 236E-2, Hawaii Revised Statutes, is  
16 amended by adding a new definition to be appropriately inserted  
17 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 a Hawaii taxable estate shall be  
7 allowed to the estate of every decedent against the tax imposed  
8 by section 236E-8. For the purpose of this section, the  
9 applicable exclusion amount is the same as the federal  
10 applicable exclusion amount, or the exemption equivalent of the  
11 unified credit, without reduction for taxable gifts, as set  
12 forth for the decedent in chapter 11 of the Internal Revenue  
13 Code as further adjusted below:

- 14        (1) For residents, 100 per cent of the applicable  
15 exclusion 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
- 21        (3) For [~~nonresidents who are not citizens,~~] nonresidents  
22 not citizens, an amount computed by multiplying the



1 exemption equivalent of the unified credit by a  
2 fraction, the numerator of which is the value of the  
3 property in the State subject to tax under this  
4 chapter, and the denominator of which is the federal  
5 gross estate."

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

8 "[~~f~~]~~S~~236E-7[~~f~~] **Hawaii taxable estate.** For the purposes of  
9 this chapter, "Hawaii taxable estate" means:

- 10 (1) For residents, the federal taxable estate under  
11 section 2051, et seq., of the Internal Revenue Code  
12 but without regard for the deduction for state death  
13 taxes paid under section 2058 of the Internal Revenue  
14 Code;
- 15 (2) For nonresidents, the federal taxable estate under  
16 section 2051, et seq., of the Internal Revenue Code,  
17 but without regard for the deduction for state death  
18 taxes paid under section 2058 of the Internal Revenue  
19 Code, multiplied by a fraction, the numerator of which  
20 is the value of the property in the State subject to  
21 tax under this chapter, and the denominator of which  
22 is the federal gross estate; and



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

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

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

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

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

21          whichever is later.



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

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

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



**Report Title:**

Estate and Generation-Skipping Transfer Tax Reform Act

**Description:**

Amends the applicable exclusion amount by adding a definition for "nonresident not citizen". Clarifies the application of estate and generation-skipping taxes for civil union couples. Makes technical, housekeeping amendments to chapter 236E, HRS, for consistency. (HD1)

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

