

TAXBILLSERVICE

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SUBJECT: ESTATE AND GENERATION-SKIPPING TRANSFER TAX, Technical corrections

BILL NUMBER: SB 1188; HB 957 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

BRIEF SUMMARY: Amends HRS 236E-21(a) to provide that if a decedent which was in a valid civil union or recognized equivalent under the laws of the state, but that is not recognized by the Internal Revenue Code (IRC) as a marriage for federal tax purposes, shall compute the valuations of property, the gross estate, federal taxable estate, and applicable exclusion amount as if it were recognized as a marriage.

Amends HRS section 236E-2 to add a definition of “nonresident not citizen” to mean a decedent required to file under subchapter B of chapter 11 of the IRC.

Amends HRS section 236E-6(a)(3) to replace the phrase “nonresidents who are not citizens” with “nonresident not citizen.”

EFFECTIVE DATE: Decedents dying or taxable transfers occurring after December 31, 2012

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-06 (13). With the adoption of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the federal estate tax was phased out and repealed over a ten-year period. This necessitated the legislature to establish an estate and generation-skipping transfer tax by Act 220, SLH 2012.

This measure makes technical corrections to that act to ensure that the provisions of Act 220 apply to decedents in a civil union or recognized equivalent as they apply to decedents of a marriage. Other technical nonsubstantive changes are made to Act 220 to clarify its application.

Digested 1/28/13