H.B. NO. **2000**

A BILL FOR AN ACT

RELATING TO TAX RELIEF.

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

1   SECTION 1. Section 235-2.4, Hawaii Revised Statutes, is

2 amended to read as follows:

3   "**§235-2.4 Operation of certain Internal Revenue Code**

4 **provisions; sections 63 to 530.** (a) Section 63 (with respect

5 to taxable income defined) of the Internal Revenue Code shall be

6 operative for the purposes of this chapter, subject to the

7 following:

8   (1)   Sections 63(c)(1)(B) (relating to the additional

9   standard deduction), 63(c)(1)(C) (relating to the real

10   property tax deduction), 63(c)(1)(D) (relating to the

11   disaster loss deduction), 63(c)(1)(E) (relating to the

12   motor vehicle sales tax deduction), 63(c)(4) (relating

13   to inflation adjustments), 63(c)(7) (defining the real

14   property tax deduction), 63(c)(8) (defining the

15   disaster loss deduction), 63(c)(9) (defining the motor

16   vehicle sales tax deduction), and 63(f) (relating to

17   additional amounts for the aged or blind) of the

1   Internal Revenue Code shall not be operative for

2   purposes of this chapter;

3   (2) Section 63(c)(2) (relating to the basic standard

4   deduction) of the Internal Revenue Code shall be

5   operative, except that the standard deduction amounts

6   provided therein shall instead mean:

7   (A) $4,400 in the case of:

8   (i) A joint return as provided by section 235-

9   93; or

10   (ii) A surviving spouse (as defined in section

11   2(a) of the Internal Revenue Code);

12   (B) $3,212 in the case of a head of household (as

13   defined in section 2(b) of the Internal Revenue

14   Code);

15   (C) $2,200 in the case of an individual who is not

16   married and who is not a surviving spouse or head

17   of household; or

18   (D) $2,200 in the case of a married individual filing

19   a separate return;

20   (3) Section 63(c)(5) (limiting the basic standard

21   deduction in the case of certain dependents) of the

22   Internal Revenue Code shall be operative, except that

1   .the limitation shall be the greater of $500 or such

2   individual's earned income; and

3   (4)   The standard deduction amount for nonresidents shall

4   be calculated pursuant to section 235-5.

5   (b)   Section 68 (with respect to the overall limitation on

6   itemized deductions) of the Internal Revenue Code shall be

7   operative, except that sections 68(f) and 68(g) shall not be

8   operative; provided that the thresholds shall be those that were

9   operative for federal tax year 2009.

10   (c)   Section 72 (with respect to annuities; certain

11   proceeds of endowment and life insurance contracts) of the

12   Internal Revenue Code shall be operative for purposes of this

13   chapter and be interpreted with due regard to section 235-7(a),

14   except that the ten per cent additional tax on early

15   distributions from retirement plans in section 72(t) shall not

16   be operative for purposes of this chapter.

17   (d)   Section 85 (with respect to unemployment compensation)

18   of the Internal Revenue Code shall be operative for purposes of

19   this chapter, except that section 85(c) shall not be operative

20   for purposes of this chapter.

21   (e)   Section 108 (with respect to income from discharge of

22   indebtedness) of the Internal Revenue Code shall be operative

1 for purposes of this chapter, except that section 108(i)

2 (relating to deferral and ratable inclusion of income arising

3 from business indebtedness discharged by the reacquisition of a

4 debt instrument) shall not be operative for purposes of this

5 chapter.

6   (f) Section 121 (with respect to exclusion of gain from

7 sale of principal residence) of the Internal Revenue Code shall

8 be operative for purposes of this chapter, except that for the

9 election under section 121(f), a reference to section 1034

10 treatment means a reference to section 235-2.4(s) in effect for

11 taxable year 1997.

12   (g) Section 132 (with respect to certain fringe benefits)

13 of the Internal Revenue Code shall be operative for purposes of

14 this chapter, except that the provision in section 132(f)(2)

15 that equalizes the dollar amounts for sections 132(f)(2)(A) and

16 (B) after February 17, 2009, until January 1, 2011, shall not be

17 operative and except that section 132(n) shall not apply to

18 United States Department of Defense Homeowners Assistance

19 Program payments authorized by the American Recovery and

20 Reinvestment Act of 2009.

21   (h) Section 163 (with respect to interest) of the Internal

22 Revenue Code shall be operative for the purposes of this

1   chapter, except that provisions in section 163(d)(4)(B)

2   (defining net investment income to exclude dividends), section

3   163(e)(5)(F) (suspension of applicable high-yield discount

4   obligation (AHYDO) rules) and section 163(i)(1) as it applies to

5   debt instruments issued after January 1, 2010, (defining AHYDO)

6   shall not be operative for the purposes of this chapter.

7   (i)   Section 164 (with respect to taxes) of the Internal

8   Revenue Code shall be operative for the purposes of this

9   chapter, except that:

10   (1)   Sections 164(a)(6) and 164(b)(6) shall not be

11   operative for the purposes of this chapter; and

12   (2)   The deductions under sections 164(a)(3) and 164(b)(5)

13   shall not be operative for corporate taxpayers and

14   shall be operative only for the following individual

15   taxpayers:

16   (A)   A taxpayer filing a single return or a married

17   person filing separately with a federal adjusted

18   gross income of less than $100,000;

19   (B)   A taxpayer filing as a head of household with a

20   federal adjusted gross income of less than

21                    $150,000; and

1   (C) A taxpayer filing a joint return or as a

2   surviving spouse with a federal adjusted gross

3   income of less than $200,000.

4   (j) Section 165 (with respect to losses) of the Internal

5 Revenue Code shall be operative for purposes of this chapter,

6 except that the amount prescribed by sections 165(h)(1)

7 (relating to the limitation per casualty) of the Internal

8 Revenue Code shall be a $100 limitation per casualty, and

9 sections 165(h)(3)(A) and 165(h)(3)(B) (both of which relate to

10 special rules for personal casualty gains and losses in

11 federally declared disasters) of the Internal Revenue Code shall

12 not be operative for the purposes of this chapter. Section 165

13 as operative for this chapter shall also apply to losses

14 sustained from the sale of stocks or other interests issued

15 through the exercise of the stock options or warrants granted by

16 a qualified high technology business as defined in section 235-

17 7.3.

18   (k) Section 168 (with respect to the accelerated cost

19 recovery system) of the Internal Revenue Code shall be operative

20 for purposes of this chapter, except that sections 168(j)

21 (relating to property on Indian reservations), 168(k) (relating

22 to the special allowance for certain property acquired during

1 the period specified therein), 168(m) (relating to the special

2 allowance for certain reuse and recycling property), and 168(n)

3 (relating to the special allowance for qualified disaster

4 assistance property) of the Internal Revenue Code shall not be

5 operative for purposes of this chapter.

6 ~~[(l) Section 172 (with respect to net operating loss~~

7 ~~deductions) of the Internal Revenue Code shall be operative for~~

8 ~~purposes of this chapter, as further provided in section 235-~~

9 ~~7(d), except that sections 172(b)(1)(J) and 172(j) (both of~~

10 ~~which relate to qualified disaster losses) of the Internal~~

11 ~~Revenue Code shall not be operative for purposes of this~~

12 ~~chapter.~~

13 ~~(m) Section 179 (with respect to the election to expense~~

14 ~~certain depreciable business assets) of the Internal Revenue~~

15 ~~Code shall be operative for purposes of this chapter, except as~~

16 ~~provided in this subsection:~~

17 ~~(1) The aggregate cost provided in section 179(b)(1) which~~

18 ~~may be taken into account under section 179(a) for any~~

19 ~~taxable year shall not exceed $25,000;~~

20 ~~(2) The amount at which the reduction in limitation~~

21 ~~provided in section 179(b)(2) begins shall exceed~~

22 ~~$200,000 for any taxable year; and~~

1   (3) ~~The following shall not be operative for purposes of~~

2   ~~this chapter:~~

3   ~~(A) Defining section 179 property to include computer~~

4   ~~software in section 179(d)(1);~~

5   ~~(B) Inflation adjustments in section 179(b)(5);~~

6   ~~(C) Irrevocable election in section 179(c)(2); and~~

7   ~~(D) Special rules for qualified disaster assistance~~

8   ~~property in section 179(e).~~

9   ~~(n)~~] (l) Section 198A (with respect to the expensing of

10 qualified disaster assistances expenses) of the Internal Revenue

11 Code shall not be operative for purposes of this chapter.

12   [~~(o)~~] (m) Section 219 (with respect to retirement savings)

13 of the Internal Revenue Code shall be operative for the purpose

14 of this chapter. For the purpose of computing the limitation on

15 the deduction for active participants in certain pension plans

16 for state income tax purposes, adjusted gross income as used in

17 section 219 as operative for this chapter means federal adjusted

18 gross income.

19   [~~(p)~~] (n) Section 220 (with respect to medical savings

20 accounts) of the Internal Revenue Code shall be operative for

21 the purpose of this chapter, but only with respect to medical

1 services accounts that have been approved by the Secretary of

2 the Treasury of the United States.

3   [(q)] (o) Section 265 (with respect to expenses and

4 interest relating to tax-exempt income) of the Internal Revenue

5 Code shall be operative for purposes of this chapter; except

6 that sections 265(b)(3)(G) and 265(b)(7) shall not be operative

7 and that section 265 shall not apply to expenses for royalties

8 and other income derived from any patents, copyrights, and trade

9 secrets by an individual or a qualified high technology business

10 as defined in section 235-7.3. Such expenses shall be

11 deductible.

12   [(r)] (p) Section 382 (with respect to limitation on net

13 operating loss carryforwards and certain built-in losses

14 following ownership change) of the Internal Revenue Code shall

15 be operative for the purposes of this chapter, except that

16 section 382(n) shall not be operative for purposes of this

17 chapter.

18   [(s)] (q) Section 408A (with respect to Roth Individual

19 Retirement Accounts) of the Internal Revenue Code shall be

20 operative for the purposes of this chapter, except that section

21 408A(d)(3)(A)(iii) shall not be operative for purposes of this

22 chapter. For the purposes of determining the aggregate amount

1 of contributions to a Roth Individual Retirement Account or

2 qualified rollover contribution to a Roth Individual Retirement

3 Account from an individual retirement plan other than a Roth

4 Individual Retirement Account, adjusted gross income as used in

5 section 408A as operative for this chapter means federal

6 adjusted gross income.

7 [(t)] (r) In administering the provisions of sections 410

8 to 417 (with respect to special rules relating to pensions,

9 profit sharing, stock bonus plans, etc.), sections 418 to 418E

10 (with respect to special rules for multiemployer plans), and

11 sections 419 and 419A (with respect to treatment of welfare

12 benefit funds) of the Internal Revenue Code, the department of

13 taxation shall adopt rules under chapter 91 relating to the

14 specific requirements under such sections and to such other

15 administrative requirements under those sections as may be

16 necessary for the efficient administration of sections 410 to

17 419A.

18 In administering sections 401 to 419A (with respect to

19 deferred compensation) of the Internal Revenue Code, Public Law

20 93-406, section 1017(i), shall be operative for the purposes of

21 this chapter.

1   In administering section 402 (with respect to the

2   taxability of beneficiary of employees' trust) of the Internal

3   Revenue Code, the tax imposed on lump sum distributions by

4   section 402(e) of the Internal Revenue Code shall be operative

5   for the purposes of this chapter and the tax imposed therein is

6   hereby imposed by this chapter at the rate determined under this

7   chapter.

8   [(u)] (s) In administering section 403 (with respect to

9   taxation of employee annuities) of the Internal Revenue Code,

10   any funds that represent pre-tax employee deferrals or

11   contributions that are distributed from the annuity and used

12   solely to obtain retirement credits under the state employees'

13   retirement system shall not be treated as a rollover for

14   purposes of section 403(b)(8)(A) of the Internal Revenue Code,

15   and such funds shall be subject to income tax under this

16   chapter.

17   [(v)] (t) Section 451 (which provides general rules for

18   taxable year of inclusion) of the Internal Revenue Code shall be

19   operative, except that the provisions of sections 451(i)(3) and

20   451(i)(6), as they relate to a qualified electric utility, shall

21   not be operative for purposes of this chapter.

1   [(w)] (u) In administering section 457 (with respect to

2 compensation plans of state and local governments and tax-exempt

3 organizations) of the Internal Revenue Code, any funds that

4 represent pre-tax employee deferrals or contributions that are

5 distributed from the deferred compensation plan and used solely

6 to obtain retirement credits under the state employees'

7 retirement system shall not be treated as a rollover for

8 purposes of section 457(e)(16)(A) of the Internal Revenue Code

9 and such funds shall be subject to income tax under this

10 chapter.

11   [(x)] (v) Section 468B (with respect to special rules for

12 designated settlement funds) of the Internal Revenue Code shall

13 be operative for the purposes of this chapter and the tax

14 imposed therein is hereby imposed by this chapter at a rate

15 equal to the maximum rate in effect for the taxable year imposed

16 on estates and trusts under section 235-51.

17   [(y)] (w) Section 469 (with respect to passive activities

18 and credits limited) of the Internal Revenue Code shall be

19 operative for the purposes of this chapter. For the purpose of

20 computing the offset for rental real estate activities for state

21 income tax purposes, adjusted gross income as used in section

1 469 as operative for this chapter means federal adjusted gross

2 income.

3 [(z)] (x) Sections 512 to 514 (with respect to taxation of

4 business income of certain exempt organizations) of the Internal

5 Revenue Code shall be operative for the purposes of this chapter

6 as provided in this subsection.

7 "Unrelated business taxable income" means the same as in

8 the Internal Revenue Code, except that in the computation

9 thereof sections 235-3 to 235-5, and 235-7 (except subsection

10 (c)), shall apply, and in the determination of the net operating

11 loss deduction there shall not be taken into account any amount

12 of income or deduction that is excluded in computing the

13 unrelated business taxable income. Unrelated business taxable

14 income shall not include any income from a legal service plan.

15 For a person described in section 401 or 501 of the

16 Internal Revenue Code, as modified by section 235-2.3, the tax

17 imposed by section 235-51 or 235-71 shall be imposed upon the

18 person's unrelated business taxable income.

19 [(aa)] (y) Section 521 (with respect to cooperatives) and

20 subchapter T (sections 1381 to 1388, with respect to

21 cooperatives and their patrons) of the Internal Revenue Code

22 shall be operative for the purposes of this chapter as to any

H.B. NO. 2000

1 cooperative fully meeting the requirements of section 421-23,

2 except that Internal Revenue Code section 521 cooperatives need

3 not be organized in Hawaii.

4 [(bb)] (z) Sections 527 (with respect to political

5 organizations) and 528 (with respect to certain homeowners

6 associations) of the Internal Revenue Code shall be operative

7 for the purposes of this chapter and the taxes imposed in each

8 section are hereby imposed by this chapter at the rates

9 determined under section 235-71.

10 [(cc)] (aa) Section 529 (with respect to qualified tuition

11 programs) shall be operative for the purposes of this chapter,

12 except that sections 529(c)(6) and 529(e)(3)(A)(iii) shall not
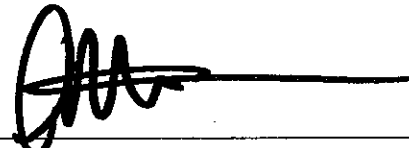
13 be operative.

14 [(dd)] (bb) Section 530 (with respect to education

15 individual retirement accounts) of the Internal Revenue Code

16 shall be operative for the purposes of this chapter. For the

17 purpose of determining the maximum amount that a contributor

18 could make to an education individual retirement account for

19 state income tax purposes, modified adjusted gross income as

20 used in section 530 as operative for this chapter means federal

21 modified adjusted gross income as defined in section 530."

1   SECTION 2. Statutory material to be repealed is bracketed

2 and stricken. New statutory material is underscored.

3   SECTION 3. This Act, upon its approval, shall apply to

4 taxable years beginning after December 31, 2012.

5

                INTRODUCED BY: _____

Report Title:
Taxation; Depreciation; Net Operating Loss Deductions

Description:
Amends state income tax law with respect to net operating loss deductions and the election to expense certain depreciable business assets to conform to federal law.

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