
A BILL FOR AN ACT

RELATING TO REAL ESTATE INVESTMENT TRUSTS.

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

1 SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following Internal Revenue Code subchapters,
4 parts of subchapters, sections, subsections, and parts of
5 subsections shall not be operative for the purposes of this
6 chapter, unless otherwise provided:

7 (1) Subchapter A (sections 1 to 59A) (with respect to
8 determination of tax liability), except section
9 1(h)(2) (relating to net capital gain reduced by the
10 amount taken into account as investment income),
11 except sections 2(a), 2(b), and 2(c) (with respect to
12 the definition of "surviving spouse" and "head of
13 household"), except section 41 (with respect to the
14 credit for increasing research activities), except
15 section 42 (with respect to low-income housing
16 credit), except sections 47 and 48, as amended, as of
17 December 31, 1984 (with respect to certain depreciable
18 tangible personal property), and except section



1 48(d)(3), as amended, as of February 17, 2009 (with
2 respect to the treatment of United States Department
3 of Treasury grants made under section 1603 of the
4 American Recovery and Reinvestment Tax Act of 2009).
5 For treatment, see sections 235-110.91, 235-110.7, and
6 235-110.8;

7 (2) Section 78 (with respect to dividends received from
8 certain foreign corporations by domestic corporations
9 choosing foreign tax credit);

10 (3) Section 86 (with respect to social security and tier 1
11 railroad retirement benefits);

12 (4) Section 103 (with respect to interest on state and
13 local bonds). For treatment, see section 235-7(b);

14 (5) Section 114 (with respect to extraterritorial income).
15 For treatment, any transaction as specified in the
16 transitional rule for 2005 and 2006 as specified in
17 the American Jobs Creation Act of 2004 section 101(d)
18 and any transaction that has occurred pursuant to a
19 binding contract as specified in the American Jobs
20 Creation Act of 2004 section 101(f) are inoperative;



- 1 (6) Section 120 (with respect to amounts received under
2 qualified group legal services plans). For treatment,
3 see section 235-7(a)(9) to (11);
- 4 (7) Section 122 (with respect to certain reduced uniformed
5 services retirement pay). For treatment, see section
6 235-7(a)(3);
- 7 (8) Section 135 (with respect to income from United States
8 savings bonds used to pay higher education tuition and
9 fees). For treatment, see section 235-7(a)(1);
- 10 (9) Section 139C (with respect to COBRA premium
11 assistance);
- 12 (10) Subchapter B (sections 141 to 150) (with respect to
13 tax exemption requirements for state and local bonds);
- 14 (11) Section 151 (with respect to allowance of deductions
15 for personal exemptions). For treatment, see section
16 235-54;
- 17 (12) Section 179B (with respect to expensing of capital
18 costs incurred in complying with Environmental
19 Protection Agency sulphur regulations);
- 20 (13) Section 181 (with respect to special rules for certain
21 film and television productions);



- 1 (14) Section 196 (with respect to deduction for certain
2 unused investment credits);
- 3 (15) Section 199 (with respect to the U.S. production
4 activities deduction);
- 5 (16) Section 222 (with respect to qualified tuition and
6 related expenses);
- 7 (17) Sections 241 to 247 (with respect to special
8 deductions for corporations). For treatment, see
9 section 235-7(c);
- 10 (18) Section 280C (with respect to certain expenses for
11 which credits are allowable). For treatment, see
12 section 235-110.91;
- 13 (19) Section 291 (with respect to special rules relating to
14 corporate preference items);
- 15 (20) Section 367 (with respect to foreign corporations);
- 16 (21) Section 501(c)(12), (15), (16) (with respect to exempt
17 organizations); except that section 501(c)(12) shall
18 be operative for companies that provide potable water
19 to residential communities that lack any access to
20 public utility water services;
- 21 (22) Section 515 (with respect to taxes of foreign
22 countries and possessions of the United States);



- 1 (23) Subchapter G (sections 531 to 565) (with respect to
2 corporations used to avoid income tax on
3 shareholders);
- 4 (24) Subchapter H (sections 581 to 597) (with respect to
5 banking institutions), except section 584 (with
6 respect to common trust funds). For treatment, see
7 chapter 241;
- 8 (25) Section 642(a) and (b) (with respect to special rules
9 for credits and deductions applicable to trusts). For
10 treatment, see sections 235-54(b) and 235-55;
- 11 (26) Section 646 (with respect to tax treatment of electing
12 Alaska Native settlement trusts);
- 13 (27) Section 668 (with respect to interest charge on
14 accumulation distributions from foreign trusts);
- 15 (28) Subchapter L (sections 801 to 848) (with respect to
16 insurance companies). For treatment, see sections
17 431:7-202 and 431:7-204;
- 18 (29) Section 853 (with respect to foreign tax credit
19 allowed to shareholders). For treatment, see section
20 235-55;
- 21 (30) Section 853A (with respect to credits from tax credit
22 bonds allowed to shareholders);



- 1 (31) Section 857(b)(2)(B) (with respect to the dividends
2 paid deduction for real estate investment trusts);
- 3 [~~(31)~~] (32) Subchapter N (sections 861 to 999) (with respect
4 to tax based on income from sources within or without
5 the United States), except sections 985 to 989 (with
6 respect to foreign currency transactions). For
7 treatment, see sections 235-4, 235-5, and 235-7(b),
8 and 235-55;
- 9 [~~(32)~~] (33) Section 1042(g) (with respect to sales of stock
10 in agricultural refiners and processors to eligible
11 farm cooperatives);
- 12 [~~(33)~~] (34) Section 1055 (with respect to redeemable ground
13 rents);
- 14 [~~(34)~~] (35) Section 1057 (with respect to election to treat
15 transfer to foreign trust, etc., as taxable exchange);
- 16 [~~(35)~~] (36) Sections 1291 to 1298 (with respect to treatment
17 of passive foreign investment companies);
- 18 [~~(36)~~] (37) Subchapter Q (sections 1311 to 1351) (with
19 respect to readjustment of tax between years and
20 special limitations);
- 21 [~~(37)~~] (38) Subchapter R (sections 1352 to 1359) (with
22 respect to election to determine corporate tax on



1 certain international shipping activities using per
2 ton rate);
3 ~~(38)~~ (39) Subchapter U (sections 1391 to 1397F) (with
4 respect to designation and treatment of empowerment
5 zones, enterprise communities, and rural development
6 investment areas). For treatment, see chapter 209E;
7 ~~(39)~~ (40) Subchapter W (sections 1400 to 1400C) (with
8 respect to District of Columbia enterprise zone);
9 ~~(40)~~ (41) Section 14000 (with respect to education tax
10 benefits);
11 ~~(41)~~ (42) Section 1400P (with respect to housing tax
12 benefits);
13 ~~(42)~~ (43) Section 1400R (with respect to employment
14 relief);
15 ~~(43)~~ (44) Section 1400T (with respect to special rules for
16 mortgage revenue bonds);
17 ~~(44)~~ (45) Section 1400U-1 (with respect to allocation of
18 recovery zone bonds);
19 ~~(45)~~ (46) Section 1400U-2 (with respect to recovery zone
20 economic development bonds); and
21 ~~(46)~~ (47) Section 1400U-3 (with respect to recovery zone
22 facility bonds)."



1 SECTION 2. Section 235-71, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) In the case of a real estate investment trust there
4 is imposed on the taxable income, computed as provided in
5 sections 857 and 858 of the Internal Revenue Code but with the
6 changes and adjustments made by this chapter (without prejudice
7 to the generality of the foregoing, for taxable years beginning
8 before January 1, 2014, the deduction for dividends paid is
9 limited to such amount of dividends as is attributable to income
10 taxable under this chapter), for taxable years beginning after
11 December 31, 2013, no deduction for dividends paid shall be
12 allowed, a tax consisting in the sum of the following: 4.4 per
13 cent if the taxable income is not over \$25,000, 5.4 per cent if
14 over \$25,000 but not over \$100,000, and on all over \$100,000,
15 6.4 per cent. In addition to any other penalty provided by law
16 any real estate investment trust whose tax liability for any
17 taxable year is deemed to be increased pursuant to section
18 859(b)(2)(A) or 860(c)(1)(A) after December 31, 1978, (relating
19 to interest and additions to tax determined with respect to the
20 amount of the deduction for deficiency dividends allowed) of the
21 Internal Revenue Code shall pay a penalty in an amount equal to
22 the amount of interest for which such trust is liable that is



1 attributable solely to such increase. The penalty payable under
 2 this subsection with respect to any determination shall not
 3 exceed one-half of the amount of the deduction allowed by
 4 section 859(a), or 860(a) after December 31, 1978, of the
 5 Internal Revenue Code for such taxable year."

6 SECTION 3. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval
 9 and shall apply to taxable years beginning after December 31,
 10 2014.

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JAN 21 2014



H.B. NO. 2186

Report Title:

Real Estate Investment Trusts; Dividends Paid Deduction;
Disallowed

Description:

Disallows dividends paid deduction for Real Estate Investment
Trusts.

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

