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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, 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. The purposes of this Act are (1)  
8 fulfill the requirement to make annual conforming amendments to  
9 chapter 236E and (2) to amend the definition of "applicable  
10 exclusion amount" to close a loophole that allows a decedent to  
11 completely or substantially avoid the estate and generation  
12 skipping transfer taxes by gifting away property prior to death,  
13 even on the eve of death.

14           SECTION 2. Section 236E-3, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "§236E-3 Conformance to the Internal Revenue Code;  
17 general application. For all decedents dying after January 25,  
18 2012, as used in this chapter, "Internal Revenue Code" means  
19 subtitle B of the federal Internal Revenue Code of 1986, as

1 amended as of [~~December 31, 2011~~] December 31, 2013, as it  
2 applies to the determination of gross estate, adjusted gross  
3 estate, federal taxable estate, and generation-skipping  
4 transfers, except those provisions of the Internal Revenue Code  
5 and federal public laws that, pursuant to this chapter, do not  
6 apply or are otherwise limited in application."

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

9 "(a) An exclusion from the Hawaii taxable estate shall be  
10 allowed to the estate of every decedent against the tax imposed  
11 by section 236E-8. For purposes of this section, the applicable  
12 exclusion amount is the same as the federal applicable exclusion  
13 amount, or the exemption equivalent of the unified credit,  
14 [~~without reduction for taxable gifts,~~] reduced by the amount of  
15 taxable gifts made by the decedent that reduces the amount of  
16 the federal applicable exclusion amount or the exemption  
17 equivalent of the unified credit on the decedent's federal  
18 estate tax return, as set forth for the decedent in chapter 11  
19 of the Internal Revenue Code as further adjusted below:

20 (1) For residents, 100 per cent of the applicable  
21 exclusion amount;

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- 1           (2) For nonresidents, an amount computed by multiplying
- 2           the applicable exclusion amount by a fraction, the
- 3           numerator of which is the value of the property in the
- 4           State subject to tax under this chapter, and the
- 5           denominator of which is the federal gross estate; and
- 6           (3) For nonresidents not citizens, an amount computed by
- 7           multiplying the exemption equivalent of the unified
- 8           credit by a fraction, the numerator of which is the
- 9           value of the property in the State subject to tax
- 10          under this chapter, and the denominator of which is
- 11          the federal gross estate."

12           SECTION 4. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14           SECTION 5. This Act shall take effect upon its approval  
 15 and shall apply to decedents dying or taxable transfers  
 16 occurring after December 31, 2013.

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INTRODUCED BY:



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BY REQUEST

JAN 21 2014

# H.B. NO. 2337

**Report Title:**

Estate and Generation-skipping Transfer Tax Reform Act

**Description:**

Conforms chapter 236E, Hawaii Revised Statutes, to the Internal Revenue Code of 1986, as amended as of December 31, 2013; and amends the definition of the applicable exclusion amount to close an existing loophole.

*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 ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.

PURPOSE: To amend Hawaii's estate and generation-skipping transfer tax law to conform with changes to the Internal Revenue Code made in calendar year 2013 and to amend the definition of "applicable exclusion amount" to close a loophole that allows a decedent to completely or substantially avoid the estate and generation-skipping transfer taxes by gifting away property prior to death.

MEANS: Amend sections 236E-3 and 236E-6(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 236E-4, HRS, mandates that the Department of Taxation submit to each regular session of the Legislature a bill that amends Hawaii's estate and generation-skipping transfer tax law to conform to changes in the Internal Revenue Code. This bill fulfills this requirement.

Impact on the public: Conformity through amendments to the operative provisions of the Internal Revenue Code will minimize the burden on taxpayers to comply with the requirements of Hawaii's estate and generation-skipping transfer tax law.

Impact on the department and other agencies: Conforming Hawaii's estate and generation-skipping transfer tax law to that of the Internal Revenue Code will increase consistency between the state and federal jurisdictions.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.