

JAN 22 2016

A BILL FOR AN ACT

RELATING TO CONFORMANCE OF STATE PERSONAL EXEMPTION TO FEDERAL
PERSONAL EXEMPTION.

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

1 SECTION 1. The legislature finds that pursuant to article
2 VII, section 3, of the State Constitution, the state tax review
3 commission is charged with evaluating the state's tax structure
4 and recommending revenue and tax policy.

5 According to the 2003 and 2013 tax review commission
6 reports, which focused on several areas including net income
7 tax, Hawaii's net income tax rates are very high for both the
8 rich and the poor. Both commissions recommended phasing in a
9 higher standard deduction and personal exemption, widening the
10 state tax brackets, and increasing overall federal conformity,
11 including conformance to federal filing deadlines.

12 The 2003 commission report noted that, in 1984, the state
13 personal exemption was raised to \$1,000 to match the federal
14 personal exemption. In 2013, the state personal exemption was
15 still \$1,144 and the federal exemption was \$3,950. The state



1 personal exemption continues to be in nonconformance with the
2 federal exemption.

3 The State unnecessarily taxes families with income levels
4 that qualify for public assistance as a result of its failure to
5 update the personal exemption amount to the federal amount.
6 Adjusted for inflation, the \$1,000 personal exemption of 1984,
7 amounts to \$2,500 in 2012 dollars. This means that while overall
8 price levels have increased over the past two decades, the state
9 personal exemption has actually decreased, placing an additional
10 tax burden on Hawaii residents.

11 The purpose of this Act is to adopt the recommendation of the
12 2003 and 2012 tax review commissions to raise the state personal
13 exemption amount by conforming the state personal exemption
14 amount to the federal personal exemption amount.

15 SECTION 2. Section 235-2.45, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Section 641 (with respect to imposition of tax) of
18 the Internal Revenue Code shall be operative for the purposes of
19 this chapter subject to the following:

20 ~~[(1) The deduction for exemptions shall be allowed as~~
21 ~~provided in section 235-54(b);~~



1 ~~(2)~~] (1) The deduction for contributions and gifts in
 2 determining taxable income shall be limited to the
 3 amount allowed in the case of an individual, unless
 4 the contributions and gifts are to be used exclusively
 5 in the State; and

6 ~~[(3)]~~ (2) The tax imposed by section 1(e) of the Internal
 7 Revenue Code as applied by section 641 of the Internal
 8 Revenue Code is hereby imposed by this chapter at the
 9 rate and amount as determined under section 235-51 on
 10 estates and trusts."

11 SECTION 3. Section 235-54, Hawaii Revised Statutes, is
 12 repealed.

13 ~~["§235-54 Exemptions. (a) In computing the taxable~~
 14 ~~income of any individual, there shall be deducted, in lieu of~~
 15 ~~the personal exemptions allowed by the Internal Revenue Code of~~
 16 ~~1986, as amended, and except as provided in subsection (c),~~
 17 ~~personal exemptions computed as follows: Ascertain the number~~
 18 ~~of exemptions which the individual can lawfully claim under the~~
 19 ~~Internal Revenue Code, add an additional exemption for the~~
 20 ~~taxpayer or the taxpayer's spouse who is sixty five years of age~~
 21 ~~or older within the taxable year, and multiply that number by~~



1 ~~\$1,144, for taxable years beginning after December 31, 1984. A~~
2 ~~nonresident shall prorate the personal exemptions on account of~~
3 ~~income from sources outside the State as provided in section~~
4 ~~235-5. In the case of an individual with respect to whom an~~
5 ~~exemption under this section is allowable to another taxpayer~~
6 ~~for a taxable year beginning in the calendar year in which the~~
7 ~~individual's taxable year begins, the personal exemption amount~~
8 ~~applicable to such individual under this subsection for such~~
9 ~~individual's taxable year shall be zero.~~

10 ~~(b) In computing the taxable income of an estate or trust~~
11 ~~there shall be allowed, in lieu of the deductions allowed under~~
12 ~~subsection (a), the following:~~

13 ~~(1) An estate shall be allowed a deduction of \$400.~~

14 ~~(2) A trust which, under its governing instrument, is~~
15 ~~required to distribute all of its income currently~~
16 ~~shall be allowed a deduction of \$200.~~

17 ~~(3) All other trusts shall be allowed a deduction of \$80.~~

18 ~~(c) The phaseout under section 151(d)(3) of the Internal~~
19 ~~Revenue Code of 1986, as amended, shall apply to this section;~~
20 ~~provided that the threshold income amounts under section~~
21 ~~151(d)(3)(C) of the Internal Revenue Code of 1986, as amended,~~



1 ~~shall be reduced by twenty five per cent for the purposes of~~
2 ~~this subsection; provided further that the threshold income~~
3 ~~amounts under section 151(d)(3)(C) of the Internal Revenue Code~~
4 ~~of 1986, as amended, used to determine the twenty five per cent~~
5 ~~reduction under this subsection shall be maintained at the~~
6 ~~amounts in place on July 1, 2008.~~

7 ~~(d) A blind person, a deaf person, and any person totally~~
8 ~~disabled, in lieu of the personal exemptions allowed by the~~
9 ~~Internal Revenue Code, shall be allowed, and there shall be~~
10 ~~deducted in computing the taxable income of a blind person, a~~
11 ~~deaf person, or a totally disabled person, instead of the~~
12 ~~exemptions provided by subsection (a), the amount of \$7,000.]"~~

13 SECTION 4. Section 235-2.3, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The following Internal Revenue Code subchapters,
16 parts of subchapters, sections, subsections, and parts of
17 subsections shall not be operative for the purposes of this
18 chapter, unless otherwise provided:

19 (1) Subchapter A (sections 1 to 59A) (with respect to
20 determination of tax liability), except section
21 1(h)(2) (relating to net capital gain reduced by the



1 amount taken into account as investment income),
2 except sections 2(a), 2(b), and 2(c) (with respect to
3 the definition of "surviving spouse" and "head of
4 household"), except section 41 (with respect to the
5 credit for increasing research activities), except
6 section 42 (with respect to low-income housing
7 credit), except sections 47 and 48, as amended, as of
8 December 31, 1984 (with respect to certain depreciable
9 tangible personal property), and except section
10 48(d)(3), as amended, as of February 17, 2009 (with
11 respect to the treatment of United States Department
12 of Treasury grants made under section 1603 of the
13 American Recovery and Reinvestment Tax Act of 2009).
14 For treatment, see sections 235-110.91, 235-110.7, and
15 235-110.8;

16 (2) Section 78 (with respect to dividends received from
17 certain foreign corporations by domestic corporations
18 choosing foreign tax credit);

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



- 1 (4) Section 103 (with respect to interest on state and
2 local bonds). For treatment, see section 235-7(b);
- 3 (5) Section 114 (with respect to extraterritorial income).
4 For treatment, any transaction as specified in the
5 transitional rule for 2005 and 2006 as specified in
6 the American Jobs Creation Act of 2004 section 101(d)
7 and any transaction that has occurred pursuant to a
8 binding contract as specified in the American Jobs
9 Creation Act of 2004 section 101(f) are inoperative;
- 10 (6) Section 120 (with respect to amounts received under
11 qualified group legal services plans). For treatment,
12 see section 235-7(a)(9) to (11);
- 13 (7) Section 122 (with respect to certain reduced uniformed
14 services retirement pay). For treatment, see section
15 235-7(a)(3);
- 16 (8) Section 135 (with respect to income from United States
17 savings bonds used to pay higher education tuition and
18 fees). For treatment, see section 235-7(a)(1);
- 19 (9) Section 139C (with respect to COBRA premium
20 assistance);



- 1 (10) Subchapter B (sections 141 to 150) (with respect to
2 tax exemption requirements for state and local bonds);
3 [~~(11)~~ ~~Section 151 (with respect to allowance of deductions~~
4 ~~for personal exemptions).~~ For treatment, see section
5 235-54;]
- 6 [~~(12)~~] (11) Section 179B (with respect to expensing of
7 capital costs incurred in complying with Environmental
8 Protection Agency sulphur regulations);
- 9 [~~(13)~~] (12) Section 181 (with respect to special rules for
10 certain film and television productions);
- 11 [~~(14)~~] (13) Section 196 (with respect to deduction for
12 certain unused investment credits);
- 13 [~~(15)~~] (14) Section 199 (with respect to the U.S. production
14 activities deduction);
- 15 [~~(16)~~] (15) Section 222 (with respect to qualified tuition
16 and related expenses);
- 17 [~~(17)~~] (16) Sections 241 to 247 (with respect to special
18 deductions for corporations). For treatment, see
19 section 235-7(c);



1 ~~[(18)]~~ (17) Section 280C (with respect to certain expenses
2 for which credits are allowable). For treatment, see
3 section 235-110.91;

4 ~~[(19)]~~ (18) Section 291 (with respect to special rules
5 relating to corporate preference items);

6 ~~[(20)]~~ (19) Section 367 (with respect to foreign
7 corporations);

8 ~~[(21)]~~ (20) Section 501(c)(12), (15), (16) (with respect to
9 exempt organizations); except that section 501(c)(12)
10 shall be operative for companies that provide potable
11 water to residential communities that lack any access
12 to public utility water services;

13 ~~[(22)]~~ (21) Section 515 (with respect to taxes of foreign
14 countries and possessions of the United States);

15 ~~[(23)]~~ (22) Subchapter G (sections 531 to 565) (with respect
16 to corporations used to avoid income tax on
17 shareholders);

18 ~~[(24)]~~ (23) Subchapter H (sections 581 to 597) (with respect
19 to banking institutions), except section 584 (with
20 respect to common trust funds). For treatment, see
21 chapter 241;



1 ~~[(25)]~~ (24) Section 642(a) and (b) (with respect to special
2 rules for credits and deductions applicable to
3 trusts). For treatment, see sections 235-54(b) and
4 235-55;

5 ~~[(26)]~~ (25) Section 646 (with respect to tax treatment of
6 electing Alaska Native settlement trusts);

7 ~~[(27)]~~ (26) Section 668 (with respect to interest charge on
8 accumulation distributions from foreign trusts);

9 ~~[(28)]~~ (27) Subchapter L (sections 801 to 848) (with respect
10 to insurance companies). For treatment, see sections
11 431:7-202 and 431:7-204;

12 ~~[(29)]~~ (28) Section 853 (with respect to foreign tax credit
13 allowed to shareholders). For treatment, see section
14 235-55;

15 ~~[(30)]~~ (29) Section 853A (with respect to credits from tax
16 credit bonds allowed to shareholders);

17 ~~[(31)]~~ (30) Subchapter N (sections 861 to 999) (with respect
18 to tax based on income from sources within or without
19 the United States), except sections 985 to 989 (with
20 respect to foreign currency transactions). For



1 treatment, see sections 235-4, 235-5, and 235-7(b),
2 and 235-55;

3 ~~[(32)]~~ (31) Section 1042(g) (with respect to sales of stock
4 in agricultural refiners and processors to eligible
5 farm cooperatives);

6 ~~[(33)]~~ (32) Section 1055 (with respect to redeemable ground
7 rents);

8 ~~[(34)]~~ (33) Section 1057 (with respect to election to treat
9 transfer to foreign trust, etc., as taxable exchange);

10 ~~[(35)]~~ (34) Sections 1291 to 1298 (with respect to treatment
11 of passive foreign investment companies);

12 ~~[(36)]~~ (35) Subchapter Q (sections 1311 to 1351) (with
13 respect to readjustment of tax between years and
14 special limitations);

15 ~~[(37)]~~ (36) Subchapter R (sections 1352 to 1359) (with
16 respect to election to determine corporate tax on
17 certain international shipping activities using per
18 ton rate);

19 ~~[(38)]~~ (37) Subchapter U (sections 1391 to 1397F) (with
20 respect to designation and treatment of empowerment



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

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



S.B. NO. 2706

1 SECTION 6. This Act shall take effect on January 1, 2017,
 2 and shall apply to taxable years beginning after December 31,
 3 2016.

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S.B. NO. 2706

Report Title:

Taxation; Personal Exemption; Conformance

Description:

Conforms the State personal exemption amount to the federal personal exemption amount.

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