

JAN 24 2018

S.B. NO. 3067

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Real estate investment trust returns; shareholder
5 agreements; mandatory payment. (a) As used in this section, a
6 "real estate investment trust" means a corporation, trust, or
7 association for which a valid election in accordance with
8 section 856 of the Internal Revenue Code, as amended, is in
9 effect.

10 (b) Each real estate investment trust shareholder's pro
11 rata share of income attributable to the State and each resident
12 real estate investment trust shareholder's pro rata share of
13 income not attributable to the State, to the extent modified
14 under this chapter, shall be taken into account by the
15 shareholder for the purposes of this chapter similar to the
16 provisions under section 235-122(c).



1 (c) Every real estate investment trust shall make a return
2 for each taxable year, stating specifically:

3 (1) The items of its gross income and the deductions
4 allowable by this chapter;

5 (2) The name, address, and social security or federal
6 identification number of each person owning stock in
7 the real estate investment trust at any time during
8 the taxable year;

9 (3) The number of shares of stock owned by each
10 shareholder at all times during the taxable year;

11 (4) The income attributable to the State and income not
12 attributable to the State with respect to each
13 shareholder as determined under this chapter;

14 (5) Any modifications required under this chapter;

15 (6) The amount of money and other property distributed by
16 the real estate investment trust during the taxable
17 year to each shareholder;

18 (7) The date of each distribution; and

19 (8) Any other information as the department may prescribe
20 by form or rule.



1 (d) The real estate investment trust, on or before the day
2 on which the return is filed, shall furnish to each person who
3 was a shareholder during the year a copy of the information
4 shown on the return as the department may prescribe by form or
5 rule. Any return filed pursuant to this section, for purposes
6 of sections 235-111 and 235-112, shall be treated as a return
7 filed by the real estate investment trust under section 235-92.

8 (e) The department shall permit any real estate investment
9 trust to file composite returns and to make composite payments
10 of tax on behalf of some or all of its nonresident shareholders.
11 The department may permit composite returns and payments to be
12 made on behalf of resident shareholders.

13 (f) A real estate investment trust shall file with the
14 department, in the form prescribed by the department, the
15 agreement of each nonresident shareholder of the real estate
16 investment trust:

17 (1) To file a return and make timely payment of all taxes
18 imposed by this State on the shareholder with respect
19 to the income of the real estate investment trust; and



1 (2) To be subject to personal jurisdiction in this State
2 for purposes of the collection of unpaid income tax,
3 together with related interest and penalties.

4 If the real estate investment trust fails to timely file
5 the agreements required by paragraphs (1) and (2) on behalf of
6 each of its nonresident shareholders, then the real estate
7 investment trust, at the times set forth in subsection (g),
8 shall pay to this State on behalf of each nonresident
9 shareholder in respect of whom an agreement has not been timely
10 filed an amount equal to the highest marginal tax rate in effect
11 under section 235-71, if the shareholder is a corporation, or
12 section 235-51 for any other shareholder, multiplied by the
13 amount of the shareholder's pro rata share of the income
14 attributable to the State reflected on the real estate
15 investment trust's return for the taxable period. A real estate
16 investment trust shall be entitled to recover a payment made
17 from the shareholder on whose behalf the payment was made.

18 (g) The agreements required to be filed pursuant to
19 subsection (f) shall be filed at the following times:



1 (1) At the time the annual return is required to be filed
2 for the first taxable period for which the real estate
3 investment trust became subject to this chapter; and

4 (2) At the time the annual return is required to be filed
5 for any taxable period in which the real estate
6 investment trust had a nonresident shareholder on
7 whose behalf an agreement has not been previously
8 filed.

9 (h) Any amount paid by the real estate investment trust to
10 this State pursuant to subsection (e) or (f) shall be considered
11 to be a payment by the shareholder on account of the income tax
12 imposed on the shareholder for the taxable period.

13 (i) Any officer of any real estate investment trust who
14 wilfully fails to provide any information, file any return or
15 agreement, or make any payment as required by this section or
16 section 231-15.6 shall be guilty of a misdemeanor."

17 SECTION 2. New statutory material is underscored.

18 SECTION 3. This Act, upon its approval, shall apply to
19 taxable years beginning after December 31, 2018.

20
INTRODUCED BY:

John E. G. S.
By Request



S.B. NO. 3067

Don McFadden



S.B. NO. 3067

Report Title:

Taxation; Income Tax; Tax Returns; Real Estate Investment Trusts

Description:

Establishes requirements and procedures for a real estate investment trust to file tax returns and payments. Applies to taxable years beginning after 12/31/2018.

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

