
A BILL FOR AN ACT

RELATING TO TAXATION OF 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



1 tangible personal property), and except section
2 48(d)(3), as amended, as of February 17, 2009 (with
3 respect to the treatment of United States Department
4 of Treasury grants made under section 1603 of the
5 American Recovery and Reinvestment Tax Act of 2009).
6 For treatment, see sections 235-110.91, 235-110.7, and
7 235-110.8;

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

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

13 (4) Section 91 (with respect to certain foreign branch
14 losses transferred to specified 10-percent owned
15 foreign corporations);

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

18 (6) Section 114 (with respect to extraterritorial income).
19 For treatment, any transaction as specified in the
20 transitional rule for 2005 and 2006 as specified in
21 the American Jobs Creation Act of 2004 section 101(d)



- 1 and any transaction that has occurred pursuant to a
2 binding contract as specified in the American Jobs
3 Creation Act of 2004 section 101(f) are inoperative;
- 4 (7) Section 120 (with respect to amounts received under
5 qualified group legal services plans). For treatment,
6 see section 235-7(a)(9) to (11);
- 7 (8) Section 122 (with respect to certain reduced uniformed
8 services retirement pay). For treatment, see section
9 235-7(a)(3);
- 10 (9) Section 135 (with respect to income from United States
11 savings bonds used to pay higher education tuition and
12 fees). For treatment, see section 235-7(a)(1);
- 13 (10) Section 139C (with respect to COBRA premium
14 assistance);
- 15 (11) Subchapter B (sections 141 to 150) (with respect to
16 tax exemption requirements for state and local bonds);
- 17 (12) Section 151 (with respect to allowance of deductions
18 for personal exemptions). For treatment, see section
19 235-54;



- 1 (13) Section 179B (with respect to expensing of capital
2 costs incurred in complying with Environmental
3 Protection Agency sulphur regulations);
- 4 (14) Section 181 (with respect to special rules for certain
5 film and television productions);
- 6 (15) Section 196 (with respect to deduction for certain
7 unused investment credits);
- 8 (16) Section 199 (with respect to the U.S. production
9 activities deduction);
- 10 (17) Section 199A (with respect to qualified business
11 income);
- 12 (18) Section 222 (with respect to qualified tuition and
13 related expenses);
- 14 (19) Sections 241 to 247 (with respect to special
15 deductions for corporations). For treatment, see
16 section 235-7(c);
- 17 (20) Section 250 (with respect to foreign-derived
18 intangible income and global intangible low-taxed
19 income);



- 1 (21) Section 267A (with respect to certain related party
2 amounts paid or accrued in hybrid transactions or with
3 hybrid entities);
- 4 (22) Section 280C (with respect to certain expenses for
5 which credits are allowable). For treatment, see
6 section 235-110.91;
- 7 (23) Section 291 (with respect to special rules relating to
8 corporate preference items);
- 9 (24) Section 367 (with respect to foreign corporations);
- 10 (25) Section 501(c)(12), (15), (16) (with respect to exempt
11 organizations); except that section 501(c)(12) shall
12 be operative for companies that provide potable water
13 to residential communities that lack any access to
14 public utility water services;
- 15 (26) Section 515 (with respect to taxes of foreign
16 countries and possessions of the United States);
- 17 (27) Subchapter G (sections 531 to 565) (with respect to
18 corporations used to avoid income tax on
19 shareholders);
- 20 (28) Subchapter H (sections 581 to 597) (with respect to
21 banking institutions), except section 584 (with



- 1 respect to common trust funds). For treatment, see
2 chapter 241;
- 3 (29) Section 642(a) and (b) (with respect to special rules
4 for credits and deductions applicable to trusts). For
5 treatment, see sections 235-54(b) and 235-55;
- 6 (30) Section 646 (with respect to tax treatment of electing
7 Alaska Native settlement trusts);
- 8 (31) Section 668 (with respect to interest charge on
9 accumulation distributions from foreign trusts);
- 10 (32) Subchapter L (sections 801 to 848) (with respect to
11 insurance companies). For treatment, see sections
12 431:7-202 and 431:7-204;
- 13 (33) Section 853 (with respect to foreign tax credit
14 allowed to shareholders). For treatment, see section
15 235-55;
- 16 (34) Section 853A (with respect to credits from tax credit
17 bonds allowed to shareholders);
- 18 (35) Section 857(b)(2)(B) (with respect to the dividends
19 paid deduction for real estate investment trusts);
- 20 ~~[-(35)-]~~ (36) Subchapter N (sections 861 to 999) (with respect
21 to tax based on income from sources within or without



1 the United States), except sections 985 to 989 (with
2 respect to foreign currency transactions). For
3 treatment, see sections 235-4, 235-5, and 235-7(b),
4 and 235-55;

5 [~~36~~] (37) Section 1042(g) (with respect to sales of stock
6 in agricultural refiners and processors to eligible
7 farm cooperatives);

8 [~~37~~] (38) Section 1055 (with respect to redeemable ground
9 rents);

10 [~~38~~] (39) Section 1057 (with respect to election to treat
11 transfer to foreign trust, etc., as taxable exchange);

12 [~~39~~] (40) Sections 1291 to 1298 (with respect to treatment
13 of passive foreign investment companies);

14 [~~40~~] (41) Subchapter Q (sections 1311 to 1351) (with
15 respect to readjustment of tax between years and
16 special limitations);

17 [~~41~~] (42) Subchapter R (sections 1352 to 1359) (with
18 respect to election to determine corporate tax on
19 certain international shipping activities using per
20 ton rate);



1 [~~42~~] (43) Subchapter U (sections 1391 to 1397F) (with
2 respect to designation and treatment of empowerment
3 zones, enterprise communities, and rural development
4 investment areas). For treatment, see chapter 209E;
5 [~~43~~] (44) Subchapter W (sections 1400 to 1400C) (with
6 respect to District of Columbia enterprise zone);
7 [~~44~~] (45) Section 14000 (with respect to education tax
8 benefits);
9 [~~45~~] (46) Section 1400P (with respect to housing tax
10 benefits);
11 [~~46~~] (47) Section 1400R (with respect to employment
12 relief);
13 [~~47~~] (48) Section 1400T (with respect to special rules for
14 mortgage revenue bonds);
15 [~~48~~] (49) Section 1400U-1 (with respect to allocation of
16 recovery zone bonds);
17 [~~49~~] (50) Section 1400U-2 (with respect to recovery zone
18 economic development bonds);
19 [~~50~~] (51) Section 1400U-3 (with respect to recovery zone
20 facility bonds); and



1 ~~[(51)]~~ (52) Subchapter Z (sections 1400Z-1 to 1400Z-2) (with
2 respect to opportunity zones)."

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

5 "(d) In the case of a real estate investment trust there
6 is imposed on the taxable income, computed as provided in
7 sections 857 and 858 of the Internal Revenue Code but with the
8 changes and adjustments made by this chapter (without prejudice
9 to the generality of the foregoing, for taxable years beginning
10 before January 1, 2020, the deduction for dividends paid is
11 limited to ~~[such]~~ the amount of dividends as is attributable to
12 income taxable under this chapter~~(-),~~ and, for taxable years
13 beginning after December 31, 2019, no deductions for dividends
14 paid shall be allowed), a tax consisting in the sum of the
15 following: 4.4 per cent if the taxable income is not over
16 \$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and
17 on all over \$100,000, 6.4 per cent. Ten per cent of the
18 revenues generated shall be used by the department of business,
19 economic development, and tourism to fund economic development
20 in the State. In addition to any other penalty provided by law
21 any real estate investment trust whose tax liability for any



1 taxable year is deemed to be increased pursuant to section
2 859(b)(2)(A) or 860(c)(1)(A) after December 31, 1978, (relating
3 to interest and additions to tax determined with respect to the
4 amount of the deduction for deficiency dividends allowed) of the
5 Internal Revenue Code shall pay a penalty in an amount equal to
6 the amount of interest for which such trust is liable that is
7 attributable solely to [~~such~~] the increase. The penalty payable
8 under this subsection with respect to any determination shall
9 not exceed one-half of the amount of the deduction allowed by
10 section 859(a), or 860(a) after December 31, 1978, of the
11 Internal Revenue Code for [~~such~~] the taxable year."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on December 31,
15 2112, and shall apply to taxable years beginning after December
16 31, 2019.



Report Title:

Taxation; Real Estate Investment Trusts; Dividends Paid
Deduction

Description:

Disallows dividends paid deduction for real estate investment trusts. Provides ten percent allocation of revenue from REIT for use by DBEDT. Applies to taxable years beginning after 12/31/2019. (SB301 HD1)

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

