
A BILL FOR AN ACT

RELATING TO TAXATION.

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



- 1 treatment, see sections 235-4, 235-5, and 235-7(b),
2 and 235-55;
- 3 (36) Section 1042(g) (with respect to sales of stock in
4 agricultural refiners and processors to eligible farm
5 cooperatives);
- 6 (37) Section 1055 (with respect to redeemable ground
7 rents);
- 8 (38) Section 1057 (with respect to election to treat
9 transfer to foreign trust, etc., as taxable exchange);
- 10 (39) Sections 1291 to 1298 (with respect to treatment of
11 passive foreign investment companies);
- 12 (40) Subchapter Q (sections 1311 to 1351) (with respect to
13 readjustment of tax between years and special
14 limitations);
- 15 (41) Subchapter R (sections 1352 to 1359) (with respect to
16 election to determine corporate tax on certain
17 international shipping activities using per ton rate);
- 18 (42) Subchapter U (sections 1391 to 1379F) (with respect to
19 designation and treatment of empowerment zones,
20 enterprise communities, and rural development
21 investment areas). For treatment, see chapter 209E;



- 1 (43) Subchapter W (sections 1400 to 1400C) (with respect to
 2 District of Columbia enterprise zone);
- 3 (44) Section 14000 (with respect to education tax
 4 benefits);
- 5 (45) Section 1400P (with respect to housing tax benefits);
- 6 (46) Section 1400R (with respect to employment relief);
- 7 (47) Section 1400T (with respect to special rules for
 8 mortgage revenue bonds);
- 9 (48) Section 1400U-1 (with respect to allocation of
 10 recovery zone bonds);
- 11 (49) Section 1400U-2 (with respect to recovery zone
 12 economic development bonds); [~~and~~]
- 13 (50) Section 1400U-3 (with respect to recovery zone
 14 facility bonds) [~~-~~]; and
- 15 (51) Subchapter Z (sections 1400Z-1 to 1400Z-2) (with
 16 respect to opportunity zones)."

17 SECTION 2. Section 235-2.45, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 **"§235-2.45 Operation of certain Internal Revenue Code**
 20 **provisions; sections 641 to 7518.** (a) Section 641 (with
 21 respect to imposition of tax) of the Internal Revenue Code shall



1 be operative for the purposes of this chapter subject to the
2 following:

3 (1) The deduction for exemptions shall be allowed as
4 provided in section 235-54(b);

5 (2) The deduction for contributions and gifts in
6 determining taxable income shall be limited to the
7 amount allowed in the case of an individual, unless
8 the contributions and gifts are to be used exclusively
9 in the State; and

10 (3) The tax imposed by section 1(e) of the Internal
11 Revenue Code as applied by section 641 of the Internal
12 Revenue Code is hereby imposed by this chapter at the
13 rate and amount as determined under section 235-51 on
14 estates and trusts.

15 (b) Section 667 (with respect to treatment of amounts
16 deemed distributed by trusts in preceding years) of the Internal
17 Revenue Code shall be operative for the purposes of this chapter
18 and the tax imposed therein is hereby imposed by this chapter at
19 the rate determined under this chapter; except that the
20 reference to tax-exempt interest to which section 103 of the
21 Internal Revenue Code applies in section 667(a) of the Internal



1 Revenue Code shall instead be a reference to tax-exempt interest
2 to which section 235-7(b) applies.

3 (c) Section 685 (with respect to treatment of qualified
4 funeral trusts) of the Internal Revenue Code shall be operative
5 for purposes of this chapter, except that the tax imposed under
6 this chapter shall be computed at the tax rates provided under
7 section 235-51, and no deduction for the exemption amount
8 provided in section 235-54(b) shall be allowed. The cost-of-
9 living adjustment determined under section 1(f)(3) of the
10 Internal Revenue Code shall be operative for the purpose of
11 applying section 685(c)(3) under this chapter.

12 (d) Section 704 of the Internal Revenue Code (with respect
13 to a partner's distributive share) shall be operative for
14 purposes of this chapter; except that section 704(b)(2) shall
15 not apply to:

16 (1) Allocations of the high technology business investment
17 tax credit allowed by section 235-110.9 for
18 investments made before May 1, 2009;

19 (2) Allocations of net operating loss pursuant to section
20 235-111.5;



1 (3) Allocations of the attractions and educational
2 facilities tax credit allowed by section 235-110.46;
3 or

4 (4) Allocations of low-income housing tax credits among
5 partners under section 235-110.8.

6 (e) Section 1202 (with respect to partial exclusion for
7 gain from certain small business stock) of the Internal Revenue
8 Code shall be operative for purposes of this chapter, except
9 that section 1202(a)(3) and (4) shall not be operative for
10 purposes of this chapter.

11 (f) Section 1212 (with respect to capital loss carrybacks
12 and carryforwards) of the Internal Revenue Code shall be
13 operative for the purposes of this chapter; except that for the
14 purposes of this chapter, the capital loss carryback provisions
15 of section 1212 shall not be operative and the capital loss
16 carryforward allowed by section 1212(a) shall be limited to five
17 years; except for a qualified high technology business as
18 defined in section 235-7.3, which shall be limited to fifteen
19 years.

20 (g) Section 1221 (with respect to the definition of
21 capital assets) is operative; provided that the provisions of



1 section 301 of Public Law 110-343, which provide that gain or
2 loss from the sale or exchange of any applicable preferred stock
3 by any applicable financial institution (such terms being
4 defined by Public Law 110-343) shall be treated as ordinary
5 income or loss, shall not be operative. A sale or exchange of
6 any applicable preferred stock by any applicable financial
7 institution (as those terms are defined by section 301 of Public
8 Law 110-343) shall be treated as a sale of a capital asset and
9 taxed accordingly.

10 (h) Subchapter S (sections 1361 to 1379) (with respect to
11 tax treatment of S corporations and their shareholders) of
12 chapter 1 of the Internal Revenue Code shall be operative for
13 the purposes of this chapter as provided in part VII; except
14 that section 1374(d)(7)(B), (C), and (D) shall not be operative
15 for purposes of this chapter.

16 (i) Section 1400N (with respect to tax benefits for Gulf
17 Opportunity Zone) of the Internal Revenue Code shall be
18 operative for the purposes of this chapter, except that sections
19 1400N(a) (with respect to tax-exempt bond financing); 1400N(b)
20 (with respect to advance refundings of certain tax-exempt
21 bonds); 1400N(c) (with respect to the low income housing



1 credit); 1400N(d) (with respect to special allowance for certain
2 property acquired on or after August 28, 2005); 1400N(e) (with
3 respect to increase in expensing under section 179); 1400N(h)
4 (with respect to increase in rehabilitation credit); 1400N(l)
5 (with respect to credit to holders of Gulf tax credit bonds);
6 1400N(m) (with respect to application of new markets tax credit
7 to investments in community development entities serving Gulf
8 Opportunity Zone); 1400N(n) (with respect to treatment of
9 representations regarding income eligibility for purposes of
10 qualified residential rental project requirements) shall not be
11 operative for purposes of this chapter.

12 (j) Section 1400S (with respect to additional tax relief
13 provisions) of the Internal Revenue Code shall be operative for
14 the purposes of this chapter, except that section 1400S(d) (with
15 respect to the special rule for determining earned income) shall
16 not be operative for the purposes of this chapter.

17 [~~(k) Subchapter Z (sections 1400Z-1 to 1400Z-2) (with~~
18 ~~respect to opportunity zones) shall be operative for purposes of~~
19 ~~this chapter; except that for purposes of this chapter,~~
20 ~~subchapter Z shall only apply to qualified opportunity zones, as~~



1 ~~defined in section 1400Z-1, that are designated as such by the~~
2 ~~chief executive officer of this State.]~~

3 ~~[(1)]~~ (k) Section 6015 (with respect to relief from joint
4 and several liability on joint return) of the Internal Revenue
5 Code is operative for purposes of this chapter.

6 ~~[(m)]~~ (l) Sections 6103(i)(3)(C) and 6103(i)(7) (with
7 respect to disclosures of information to the United States
8 Justice Department or appropriate federal or state law
9 enforcement agency for purposes of investigating terrorist
10 incidents, threats, or activities, and for analyzing
11 intelligence concerning investigating terrorist incidents,
12 threats, or activities) of the Internal Revenue Code shall be
13 operative for the purposes of this chapter.

14 ~~[(n)]~~ (m) Sections 6221, 6222, and 6231 (with respect to
15 tax treatment of partnership items) of subchapter C of chapter
16 63 of the Internal Revenue Code shall be operative for the
17 purposes of this chapter.

18 ~~[(o)]~~ (n) Subchapter D (sections 6240 to 6255) (with
19 respect to simplified audit procedures for electing large
20 partnerships) of the Internal Revenue Code shall be operative



1 for the purposes of this chapter, with due regard to chapter 232
2 relating to tax appeals.

3 ~~(p)~~ (o) Section 6501(e) (with respect to limitation on
4 assessment and collection where there is a substantial omission
5 of items) of the Internal Revenue Code shall be operative for
6 purposes of this chapter.

7 ~~(q)~~ (p) Section 6511(h) (with respect to running of
8 periods of limitation suspended while taxpayer is unable to
9 manage financial affairs due to disability) of the Internal
10 Revenue Code shall be operative for purposes of this chapter,
11 with due regard to section 235-111 relating to the limitation
12 period for assessment, levy, collection, or credit.

13 ~~(r)~~ (q) Section 7518 (with respect to capital
14 construction fund for commercial fishers) of the Internal
15 Revenue Code shall be operative for the purposes of this
16 chapter. Qualified withdrawals for the acquisition,
17 construction, or reconstruction of any qualified asset that is
18 attributable to deposits made before the effective date of this
19 section shall not reduce the basis of the asset when withdrawn.
20 Qualified withdrawals shall be treated on a first-in-first-out
21 basis."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act, upon its approval, shall apply to
4 taxable years beginning after December 31, 2019.

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INTRODUCED BY:

ORH

Tim Winters

Stanley Mc

[Signature]

Ms. N. [Signature]

On Todd

Chad C.

[Signature]

JAN 23 2020



H.B. NO. 2627

Report Title:

Income Tax; Opportunity Zones; Not Operative

Description:

Provides that Chapter 1, Subchapter Z (with respect to opportunity zones), of the Internal Revenue Code shall not be operative for the purposes of state income tax law.

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

