

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO INDIVIDUAL HOUSING ACCOUNTS.

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

1           SECTION 1. Section 235-5.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§235-5.5 Individual housing accounts.** (a) There shall  
4 be allowed as a deduction from gross income the amount, not to  
5 exceed [~~\$5,000,~~] \$7,500, excluding interest paid or accrued  
6 thereon, paid in cash during the taxable year by an individual  
7 taxpayer to an individual housing account established for the  
8 individual's benefit to provide funding for the purchase of the  
9 individual's first principal residence. [~~A deduction not to~~  
10 ~~exceed \$10,000 shall be allowed for a married couple filing a~~  
11 ~~joint return.~~]

12           In the case of a married couple filing separate returns,  
13 the sum of the deductions allowable to each of them for amounts  
14 paid in cash for the taxable year shall not exceed \$7,500,  
15 excluding interest paid or accrued thereon. In the case of a  
16 married couple filing a joint return, the sum of the deduction



1 allowable for amounts paid in cash for the taxable year shall  
2 not exceed \$15,000, excluding interest paid or accrued thereon.

3 No deduction shall be allowed on any amounts distributed  
4 less than three hundred sixty-five days from the date on which a  
5 contribution is made to the account. Any deduction claimed for  
6 a previous taxable year for amounts distributed less than three  
7 hundred sixty-five days from the date on which a contribution  
8 was made shall be disallowed and the amount deducted shall be  
9 included in the previous taxable year's gross income and the tax  
10 reassessed. The interest paid or accrued within the taxable  
11 year on the account shall not be included in the individual's  
12 gross income. For purposes of this section, the term "first  
13 principal residence" means a residential property purchased with  
14 the payment or distribution from the individual housing account  
15 which shall be owned and occupied as the only home by an  
16 individual who did not have any interest in, individually, or  
17 whose spouse did not have any interest in, if the individual is  
18 married, a residential property within the last five years of  
19 opening the individual housing account.

20 ~~[In the case of a married couple filing separate returns,~~  
21 ~~the sum of the deductions allowable to each of them for the~~



1 ~~taxable year shall not exceed \$5,000, or \$10,000 for a joint~~  
2 ~~return, for amounts paid in cash, excluding interest paid or~~  
3 ~~accrued thereon.]~~

4       The amounts paid in cash allowable as a deduction under  
5 this section to an individual for all taxable years shall not  
6 exceed [~~\$25,000,~~] \$75,000, excluding interest paid or accrued.  
7 In the case of married individuals [~~having separate individual~~  
8 ~~housing accounts~~], regardless if filing separately or jointly,  
9 the sum of [~~the separate accounts and the deduction~~] their  
10 deductions under this section shall not exceed [~~\$25,000,~~]  
11 \$75,000, excluding interest paid or accrued thereon.

12       (b) For purposes of this section, the term "individual  
13 housing account" means a trust created or organized in Hawaii  
14 for the exclusive benefit of an individual, or, in the case of a  
15 married individual, for the exclusive benefit of the individual  
16 and spouse jointly, but only if the written governing instrument  
17 creating the trust meets the following requirements:

18       (1) Contributions shall not be accepted for the taxable  
19 year in excess of [~~\$5,000~~] \$7,500 (or [~~\$10,000~~]  
20 \$15,000 in the case of a joint return) or in excess of



1            [~~\$25,000~~] \$75,000 for all taxable years, exclusive of  
2            interest paid or accrued;

3            (2) The trustee is a bank, a savings and loan association,  
4            a credit union, or a depository financial services  
5            loan company, chartered, licensed, or supervised under  
6            federal or state law, whose accounts are insured by  
7            the Federal Deposit Insurance Corporation, the  
8            National Credit Union Administration, or any agency of  
9            this State or any federal agency established for the  
10           purpose of insuring accounts in these financial  
11           institutions. The financial institution must actively  
12           make residential real estate mortgage loans in Hawaii;

13           (3) The assets of the trust shall be invested only in  
14           fully insured savings or time deposits. Funds held in  
15           the trust may be commingled for purposes of  
16           investment, but individual records shall be maintained  
17           by the trustee for each individual housing account  
18           holder that show all transactions in detail;

19           (4) The entire interest of an individual or married couple  
20           for whose benefit the trust is maintained shall be  
21           distributed to the individual or couple not later than



1           one hundred twenty months after the date on which the  
2           first contribution is made to the trust;

3           (5) Except as provided in subsection [~~(g)~~] (f), the  
4           trustee shall not distribute the funds in the account  
5           unless the trustee:

6           (A) Verifies that the money is to be used for the  
7           purchase of a first principal residence located  
8           in Hawaii, and provides that the instrument of  
9           payment is payable to the mortgagor, construction  
10          contractor, or other vendor of the property  
11          purchased; or

12          (B) Withholds an amount equal to ten per cent of the  
13          amount withdrawn from the account and remits this  
14          amount to the director within ten days after the  
15          date of the withdrawal. The amount withheld  
16          shall be applied to the liability of the taxpayer  
17          under subsections (c) and (e); and

18          (6) If any amounts are distributed before the expiration  
19          of three hundred sixty-five days from the date on  
20          which a contribution is made to the account, the  
21          trustee shall so notify in writing the taxpayer and



1 the director. If the trustee makes the verification  
2 required in paragraph (5)(A), then the department  
3 shall disallow the deduction under subsection (a) and  
4 subsections (c) [~~r~~] and (e) [~~r~~ and ~~(f)~~] shall not apply  
5 to that amount. If the trustee withholds an amount  
6 under paragraph (5)(B), then the department shall  
7 disallow the deduction under subsection (a) and  
8 subsection (e) shall apply, but subsection (c) shall  
9 not apply.

10 (c) Any contributions paid or distributed out of an  
11 individual housing account shall be included in gross income by  
12 the individual for whose benefit the account was established for  
13 the taxable year in which the payment or distribution is  
14 received, unless the amount is used exclusively in connection  
15 with the purchase of the first principal residence in Hawaii for  
16 the individual for whose benefit the account was established.

17 (d) The transfer of an individual's interest in an  
18 individual housing account to a spouse under a dissolution of  
19 marriage decree or under a written instrument incident to a  
20 dissolution of marriage shall not be considered a taxable  
21 transfer made by the individual, and the interest, at the time



1 of the transfer, shall be treated as part of an individual  
2 housing account of the transferee, and not of the transferor.  
3 After the transfer, the account shall be treated, for purposes  
4 of this section, as maintained for the benefit of the  
5 transferee.

6 (e) If a distribution from an individual housing account  
7 to an individual for whose benefit the account was established  
8 is made and not used in connection with the purchase of the  
9 first principal residence in Hawaii for the individual, the tax  
10 liability of the individual under this chapter for the taxable  
11 year in which the distribution is received shall be increased by  
12 an amount equal to ten per cent of the amount of the  
13 distribution which is includable in the individual's gross  
14 income for the taxable year.

15 If, during any taxable year, the individual uses the  
16 account or any portion thereof as security for a loan, the  
17 portion so used shall be treated as if it had been distributed  
18 to that individual.

19 ~~[(f) If the individual for whose benefit the individual~~  
20 ~~housing account was established purchases a residential property~~



1 ~~in Hawaii with the distribution from the individual housing~~  
2 ~~account.~~

3 ~~(1) Before January 1, 1990, and if the individual sells in~~  
4 ~~any manner or method or by use of any instrument~~  
5 ~~conveying or transferring the residential property,~~  
6 ~~the gross income of the individual under this chapter~~  
7 ~~for the taxable year in which the residential property~~  
8 ~~is sold, conveyed, or transferred, whichever is~~  
9 ~~applicable, shall include an amount equal to the~~  
10 ~~amount of the distribution from the individual housing~~  
11 ~~account, and in addition, the gross income of the~~  
12 ~~individual shall be increased by an amount equal to~~  
13 ~~ten per cent of the total distribution from the~~  
14 ~~individual housing account; or~~

15 ~~(2) After December 31, 1989, the individual shall report~~  
16 ~~one tenth of the total distribution from the~~  
17 ~~individual housing account used to purchase the~~  
18 ~~residential property as gross income in the taxable~~  
19 ~~year in which the distribution is completed and in~~  
20 ~~each taxable year thereafter until all of the~~  
21 ~~distribution has been included in the individual's~~





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1 ~~gross income at the end of the tenth taxable year~~  
2 ~~after the purchase of the residential property. If~~  
3 ~~the individual sells in any manner or method or by use~~  
4 ~~of any instrument conveying or transferring the~~  
5 ~~residential property, the gross income of the~~  
6 ~~individual under this chapter for the taxable year in~~  
7 ~~which the residential property is sold, conveyed, or~~  
8 ~~transferred, whichever is applicable, shall include an~~  
9 ~~amount equal to the amount of the distribution from~~  
10 ~~the individual housing account not previously reported~~  
11 ~~as gross income, and in addition, the tax liability of~~  
12 ~~the individual shall be increased by an amount equal~~  
13 ~~to ten per cent of the total distribution from the~~  
14 ~~individual housing account. If the individual sells~~  
15 ~~the residential property in any manner as provided in~~  
16 ~~this paragraph after all of the distribution has been~~  
17 ~~included in the individual's gross income at the end~~  
18 ~~of the tenth taxable year after the purchase of the~~  
19 ~~residential property, the tax liability of the~~  
20 ~~individual shall not be increased by an amount equal~~



1 ~~to ten per cent of the total distribution from the~~  
2 ~~individual housing account.~~

3 ~~An individual who purchased a residential property in Hawaii~~  
4 ~~with the distribution from an individual housing account before~~  
5 ~~January 1, 1990, who is subject to paragraph (1) may elect to~~  
6 ~~report as provided in paragraph (2). The election shall be made~~  
7 ~~before January 1, 1991. If the individual makes the election,~~  
8 ~~the individual shall report one tenth of the total distribution~~  
9 ~~from the individual housing account as gross income in the~~  
10 ~~taxable year in which the election occurs and in each taxable~~  
11 ~~year thereafter until all of the distribution has been included~~  
12 ~~in gross income as provided by paragraph (2). If the individual~~  
13 ~~making the election sells the residential property in any manner~~  
14 ~~as provided in paragraph (2), then the individual shall include~~  
15 ~~as income the amount of the distribution not previously reported~~  
16 ~~as income and increase the individual's tax liability as~~  
17 ~~provided in the second sentence of paragraph (2), except when~~  
18 ~~the third sentence of paragraph (2) applies.~~

19 ~~In the alternative, any individual subject to paragraph (2)~~  
20 ~~who established the individual housing account before January 1,~~



1 ~~1990, may elect within one year after the date of purchase, to~~  
2 ~~be subject to paragraph (1).~~

3 ~~(g)]~~ (f) No tax liability shall be imposed under this  
4 section if[+:

5 ~~(1) The]~~ the payment or distribution is attributable to  
6 the individual dying or becoming totally disabled; [~~or~~

7 ~~(2) Residential property subject to subsection (f) is~~  
8 ~~transferred by will or by operation of law or sold due~~  
9 ~~to the death or total disability of an individual or~~  
10 ~~individual's spouse,~~

11 ~~subject to the following:~~

12 ~~An]~~ provided that an individual shall not be considered to  
13 be totally disabled unless proof is furnished of the total  
14 disability in the form and manner as the director may require.

15 Upon the death of an individual for whose benefit an  
16 individual housing account has been established, the funds in  
17 the account shall be payable to the estate of the individual;  
18 provided that if the account was held jointly by the decedent  
19 and a spouse of the decedent, the account shall terminate and be  
20 paid to the surviving spouse; or, if the surviving spouse so  
21 elects, the spouse may continue the account as an individual



1 housing account. Upon the total disability of an individual for  
2 whose benefit an individual housing account has been  
3 established, the individual or the individual's authorized  
4 representative may elect to continue the account or terminate  
5 the account and be paid the assets; provided that if the account  
6 was held jointly by a totally disabled person and a spouse of  
7 that person, then the spouse or an authorized representative may  
8 elect to continue the account or terminate the account and be  
9 paid the assets.

10 ~~[(h)]~~ (g) If the individual for whose benefit the  
11 individual housing account was established subsequently marries  
12 a person who has or has had any interest in residential  
13 property, the individual's housing account shall be terminated,  
14 the funds therein shall be distributed to the individual, and  
15 the amount of the funds shall be includable in the individual's  
16 gross income for the taxable year in which ~~[such]~~ the marriage  
17 took place ~~[, provided that the tax liability defined under~~  
18 ~~subsection (f) shall not be imposed]~~.

19 ~~[(i)]~~ (h) The trustee of an individual housing account  
20 shall make reports regarding the account to the director and to  
21 the individual for whom the account is maintained with respect



1 to contributions, distributions, and other matters as the  
2 director may require under rules. The reports shall be filed at  
3 a time and in a manner as may be required by rules adopted under  
4 chapter 91. A person who fails to file a required report shall  
5 be subject to a penalty of \$10 to be paid to the director for  
6 each instance of failure to file.

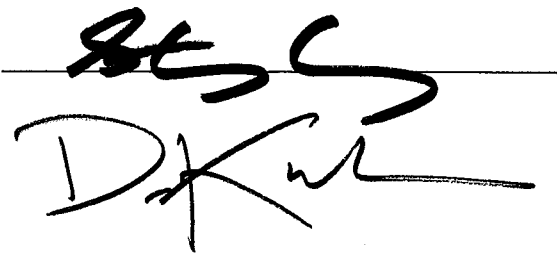
7 (i) Each employer in the State shall provide its employees  
8 with an option for the automatic direct deposit of their wages  
9 into the employees' individual housing accounts."

10 SECTION 2. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

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

14

INTRODUCED BY:





# S.B. NO. 742

**Report Title:**

Individual Housing Accounts; Tax Deduction Limits; Distribution for First Principal Residence

**Description:**

Increases the cap amounts of the tax deduction for individual housing accounts. Repeals requirement for the payment of taxes on distributions used for the purchase of a first principal residence. Requires each employer in the State to provide its employees with an option for the automatic direct deposit of their wages into the employees' individual housing accounts.

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