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# A BILL FOR AN ACT

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RELATING TO TITLE 14, HAWAII REVISED STATUTES.

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

1 PART I

2 SECTION 1. The purpose of this Act is to make numerous  
3 amendments to title 14, Hawaii Revised Statutes, for the purpose  
4 of simplifying and streamlining administration of the tax law.

5 PART II

6 SECTION 2. Section 231-1, Hawaii Revised Statutes, is  
7 amended by adding a new definition to be appropriately inserted  
8 and to read as follows:

9 "Director" means the director of taxation, unless the  
10 context clearly indicates otherwise."

11 SECTION 3. Section 231-15.7, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§231-15.7 Returns by fiduciaries.** The returns,  
14 statements, or answers required under chapters of the law under  
15 title 14 administered by the department shall be made, in the  
16 form and manner prescribed by the department, by the personal  
17 representative, trustee, guardian, or other fiduciary in such



1 capacity [~~in any taxation district in which returns are~~  
2 ~~required~~]."

3 SECTION 4. Section 231-31, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§231-31 Nonresidents engaged in business, etc., service**  
6 **of process on, designation of agent for service of process.**

7 Every nonresident individual who, jointly, severally, or jointly  
8 and severally, is subject to a tax upon the gross or net income  
9 from, or sales of, an occupation, trade, or business carried on  
10 in the State, in whole or in part, or upon the carrying on of  
11 [~~such~~] the occupation, trade, or business, or upon the use or  
12 keeping for use of property therein, shall file with the  
13 department of taxation [~~in the district in which the occupation,~~  
14 ~~trade, or business is carried on,~~] in the form and manner  
15 prescribed by the department, the name and address of a person  
16 residing within the State upon whom process may be served, and  
17 in default of [~~such~~] the designation, and if the nonresident  
18 individual cannot be found in the State, service of process in  
19 any action for the collection of the taxes may be made on any  
20 manager, superintendent, or other person in charge, employed in  
21 the carrying on of the occupation, trade, or business, with like



1 effect as if the person so served had been designated by the  
2 nonresident as the nonresident's agent for such purpose;  
3 provided that nothing therein shall preclude the service of  
4 process in any other manner provided by law."

5 SECTION 5. Section 235-7, Hawaii Revised Statutes, is  
6 amended by amending subsections (c) and (d) to read as follows:

7 "(c) The deductions of or based on dividends paid or  
8 received, allowed to a corporation under chapter 1,  
9 subchapter B, part VIII of the Internal Revenue Code, shall not  
10 be allowed. In lieu thereof there shall be allowed as a  
11 deduction the entire amount of ~~[dividends]~~:

12 (1) Dividends received by any corporation upon the shares  
13 of stock of a national banking association~~[~~  
14 ~~qualifying]~~;

15 (2) Qualifying dividends, as defined in section 243(b) of  
16 the Internal Revenue Code, received by members of an  
17 affiliated group~~[, or dividends]~~; provided that  
18 "includible corporation" as used therein shall include  
19 domestic and foreign corporations;

20 (3) Dividends received by a small business investment  
21 company operating under the Small Business Investment



1 Act of 1958 (Public Law 85-699) [~~upon shares of stock~~  
2 ~~qualifying under paragraph (3), seventy~~];

3 (4) Seventy per cent of the amount received by any  
4 corporation as dividends[+

5 ~~(1)~~ ~~Upon~~ upon the shares of stock of another corporation,  
6 if [~~at the date of payment of the dividend at least~~  
7 ~~ninety-five per cent of the other corporation's~~  
8 ~~capital stock is owned by one or more corporations~~  
9 ~~doing business in this State and if the other~~  
10 ~~corporation is subjected to an income tax in another~~  
11 ~~jurisdiction (but subjection to federal tax does not~~  
12 ~~constitute subjection to income tax in another~~  
13 ~~jurisdiction); and~~

14 ~~(2)~~ ~~Upon the shares of stock of a bank or insurance~~  
15 ~~company organized and doing business under the laws of~~  
16 ~~the State;~~

17 ~~(3)~~ ~~Upon the shares of stock of another corporation, if at~~  
18 ~~least fifteen per cent of the latter corporation's~~  
19 ~~business, for the taxable year of the latter~~  
20 ~~corporation preceding the payment of the dividend, has~~  
21 ~~been attributed to this State.~~



1 ~~However, except for national bank dividends, the deductions~~  
2 ~~under this subsection are not allowed when they would not have~~  
3 ~~been] otherwise~~ allowed under section 243 of the Internal  
4 Revenue Code[, ~~as amended by Public Law 85-866, by reason of~~  
5 ~~subsections (b) and (c) of section 246 of the Internal Revenue~~  
6 ~~Code. For the purposes of this subsection fifteen per cent of a~~  
7 ~~corporation's business shall be deemed to have been attributed~~  
8 ~~to this State if fifteen per cent or more of the entire gross~~  
9 ~~income of the corporation as defined in this chapter (which for~~  
10 ~~the purposes of this subsection shall be computed without regard~~  
11 ~~to source in the State and shall include income not taxable by~~  
12 ~~reason of the fact that it is from property not owned in the~~  
13 ~~State or from a trade or business not carried on in the State in~~  
14 ~~whole or in part), under section 235-5 and the other provisions~~  
15 ~~of this chapter, shall have been attributed to the State and~~  
16 ~~subjected to assessment of the taxable income therefrom~~  
17 ~~(including the determination of the resulting net loss, if~~  
18 ~~any)].~~

19 [ ~~(d) (1) For taxable years ending before January 1, 1967,~~  
20 ~~the net operating loss deductions allowed as carrybacks and~~  
21 ~~carryovers by the Internal Revenue Code shall not be allowed.~~



1 ~~In lieu thereof the net operating loss deduction shall consist~~  
2 ~~of the excess of the deductions allowed by this chapter over the~~  
3 ~~gross income, computed with the modifications specified in~~  
4 ~~paragraphs (1) to (4) of section 172(d) of the Internal Revenue~~  
5 ~~Code, and with the further modification stated in paragraph (3)~~  
6 ~~hereof, and shall be allowed as a deduction in computing the~~  
7 ~~taxable income of the taxpayer for the succeeding taxable year;~~

8       ~~(2) (A)]~~ (d) With respect to net operating loss  
9               deductions resulting from net operating losses  
10              for taxable years ending after December 31, 1966,  
11              the net operating loss deduction provisions of  
12              the Internal Revenue Code shall apply~~[, provided~~  
13              ~~that there shall be no net operating loss~~  
14              ~~deduction carried back to any taxable year ending~~  
15              ~~prior to January 1, 1967;~~

16       ~~(B)~~ In the case of a taxable year beginning in 1966  
17              and ending in 1967, the entire amount of all net  
18              operating loss deductions carried back to the  
19              taxable year shall be limited to that portion of  
20              taxable income for such taxable year which the



1                   ~~number of days in 1967 bears to the total days in~~  
2                   ~~the taxable year ending in 1967; and~~  
3           ~~(C) The computation of any net operating loss~~  
4                   ~~deduction for a taxable year covered by this~~  
5                   ~~subsection shall require the further~~  
6                   ~~modifications stated in paragraphs (3), (4), and~~  
7                   ~~(5) of this subsection;]~~ provided that:

8       ~~[(3)]~~ (1) In computing the net operating loss deduction  
9           allowed by this subsection, there shall be included in  
10          gross income the amount of interest which is excluded  
11          from gross income by subsection (a), decreased by the  
12          amount of interest paid or accrued which is disallowed  
13          as a deduction by subsection (e). In determining the  
14          amount of the net operating loss deduction under this  
15          subsection of any corporation, there shall be  
16          disregarded the net operating loss of such corporation  
17          for any taxable year for which the corporation is an  
18          electing small business corporation;

19       ~~[(4)]~~ (2) No net operating loss carryback or carryover  
20           shall be allowed by this chapter if not allowed under  
21           section 172 of the Internal Revenue Code; and



1       ~~[(5)]~~ (3)   The election to relinquish the entire carryback  
2                   period with respect to a net operating loss allowed  
3                   under section 172(b)(3)(C) of the Internal Revenue  
4                   Code shall be operative for the purposes of this  
5                   chapter; provided that no taxpayer shall make such an  
6                   election as to a net operating loss of a business  
7                   where such net operating loss occurred in the  
8                   taxpayer's business prior to the taxpayer entering  
9                   business in this State~~[, and~~

10       ~~(6)   The five-year carryback period for net operating~~  
11                   ~~losses for any taxable year ending during 2001 and~~  
12                   ~~2002 in section 172(b)(1)(H) of the Internal Revenue~~  
13                   ~~Code as it read on December 31, 2008, shall not be~~  
14                   ~~operative for purposes of this chapter; and~~

15       ~~(7)   The election for the carryback for 2008 or 2009 net~~  
16                   ~~operating losses of small businesses as provided in~~  
17                   ~~section 172(b)(1)(H) of the Internal Revenue Code as~~  
18                   ~~it read on December 31, 2009, shall not be operative~~  
19                   ~~for purposes of this chapter]."~~

20       SECTION 6.   Section 235-12.5, Hawaii Revised Statutes, is  
21       amended by amending subsection (a) to read as follows:





1       "(a) [~~When the requirements of subsection (d) are met,~~  
2 ~~each~~] Each individual or corporate taxpayer that files an  
3 individual or corporate net income tax return for a taxable year  
4 may claim a tax credit under this section against the Hawaii  
5 state individual or corporate net income tax. The tax credit  
6 may be claimed for every eligible renewable energy technology  
7 system that is installed and placed in service in the State by a  
8 taxpayer during the taxable year. The tax credit may be claimed  
9 as follows:

10       (1) For each solar energy system: thirty-five per cent of  
11 the actual cost or the cap amount determined in  
12 subsection (b); provided that:

13       (A) For taxable years beginning after December 31,  
14 2019, and except as provided in subparagraphs (B)  
15 and (C), no tax credit may be claimed for a solar  
16 energy system that is five megawatts in total  
17 output capacity or larger and requires a power  
18 purchase agreement approved by the public  
19 utilities commission;

20       (B) A solar energy system that is five megawatts in  
21 total output capacity or larger, installed and



1 placed in service pursuant to a power purchase  
2 agreement approved or pending approval by a  
3 decision and order by the public utilities  
4 commission prior to December 31, 2019, shall  
5 continue to receive a tax credit equal to thirty-  
6 five per cent of the actual cost, or \$500,000 per  
7 solar energy system that has a total output  
8 capacity of at least one thousand kilowatts per  
9 system of direct current, whichever is less; and

10 (C) For each solar energy system integrated with a  
11 pumped hydroelectric energy storage system, the  
12 tax credit may be claimed for thirty-five  
13 per cent of the actual cost or the cap amount  
14 determined in subsection (b), whichever is less;  
15 provided that applicable project approval filings  
16 have been made to the public utilities commission  
17 by December 31, 2021; or

18 (2) For each wind-powered energy system: twenty per cent  
19 of the actual cost or the cap amount determined in  
20 subsection (b), whichever is less;



1 provided further that multiple owners of a single system shall  
2 be entitled to a single tax credit; and provided further that  
3 the tax credit shall be apportioned between the owners in  
4 proportion to their contribution to the cost of the system.

5 In the case of a partnership, S corporation, estate, or  
6 trust, the tax credit allowable is for every eligible renewable  
7 energy technology system that is installed and placed in service  
8 in the State by the entity. The cost upon which the tax credit  
9 is computed shall be determined at the entity level.

10 Distribution and share of credit shall be determined pursuant to  
11 administrative rule."

12 SECTION 7. Section 235-51, Hawaii Revised Statutes, is  
13 amended by amending subsections (a), (b), and (c) to read as  
14 follows:

15 "(a) There is hereby imposed on the taxable income of  
16 every:

17 (1) Taxpayer who files a joint return under  
18 section 235 93; and

19 (2) Surviving spouse,

20 a tax determined in accordance with the following table:



~~[In the case of any taxable year beginning after  
December 31, 2001:]~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$4,000</del>	<del>1.40% of taxable income</del>
<del>Over \$4,000 but not over \$8,000</del>	<del>\$56.00 plus 3.20% of excess over \$4,000</del>
<del>Over \$8,000 but not over \$16,000</del>	<del>\$184.00 plus 5.50% of excess over \$8,000</del>
<del>Over \$16,000 but not over \$24,000</del>	<del>\$624.00 plus 6.40% of excess over \$16,000</del>
<del>Over \$24,000 but not over \$32,000</del>	<del>\$1,136.00 plus 6.80% of excess over \$24,000</del>
<del>Over \$32,000 but not over \$40,000</del>	<del>\$1,680.00 plus 7.20% of excess over \$32,000</del>
<del>Over \$40,000 but not over \$60,000</del>	<del>\$2,256.00 plus 7.60% of excess over \$40,000</del>
<del>Over \$60,000 but not over \$80,000</del>	<del>\$3,776.00 plus 7.90% of excess over \$60,000</del>
<del>Over \$80,000</del>	<del>\$5,356.00 plus 8.25% of excess over \$80,000.</del>



~~In the case of any taxable year beginning after  
December 31, 2006:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$4,800</del>	<del>1.40% of taxable income</del>
<del>Over \$4,800 but not over \$9,600</del>	<del>\$67.00 plus 3.20% of excess over \$4,800</del>
<del>Over \$9,600 but not over \$19,200</del>	<del>\$221.00 plus 5.50% of excess over \$9,600</del>
<del>Over \$19,200 but not over \$28,800</del>	<del>\$749.00 plus 6.40% of excess over \$19,200</del>
<del>Over \$28,800 but not over \$38,400</del>	<del>\$1,363.00 plus 6.80% of excess over \$28,800</del>
<del>Over \$38,400 but not over \$48,000</del>	<del>\$2,016.00 plus 7.20% of excess over \$38,400</del>
<del>Over \$48,000 but not over \$72,000</del>	<del>\$2,707.00 plus 7.60% of excess over \$48,000</del>
<del>Over \$72,000 but not over \$96,000</del>	<del>\$4,531.00 plus 7.90% of excess over \$72,000</del>
<del>Over \$96,000</del>	<del>\$6,427.00 plus 8.25% of excess over \$96,000.]</del>



1 In the case of any taxable year beginning after  
2 December 31, 2017:

3	If the taxable income is:	The tax shall be:
4	Not over \$4,800	1.40% of taxable income
5	Over \$4,800 but	\$67.00 plus 3.20% of
6	not over \$9,600	excess over \$4,800
7	Over \$9,600 but	\$221.00 plus 5.50% of
8	not over \$19,200	excess over \$9,600
9	Over \$19,200 but	\$749.00 plus 6.40% of
10	not over \$28,800	excess over \$19,200
11	Over \$28,800 but	\$1,363.00 plus 6.80% of
12	not over \$38,400	excess over \$28,800
13	Over \$38,400 but	\$2,016.00 plus 7.20% of
14	not over \$48,000	excess over \$38,400
15	Over \$48,000 but	\$2,707.00 plus 7.60% of
16	not over \$72,000	excess over \$48,000
17	Over \$72,000 but	\$4,531.00 plus 7.90% of
18	not over \$96,000	excess over \$72,000
19	Over \$96,000 but	\$6,427.00 plus 8.25% of
20	not over \$300,000	excess over \$96,000



1	Over \$300,000 but	\$23,257.00 plus 9.00% of
2	not over \$350,000	excess over \$300,000
3	Over \$350,000 but	\$27,757.00 plus 10.00% of
4	not over \$400,000	excess over \$350,000
5	Over \$400,000	\$32,757.00 plus 11.00% of
6		excess over \$400,000.

7 (b) There is hereby imposed on the taxable income of every  
8 head of a household a tax determined in accordance with the  
9 following table:

10 ~~[In the case of any taxable year beginning after~~  
11 ~~December 31, 2001:~~

12	<del>If the taxable income is:</del>	<del>The tax shall be:</del>
13	<del>Not over \$3,000</del>	<del>1.40% of taxable income</del>
14	<del>Over \$3,000 but</del>	<del>\$42.00 plus 3.20% of</del>
15	<del>not over \$6,000</del>	<del>excess over \$3,000</del>
16	<del>Over \$6,000 but</del>	<del>\$138.00 plus 5.50% of</del>
17	<del>not over \$12,000</del>	<del>excess over \$6,000</del>
18	<del>Over \$12,000 but</del>	<del>\$468.00 plus 6.40% of</del>
19	<del>not over \$18,000</del>	<del>excess over \$12,000</del>
20	<del>Over \$18,000 but</del>	<del>\$852.00 plus 6.80% of</del>
21	<del>not over \$24,000</del>	<del>excess over \$18,000</del>



1           ~~Over \$24,000 but~~                           ~~\$1,260.00 plus 7.20% of~~  
2                   ~~not over \$30,000~~                           ~~excess over \$24,000~~  
3           ~~Over \$30,000 but~~                           ~~\$1,692.00 plus 7.60% of~~  
4                   ~~not over \$45,000~~                           ~~excess over \$30,000~~  
5           ~~Over \$45,000 but~~                           ~~\$2,832.00 plus 7.90% of~~  
6                   ~~not over \$60,000~~                           ~~excess over \$45,000~~  
7           ~~Over \$60,000~~                           ~~\$4,017.00 plus 8.25% of~~  
8   ~~excess over \$60,000.~~  
9           ~~In the case of any taxable year beginning after~~  
10 ~~December 31, 2006:~~  
11           ~~If the taxable income is:~~           ~~The tax shall be:~~  
12                   ~~Not over \$3,600~~                           ~~1.40% of taxable income~~  
13           ~~Over \$3,600 but~~                           ~~\$50.00 plus 3.20% of~~  
14                   ~~not over \$7,200~~                           ~~excess over \$3,600~~  
15           ~~Over \$7,200 but~~                           ~~\$166.00 plus 5.50% of~~  
16                   ~~not over \$14,400~~                           ~~excess over \$7,200~~  
17           ~~Over \$14,400 but~~                           ~~\$562.00 plus 6.40% of~~  
18                   ~~not over \$21,600~~                           ~~excess over \$14,400~~  
19           ~~Over \$21,600 but~~                           ~~\$1,022.00 plus 6.80% of~~  
20                   ~~not over \$28,800~~                           ~~excess over \$21,600~~





1	<del>Over \$28,800 but</del>	<del>\$1,512.00 plus 7.20% of</del>
2	<del>not over \$36,000</del>	<del>excess over \$28,800</del>
3	<del>Over \$36,000 but</del>	<del>\$2,030.00 plus 7.60% of</del>
4	<del>not over \$54,000</del>	<del>excess over \$36,000</del>
5	<del>Over \$54,000 but</del>	<del>\$3,398.00 plus 7.90% of</del>
6	<del>not over \$72,000</del>	<del>excess over \$54,000</del>
7	<del>Over \$72,000</del>	<del>\$4,820.00 plus 8.25% of</del>
8		<del>excess over \$72,000.]</del>

9 In the case of any taxable year beginning after

10 December 31, 2017:

11	If the taxable income is:	The tax shall be:
12	Not over \$3,600	1.40% of taxable income
13	Over \$3,600 but	\$50.00 plus 3.20% of
14	not over \$7,200	excess over \$3,600
15	Over \$7,200 but	\$166.00 plus 5.50% of
16	not over \$14,400	excess over \$7,200
17	Over \$14,400 but	\$562.00 plus 6.40% of
18	not over \$21,600	excess over \$14,400
19	Over \$21,600 but	\$1,022.00 plus 6.80% of
20	not over \$28,800	excess over \$21,600



1	Over \$28,800 but	\$1,512.00 plus 7.20% of
2	not over \$36,000	excess over \$28,800
3	Over \$36,000 but	\$2,030.00 plus 7.60% of
4	not over \$54,000	excess over \$36,000
5	Over \$54,000 but	\$3,398.00 plus 7.90% of
6	not over \$72,000	excess over \$54,000
7	Over \$72,000 but	\$4,820.00 plus 8.25% of
8	not over \$225,000	excess over \$72,000
9	Over \$225,000 but	\$17,443.00 plus 9.00% of
10	not over \$262,500	excess over \$225,000
11	Over \$262,500 but	\$20,818.00 plus 10.00% of
12	not over \$300,000	excess over \$262,500
13	Over \$300,000	\$24,568.00 plus 11.00% of
14		excess over \$300,000.

15 (c) There is hereby imposed on the taxable income of (1)  
 16 every unmarried individual (other than a surviving spouse, or  
 17 the head of a household) and (2) on the taxable income of every  
 18 married individual who does not make a single return jointly  
 19 with the individual's spouse under section 235-93 a tax  
 20 determined in accordance with the following table:



~~[In the case of any taxable year beginning after  
December 31, 2001:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$2,000</del>	<del>1.40% of taxable income</del>
<del>Over \$2,000 but not over \$4,000</del>	<del>\$28.00 plus 3.20% of excess over \$2,000</del>
<del>Over \$4,000 but not over \$8,000</del>	<del>\$92.00 plus 5.50% of excess over \$4,000</del>
<del>Over \$8,000 but not over \$12,000</del>	<del>\$312.00 plus 6.40% of excess over \$8,000</del>
<del>Over \$12,000 but not over \$16,000</del>	<del>\$568.00 plus 6.80% of excess over \$12,000</del>
<del>Over \$16,000 but not over \$20,000</del>	<del>\$840.00 plus 7.20% of excess over \$16,000</del>
<del>Over \$20,000 but not over \$30,000</del>	<del>\$1,128.00 plus 7.60% of excess over \$20,000</del>
<del>Over \$30,000 but not over \$40,000</del>	<del>\$1,888.00 plus 7.90% of excess over \$30,000</del>
<del>Over \$40,000</del>	<del>\$2,678.00 plus 8.25% of excess over \$40,000.</del>



~~In the case of any taxable year beginning after  
December 31, 2006:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$2,400</del>	<del>1.40% of taxable income</del>
<del>Over \$2,400 but not over \$4,800</del>	<del>\$34.00 plus 3.20% of excess over \$2,400</del>
<del>Over \$4,800 but not over \$9,600</del>	<del>\$110.00 plus 5.50% of excess over \$4,800</del>
<del>Over \$9,600 but not over \$14,400</del>	<del>\$374.00 plus 6.40% of excess over \$9,600</del>
<del>Over \$14,400 but not over \$19,200</del>	<del>\$682.00 plus 6.80% of excess over \$14,400</del>
<del>Over \$19,200 but not over \$24,000</del>	<del>\$1,008.00 plus 7.20% of excess over \$19,200</del>
<del>Over \$24,000 but not over \$36,000</del>	<del>\$1,354.00 plus 7.60% of excess over \$24,000</del>
<del>Over \$36,000 but not over \$48,000</del>	<del>\$2,266.00 plus 7.90% of excess over \$36,000</del>
<del>Over \$48,000</del>	<del>\$3,214.00 plus 8.25% of excess over \$48,000.]</del>



1 In the case of any taxable year beginning after  
2 December 31, 2017:

3	If the taxable income is:	The tax shall be:
4	Not over \$2,400	1.40% of taxable income
5	Over \$2,400 but	\$34.00 plus 3.20% of
6	not over \$4,800	excess over \$2,400
7	Over \$4,800 but	\$110.00 plus 5.50% of
8	not over \$9,600	excess over \$4,800
9	Over \$9,600 but	\$374.00 plus 6.40% of
10	not over \$14,400	excess over \$9,600
11	Over \$14,400 but	\$682.00 plus 6.80% of
12	not over \$19,200	excess over \$14,400
13	Over \$19,200 but	\$1,008.00 plus 7.20% of
14	not over \$24,000	excess over \$19,200
15	Over \$24,000 but	\$1,354.00 plus 7.60% of
16	not over \$36,000	excess over \$24,000
17	Over \$36,000 but	\$2,266.00 plus 7.90% of
18	not over \$48,000	excess over \$36,000
19	Over \$48,000 but	\$3,214.00 plus 8.25% of
20	not over \$150,000	excess over \$48,000



1 Over \$150,000 but \$11,629.00 plus 9.00% of  
2 not over \$175,000 excess over \$150,000  
3 Over \$175,000 but \$13,879.00 plus 10.00% of  
4 not over \$200,000 excess over \$175,000  
5 Over \$200,000 \$16,379.00 plus 11.00% of  
6 excess over \$200,000."

7 SECTION 8. Section 235-62, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9 "(b) The return shall be in ~~[such]~~ the form, including  
10 computer printouts or other electronic formats, and contain  
11 ~~[such]~~ the information ~~[as may be]~~ prescribed by the director of  
12 taxation. The return shall be filed ~~[with the director at the~~  
13 ~~first taxation district in Honolulu.]~~ in the form and manner  
14 prescribed by the department."

15 SECTION 9. Section 235-99, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**\$235-99** ~~[Same:]~~ **Returns; place for filing.** Returns shall  
18 be filed ~~[with the collector for the taxation district in which~~  
19 ~~is located the legal residence or principal place of business of~~  
20 ~~the person making the return, or, if such person has no legal~~  
21 ~~residence or principal place of business in the State, then with~~



1 ~~the collector at Honolulu.] in the form and manner prescribed by~~  
2 the department."

3 SECTION 10. Section 237-30, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The taxes levied hereunder shall be payable in  
6 monthly installments on or before the twentieth day of the  
7 calendar month following the month in which they accrue. The  
8 taxpayer, on or before the twentieth day of the calendar month  
9 following the month in which the taxes accrue, shall make out  
10 and sign a return of the installment of tax for which the  
11 taxpayer is liable for the preceding month and transmit the  
12 same, together with a remittance, in the form required by  
13 section 237-31, for the amount of the tax, to ~~[the office of]~~  
14 the department of taxation in the ~~[appropriate district~~  
15 ~~hereinafter designated.]~~ form and manner prescribed by the  
16 department."

17 SECTION 11. Section 237-33, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§237-33 Annual return, payment of tax.** On or before the  
20 twentieth day of the fourth month following the close of the  
21 taxable year, each taxpayer shall make a return showing the



1 value of products, gross proceeds of sales or gross income, and  
2 compute the amount of tax chargeable against the taxpayer in  
3 accordance with this chapter and deduct the amount of monthly  
4 payments (as hereinbefore provided), and transmit with the  
5 taxpayer's report a remittance in the form required by  
6 section 237-31 covering the residue of the tax chargeable  
7 against the taxpayer [~~to the district office of the department~~  
8 ~~of taxation hereinafter designated~~]. The return shall be signed  
9 by the taxpayer, if made by an individual, or by the president,  
10 vice-president, secretary, or treasurer of a corporation, if  
11 made on behalf of a corporation. If made on behalf of a  
12 partnership, firm, society, unincorporated association, group,  
13 hui, joint adventure, joint stock company, corporation, trust  
14 estate, decedent's estate, trust, or other entity, any  
15 individual delegated by the entity shall sign the same on behalf  
16 of the taxpayer. If for any reason it is not practicable for  
17 the individual taxpayer to sign the return, it may be done by  
18 any duly authorized agent. The department, for good cause  
19 shown, may extend the time for making the return on the  
20 application of any taxpayer and grant such reasonable additional





1 time within which to make the same as may, by it, be deemed  
2 advisable.

3 Section 232-2 applies to the annual return, but not to a  
4 monthly return."

5 SECTION 12. Section 237-34, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) All monthly and annual returns shall be transmitted  
8 ~~[to the office of the taxation district in which the privilege~~  
9 ~~upon which the tax accrued is exercised. Where the privilege is~~  
10 ~~exercised in more than one taxation district the returns shall~~  
11 ~~be transmitted to the office of the first district.]~~ in the form  
12 and manner prescribed by the department."

13 SECTION 13. Section 237-37, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§237-37 Refunds and credits.** If the amount already paid  
16 exceeds that which should have been paid on the basis of the tax  
17 recomputed as provided in section 237-36, the excess so paid  
18 shall be immediately refunded to the taxpayer in the manner  
19 provided in section 231-23(c). The taxpayer may, at the  
20 taxpayer's election, apply an overpayment credit to taxes  
21 subsequently accruing hereunder. ~~[All refunds and the details~~



1 ~~thereof, including the names of the persons receiving the refund~~  
2 ~~and the amount refunded shall be accessible for the inspection~~  
3 ~~of the public in the office of the department of taxation in the~~  
4 ~~taxation district in which the person receiving the refund made~~  
5 ~~the person's returns.]~~

6       No recourse may be had except under section 40-35 or by  
7 appeal for refunds of taxes paid pursuant to an assessment by  
8 the director of taxation[~~r~~]; provided that if the assessment by  
9 the director shall contain clerical errors, transposition of  
10 figures, typographical errors, and errors in calculation or if  
11 there shall be an illegal or erroneous assessment, the usual  
12 refunds procedures shall apply. No refund or overpayment credit  
13 may be had under this section in any event unless the original  
14 payment of the tax was due to the law having been interpreted or  
15 applied in respect of the taxpayer concerned differently than in  
16 respect of taxpayers generally. As to all tax payment for which  
17 a refund or credit is not authorized by this section (including  
18 without prejudice to the generality of the foregoing cases of  
19 unconstitutionality) the remedies provided by appeal or under  
20 section 40-35 are exclusive."



SECTION 14. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts, cashier's check, money order, or certificate of deposit ~~[to the office of the taxation district to which the return was transmitted.]~~ in the form and manner prescribed by the department."

SECTION 15. Section 237D-7, Hawaii Revised Statutes, is amended to read as follows:

**"§237D-7 Annual return.** On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of the taxes under this chapter during the preceding tax year shall file a return summarizing that person's liability under this chapter for the year, in ~~[such]~~ the form ~~[as]~~ prescribed by the ~~[director prescribes.]~~ department. The operator or plan manager shall transmit with the return a remittance covering the residue of the tax chargeable to the operator or plan manager, if any~~[, to the office of the appropriate state district tax assessor designated in section 237D-8]~~. The return shall be signed by the taxpayer, if made by an individual, or by the president,



1 vice-president, secretary, or treasurer of a corporation, if  
2 made on behalf of a corporation. If made on behalf of a  
3 partnership, firm, society, unincorporated association, group,  
4 hui, joint adventure, joint stock company, corporation, trust  
5 estate, decedent's estate, trust, or other entity, any  
6 individual delegated by the entity shall sign the same on behalf  
7 of the taxpayer. If for any reason it is not practicable for  
8 the individual taxpayer to sign the return, it may be done by  
9 any duly authorized agent. The department, for good cause  
10 shown, may extend the time for making the return on the  
11 application of any taxpayer and grant such reasonable additional  
12 time within which to make the return as the department may deem  
13 advisable.

14 Section 232-2 applies to the annual return, but not to a  
15 monthly return."

16 SECTION 16. Section 237D-1, Hawaii Revised Statutes, is  
17 amended by deleting the definition of "director".

18 [~~"Director" means the director of taxation."~~]

19 SECTION 17. Section 237D-8, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       "**§237D-8 Filing of returns.** All monthly, quarterly,  
2 semiannual, and annual returns shall be transmitted [~~to the~~  
3 ~~office of the taxation district in which the taxes arose or to~~  
4 ~~the office of the first taxation district in Honolulu.~~] in the  
5 form and manner prescribed by the department."

6       SECTION 18. Section 238-5, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8       "(a) On or before the twentieth day of each calendar  
9 month, any person who has become liable for the payment of a tax  
10 under this chapter during the preceding calendar month in  
11 respect of any property, services, or contracting, or the use  
12 thereof, shall file a return [~~with the assessor of the taxation~~  
13 ~~district in which the property was held or the services or~~  
14 ~~contracting were received when the tax first became payable, or~~  
15 ~~with the director of taxation at Honolulu,~~] in the form and  
16 manner prescribed by the department, setting forth a description  
17 of the property, services, or contracting and the character and  
18 quantity thereof in sufficient detail to identify the same or  
19 otherwise in such reasonable detail as the director by rule  
20 shall require, and the purchase price or value thereof as the  
21 case may be. The return shall be accompanied by a remittance in



1 full of the tax, computed at the rate specified in section 238-2  
2 or 238-2.3 upon the price or value so returned. Any tax  
3 remaining unpaid after the twentieth day following the end of  
4 the calendar month during which the tax first became payable  
5 shall become delinquent; provided that a receipt from a seller  
6 required or authorized to collect the tax, given to a taxpayer  
7 in accordance with section 238-6, shall be sufficient to relieve  
8 the taxpayer from further liability for the tax to which the  
9 receipt may refer, or for the return thereof."

10 SECTION 19. Section 239-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§239-4 Returns.** Each public service company, on or  
13 before the twentieth day of the fourth month following the close  
14 of the taxable year, shall file ~~[with the office of the~~  
15 ~~department of taxation for the district within which the~~  
16 ~~principal office of the public service company is maintained]~~ a  
17 return in ~~[such]~~ the form ~~[as]~~ and manner prescribed by the  
18 department ~~[may prescribe]~~, showing its taxable gross income for  
19 the preceding taxable year. In case any public service company  
20 engages in lines of business other than its public service  
21 company business, the receipts therefrom shall not be subject to



1 tax under this chapter, but the same tax liabilities shall  
2 attach to the public service company on account of the other  
3 lines of business as would exist if no public service company  
4 business were engaged in. In the case of a public utility  
5 subject to the rate of tax imposed by section 239-5(a) or (b),  
6 if the public utility engages in lines of business other than  
7 its public utility business the real property used in connection  
8 with the other lines of business shall be taxed, in accordance  
9 with the applicable county tax ordinance, the same as if no  
10 public utility business were done. In the case of a public  
11 utility remitting payments to a county of a portion of the  
12 revenues generated from the tax imposed by section 239-5(a), the  
13 public utility shall also file with the director of finance of  
14 the county to which such payment is paid, a statement showing  
15 all gross income from the public utility business upon which the  
16 tax is calculated and the allocation of that gross income among  
17 the counties."

18 SECTION 20. Section 243-1, Hawaii Revised Statutes, is  
19 amended by deleting the definition of "director".

20 [~~"Director" means the director of finance of the State."~~]



1 SECTION 21. Section 243-3.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3 "(e) Each distributor subject to the tax imposed by  
4 subsection (a) or (b), on or before the last day of each  
5 calendar month, shall file ~~[with the director, on forms~~  
6 ~~prescribed, prepared, and furnished by the director]~~, in the  
7 form and manner prescribed by the department, a return statement  
8 of the tax under this section for which the distributor is  
9 liable for the preceding month. The form and payment of the tax  
10 shall be transmitted to the department ~~[of taxation in the~~  
11 ~~appropriate district.]~~ in the form and manner prescribed by the  
12 department."

13 SECTION 22. Section 243-10, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§243-10 Statements and payments.** Each distributor and  
16 each person subject to section ~~[243-4(b),]~~ 243-4, on or before  
17 the twentieth day of each calendar month, shall file with the  
18 ~~[director of taxation,]~~ department, on forms prescribed~~[,~~  
19 ~~prepared, and furnished]~~ by the ~~[director,]~~ department, a  
20 statement, authenticated as provided in section 231-15, showing  
21 separately for each county and for the island of Lanai and the





1 island of Molokai within which and whereon fuel is sold or used  
2 during each preceding month of the calendar year, the following:

3 (1) The total number of gallons of fuel refined,  
4 manufactured, or compounded by the distributor or  
5 person within the State and sold or used by the  
6 distributor or person, and if for ultimate use in  
7 another county or on either island, the name of that  
8 county or island;

9 (2) The total number of gallons of fuel acquired by the  
10 distributor or person during the month from persons  
11 not subject to the tax on the transaction or only  
12 subject to tax thereon at the rate of 1 cent per  
13 gallon, as the case may be, and sold or used by the  
14 distributor or person, and if for ultimate use in  
15 another county or on either island, the name of that  
16 county or island;

17 (3) The total number of gallons of fuel sold by the  
18 distributor or person to the United States or any  
19 department or agency thereof, or to any other person  
20 or entity, or used in any manner, the effect of which



1 sale or use is to exempt the fuel from the tax imposed  
2 by this chapter; and

3 (4) Additional information relative to the acquisition,  
4 purchase, manufacture, or importation into the State,  
5 and the sale, use, or other disposition, of diesel oil  
6 by the distributor or person during the month, as  
7 prescribed by the department [~~of taxation~~] by rule  
8 [~~shall prescribe~~].

9 At the time of submitting the foregoing report to the  
10 department, each distributor and person shall pay the tax on  
11 each gallon of fuel (including diesel oil) sold or used by the  
12 distributor or person in each county and on the island of Lanai  
13 and the island of Molokai during the preceding month, as shown  
14 by the statement and required by this chapter; provided that the  
15 tax shall not apply to any fuel exempted and so long as the same  
16 is exempted from the imposition of the tax by the Constitution  
17 or laws of the United States; and the tax shall be paid only  
18 once upon the same fuel; provided further that a licensed  
19 distributor shall be entitled, in computing the tax the licensed  
20 distributor is required to pay, to deduct from the gallons of  
21 fuel reported for the month for each county or for the island of



1 Lanai or the island of Molokai, as the case may be, one gallon  
2 for each ninety-nine gallons of like liquid fuel sold by retail  
3 dealers in that county or on that island during the month, as  
4 shown by certificates furnished by the retail dealers to the  
5 distributor and attached to the distributor's report. All taxes  
6 payable for any month shall be delinquent after the expiration  
7 of the twentieth day of the following month.

8 Statements filed under this section concerning the number  
9 of gallons of fuel refined, manufactured, compounded, imported,  
10 sold or used by the distributor or person ~~[are]~~ shall be public  
11 records."

12 SECTION 23. Section 244D-4, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) Every person who sells or uses any liquor in the  
15 State not taxable under this chapter, in respect of the  
16 transaction by which the person or the person's vendor acquired  
17 the liquor, shall pay a gallonage tax ~~[which]~~ that is hereby  
18 imposed at the following rates for the various liquor categories  
19 defined in section 244D-1:

20 ~~[For the period July 1, 1997, to June 30, 1998, the tax~~  
21 ~~rate shall be:~~



- 1       ~~(1) \$5.92 per wine gallon on distilled spirits;~~  
2       ~~(2) \$2.09 per wine gallon on sparkling wine;~~  
3       ~~(3) \$1.36 per wine gallon on still wine;~~  
4       ~~(4) \$0.84 per wine gallon on cooler beverages;~~  
5       ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~  
6       ~~(6) \$0.53 per wine gallon on draft beer;]~~

7       On July 1, 1998, and thereafter, the tax rate shall be:

- 8       (1) \$5.98 per wine gallon on distilled spirits;  
9       (2) \$2.12 per wine gallon on sparkling wine;  
10      (3) \$1.38 per wine gallon on still wine;  
11      (4) \$0.85 per wine gallon on cooler beverages;  
12      (5) \$0.93 per wine gallon on beer other than draft beer;

13       and

- 14      (6) \$0.54 per wine gallon on draft beer;

15      and at a proportionate rate for any other quantity so sold or  
16      used."

17       SECTION 24. Section 244D-6, Hawaii Revised Statutes, is  
18      amended to read as follows:

19       "**§244D-6 Return, form, contents.** Every taxpayer shall, on  
20      or before the twentieth day of each month, file with the  
21      department [~~of taxation in the taxation district in which the~~



1 ~~taxpayer's business premises are located, or with the department~~  
2 ~~in Honolulu,~~] a return showing all sales of liquor by gallonage  
3 and dollar volume in each liquor category defined in  
4 section 244D-1 and taxed under section 244D-4(a) made by the  
5 taxpayer during the preceding month, showing separately the  
6 amount of the nontaxable sales, and the amount of the taxable  
7 sales, and the tax payable thereon. ~~[The return shall also show~~  
8 ~~the amount of liquor by gallonage and dollar volume in each~~  
9 ~~liquor category defined in section 244D-1 and taxed under~~  
10 ~~section 244D-4(a) used during the preceding month which is~~  
11 ~~subject to tax, and the tax payable thereon.]~~ The form and  
12 manner of the return shall be prescribed by the department and  
13 shall contain ~~[such]~~ any information ~~[as it]~~ the department may  
14 deem necessary for the proper administration of this chapter."

15 SECTION 25. Section 245-2.5, Hawaii Revised Statutes, is  
16 amended as follows:

17 1. By amending subsections (a) and (b) to read:

18 "(a) ~~[Beginning December 1, 2006, every]~~ Every retailer  
19 engaged in the retail sale of cigarettes and other tobacco  
20 products upon which a tax is required to be paid under this  
21 chapter shall obtain a retail tobacco permit.



1           (b) [~~Beginning March 1, 2007, it~~] It shall be unlawful for  
2 any retailer engaged in the retail sale of cigarettes and other  
3 tobacco products upon which a tax is required to be paid under  
4 this chapter to sell, possess, keep, acquire, distribute, or  
5 transport cigarettes or other tobacco products for retail sale  
6 unless a retail tobacco permit has been issued to the retailer  
7 under this section and the retail tobacco permit is in full  
8 force and effect."

9           2. By amending subsection (1) to read:

10           "(1) A permittee shall keep a complete and accurate record  
11 of the permittee's cigarette or tobacco product inventory. The  
12 records shall:

13           (1) Include:

14                   (A) A written statement containing the name and  
15 address of the permittee's source of its  
16 cigarettes and tobacco products;

17                   (B) The date of delivery, quantity, trade name or  
18 brand, and price of the cigarettes and tobacco  
19 products; and

20                   (C) Documentation in the form of any purchase orders,  
21 invoices, bills of lading, other written



1 statements, books, papers, or records in whatever  
2 format, including electronic format, which  
3 substantiate the purchase or acquisition of the  
4 cigarettes and tobacco products stored or offered  
5 for sale; and

6 (2) Be offered for inspection and examination within  
7 twenty-four hours of demand by the department or the  
8 attorney general, and shall be preserved for a period  
9 of [~~three~~] five years; provided that:

10 (A) Specified records may be destroyed if the  
11 department and the attorney general both consent  
12 to their destruction within the [~~three-year~~]  
13 five-year period; and

14 (B) Either the department or the attorney general may  
15 adopt rules pursuant to chapter 91 that require  
16 specified records to be kept longer than a period  
17 of [~~three~~] five years."

18 SECTION 26. Section 245-9, Hawaii Revised Statutes, is  
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) The department and the attorney general may examine  
21 all records, including tax returns [~~and reports under~~



1 ~~section 245-31,~~] required to be kept or filed under this  
2 chapter, and books, papers, and records of any person engaged in  
3 the business of wholesaling or dealing cigarettes and tobacco  
4 products, to verify the accuracy of the payment of the taxes  
5 imposed by this chapter. Every person in possession of any  
6 books, papers, and records, and the person's agents and  
7 employees, are directed and required to give the department and  
8 the attorney general the means, facilities, and opportunities  
9 for the examinations.

10 (b) The department and the attorney general may inspect  
11 the operations, premises, and storage areas of any entity  
12 engaged in the sale of cigarettes, or the contents of a specific  
13 vending machine, during regular business hours. This inspection  
14 shall include inspection of all statements, books, papers, and  
15 records in whatever format, including electronic format,  
16 pertaining to the acquisition, possession, transportation, sale,  
17 or use of packages of cigarettes and tobacco products other than  
18 cigarettes, to verify the accuracy of the payment of taxes  
19 imposed by this chapter, and of the contents of cartons and  
20 shipping or storage containers to ascertain that all individual  
21 packages of cigarettes have an affixed stamp of proper





1 denomination as required by this chapter. This inspection may  
2 also verify that all stamps were produced under the authority of  
3 the department. Every entity in possession of any books,  
4 papers, and records, and the entity's agents and employees, are  
5 directed and required to give the department and the attorney  
6 general the means, facilities, and opportunities for the  
7 examinations. [~~For purposes of this chapter "entity" means one~~  
8 ~~or more individuals, a company, corporation, a partnership, an~~  
9 ~~association, or any other type of legal entity.]"~~

10 SECTION 27. Section 245-41, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

12 "(c) Where the attorney general [~~initiates and~~] conducts  
13 an investigation resulting in the imposition and collection of a  
14 criminal fine pursuant to this part, one hundred per cent of the  
15 fine shall be distributed to the attorney general to be  
16 deposited to the credit of the department of the attorney  
17 general's tobacco enforcement special fund; provided that if the  
18 attorney general engages the prosecuting attorney for the  
19 investigation or prosecution, or both, resulting in the  
20 imposition and collection of a criminal fine under this part,



1 the fine shall be shared equally between the attorney general  
2 and the prosecuting attorney."

3 SECTION 28. Section 251-1, Hawaii Revised Statutes, is  
4 amended by deleting the definition of "director".

5 ~~[""Director" means the director of taxation."]~~

6 SECTION 29. Section 251-5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§251-5 Remittances.** All remittances of surcharge taxes  
9 imposed under this chapter shall be made by cash, bank draft,  
10 cashier's check, money order, or certificate of deposit ~~[to the~~  
11 ~~office of the taxation district to which the return was~~  
12 ~~transmitted.]~~ in the form and manner prescribed by the  
13 department. The department shall deposit the moneys into the  
14 state treasury to the credit of the state highway fund."

15 SECTION 30. Section 251-7, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 ~~"[§]§251-7[§]~~ **Filing of returns.** All monthly, quarterly,  
18 semiannual, and annual returns shall be transmitted ~~[to the~~  
19 ~~office of the taxation district in which the person's place of~~  
20 ~~business is situated or to the office of the first taxation~~



1 ~~district in Honolulu.] in the form and manner prescribed by the~~  
2 ~~department."~~

3 SECTION 31. Section 235-5.6, Hawaii Revised Statutes, is  
4 repealed.

5 ~~["**\$235-5.6** Individual development account contribution~~  
6 ~~tax credit.~~ (a) ~~There shall be allowed to each taxpayer~~  
7 ~~subject to the tax imposed under this chapter, an individual~~  
8 ~~development account contribution tax credit certified under~~  
9 ~~chapter 257 which shall be applied against the taxpayer's net~~  
10 ~~income tax liability, if any, imposed by this chapter for the~~  
11 ~~taxable year in which the credit is properly claimed.~~

12 ~~(b) The individual development account contribution tax~~  
13 ~~credit shall be equal to fifty per cent of the amount~~  
14 ~~contributed by the taxpayer to a fiduciary organization as~~  
15 ~~defined by and in the manner prescribed in chapter 257. If a~~  
16 ~~deduction is taken under section 170 (with respect to charitable~~  
17 ~~contributions and gifts) of the Internal Revenue Code, no tax~~  
18 ~~credit shall be allowed for that portion of the contribution for~~  
19 ~~which the deduction was taken.~~

20 ~~(c) If the tax credit under this section exceeds the~~  
21 ~~taxpayer's income tax liability, the excess of the tax credit~~



1 ~~over liability may be used as a credit against the taxpayer's~~  
2 ~~income tax liability in subsequent years until exhausted. All~~  
3 ~~claims, including any amended claims, for tax credits under this~~  
4 ~~section shall be filed on or before the end of the twelfth month~~  
5 ~~following the close of the taxable year for which the credit may~~  
6 ~~be claimed. Failure to comply with the foregoing provision~~  
7 ~~shall constitute a waiver of the right to claim the credit.~~

8 ~~(d) Application for the credit under this section shall be~~  
9 ~~upon forms provided by the department.~~

10 ~~(e) The credit under this section shall be available for~~  
11 ~~taxable years beginning after December 31, 1999, but shall not~~  
12 ~~be available for taxable years beginning after December 31,~~  
13 ~~2004." ]~~

14 SECTION 32. Section 235-111.5. Hawaii Revised Statutes, is  
15 repealed.

16 ~~["§235-111.5 High technology; sale of unused net operating~~  
17 ~~loss carryover. (a) A qualified high technology business as~~  
18 ~~defined in section 235-7.3 may apply to the department to sell~~  
19 ~~its unused net operating loss carryover to another taxpayer. If~~  
20 ~~approved by the department, a qualified high technology business~~  
21 ~~may sell its unused net operating loss carryover to another~~



~~taxpayer in an amount equal to at least seventy-five per cent of the amount of the surrendered tax benefit, computed at the corporate rate pursuant to section 235-71, provided that the qualified high technology business may sell no more than \$500,000 of its unused net operating loss carryover to another taxpayer per year. In the case of partnerships, limited liability partnerships, limited liability companies classified as partnerships, and S corporations, each partner, member, or shareholder may sell its share of the entity's total net operating loss. The tax benefit purchased by the buyer shall be claimed in the year for which the sale is approved by the department. Any use of the purchased net operating loss carryover for tax carryback or carryforward purposes shall comply with applicable law. The income from the sale of the net operating loss carryover received by the seller shall be reported on its tax return in the taxable year received but shall not be considered taxable income.~~

~~(b) No application for the sale of unused net operating losses shall be approved if the seller is a qualified high technology business that:~~



- ~~(1) Has demonstrated positive net income in either of the two previous full years of ongoing operations as determined on its financial statements;~~
- ~~(2) Has demonstrated a ratio of one hundred ten per cent or greater of operating revenues divided by operating expenses in either of the two previous full years of operations as determined on its financial statements;~~
- ~~or~~
- ~~(3) Is directly or indirectly at least fifty per cent owned or controlled by another corporation that has demonstrated positive net income in either of the two previous full years of ongoing operations as determined on its financial statements or is part of a consolidated group of affiliate corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net income in either of the two previous full years of ongoing operations as determined on its combined financial statements.~~

~~In the case of partnerships, limited liability partnerships, limited liability companies classified as partnerships, and S corporations, the application for the sale~~



1 ~~of unused net operating losses shall only be approved to the~~  
2 ~~extent that all partners, members, or shareholders certify that~~  
3 ~~they have not received a tax benefit from the losses.~~

4 ~~(c) As used in this section:~~

5 ~~"Net operating loss" means a net operating loss for income~~  
6 ~~tax purposes occurring in the two taxable years preceding the~~  
7 ~~year in which the sale of net operating loss carryover occurs.~~

8 ~~"Surrendered tax benefit" means the tax liability saved if~~  
9 ~~the net operating loss carryforward could have been used by the~~  
10 ~~qualified high technology business.~~

11 ~~(d) This section shall only apply to sales of net~~  
12 ~~operating loss carryovers after December 31, 2000, and before~~  
13 ~~January 1, 2004."]~~

14 SECTION 33. Section 239-11, Hawaii Revised Statutes, is  
15 repealed.

16 [~~"§239-11 Exemption of certain contract carriers. (a)~~

17 ~~There shall be exempted and excluded from the measure of the tax~~  
18 ~~imposed by this chapter the gross income from any contract~~  
19 ~~carrier by water which is engaged primarily in the business of~~  
20 ~~transporting persons between harbors or wharves of the various~~  
21 ~~counties for interisland cruises within the State; provided that~~



1 ~~such exemption shall be applicable for the period July 1, 1981,~~  
2 ~~to June 30, 1996.~~

3 ~~(b) Any contract carrier and related partners, if any,~~  
4 ~~claiming an exemption under subsection (a) shall submit an~~  
5 ~~annual financial report, prepared by an independent certified~~  
6 ~~public accountant, to the department of taxation and to the~~  
7 ~~department of business, economic development, and tourism on or~~  
8 ~~before the fifteenth day of the fifth month following the close~~  
9 ~~of each taxable year for which the exemption is being claimed;~~  
10 ~~provided that in addition to reports in 1992, 1993, 1994, and~~  
11 ~~1995, an annual financial report shall be due on or before~~  
12 ~~March 1, 1996. The annual financial report, prepared in a form~~  
13 ~~approved by the director of taxation, shall include but not be~~  
14 ~~limited to:~~

- 15 ~~(1) A balance sheet of assets and liabilities;~~  
16 ~~(2) A statement of income and expenses;~~  
17 ~~(3) Supplementary information to financial statements;~~  
18 ~~(4) A summary of financial condition; and~~  
19 ~~(5) An apportionment of income and expenses of the~~  
20 ~~contract carrier and related partners, if any, within~~  
21 ~~and without the State.~~





1       ~~Within thirty days of the receipt of the financial report~~  
2 ~~from the contract carrier and related partners, if any, the~~  
3 ~~director of taxation shall submit relevant financial data to the~~  
4 ~~legislature. Failure to comply with this subsection by the~~  
5 ~~contract carrier or related partners, if any, as determined by~~  
6 ~~the director of taxation, shall constitute a waiver of the right~~  
7 ~~to claim the exemption."]~~

8       SECTION 34. Section 239-12, Hawaii Revised Statutes, is  
9 repealed.

10       ~~["**{239-12}** Call centers; exemption; engaging in business;~~  
11 ~~**definitions.** (a) This chapter shall not apply to amounts~~  
12 ~~received from a person operating a call center by a person~~  
13 ~~engaged in business as a telecommunications common carrier for~~  
14 ~~interstate or foreign telecommunications services, including~~  
15 ~~toll-free telecommunications, telecommunications capabilities~~  
16 ~~for electronic mail, voice and data telecommunications,~~  
17 ~~computerized telephone support, facsimile, wide area~~  
18 ~~telecommunications services, or computer to computer~~  
19 ~~communication.~~

20       ~~(b) The department, by rule, may provide that the person~~  
21 ~~providing the telecommunications service may take from the~~



~~person operating a call center a certificate, in a form that the department shall prescribe, certifying that the amounts received for telecommunications services are for operating a call center. If the certificate is required by rule of the department, the absence of the certificate in itself shall give rise to the presumption that the amounts received from the sale of telecommunications services are not for operating a call center.~~

~~(c) As used in this section:~~

~~"Call center" means a physical or electronic operation that focuses on providing customer service and support for computer hardware and software companies, manufacturing companies, software service organizations, and telecommunications support services, within an organization in which a managed group of individuals spend most of their time engaging in business by telephone, usually working in a computer-automated environment, provided that the operation shall not include telemarketing or sales.~~

~~"Customer service and support" means product support, technical assistance, sales support, phone or computer-based configuration assistance, software upgrade help lines, and traditional help desk services.~~



~~(d) This section shall not apply to income received after June 30, 2010."]~~

SECTION 35. Section 243-8, Hawaii Revised Statutes, is repealed.

~~["**243-8 License taxes payable monthly.** License taxes imposed by this chapter shall be paid in monthly installments to the department of taxation."]~~

SECTION 36. Section 245-31, Hawaii Revised Statutes, is repealed.

~~["**245-31 Monthly report on distributions of cigarettes and tobacco products, and purchases of stamps.** (a) On or before the twentieth day of each month, every licensee shall file on forms prescribed by the department:~~

~~(1) A report of the licensee's distributions of cigarettes and purchases of stamps during the preceding month; and~~

~~(2) Any other information that the department may require to carry out this part.~~

~~(b) On or before the twentieth day of each month, every licensee shall file on forms prescribed by the department:~~



- ~~(1) A report of the licensee's distributions of tobacco products and the wholesale costs of tobacco products during the preceding month; and~~
- ~~(2) Any other information that the department may require to carry out this part."]~~

## PART III

SECTION 37. Section 235-2.45, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

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

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

~~[(2) Allocations of net operating loss pursuant to section 235-111.5;]~~ or

~~[(3)]~~ (2) Allocations of low-income housing tax credits among partners under section 235-110.8."

SECTION 38. Section 257-10, Hawaii Revised Statutes, is repealed.



1       ~~["§257-10 Tax credit. (a) Taxpayers subject to the tax~~  
2       ~~imposed under chapter 235 who contribute matching funds for~~  
3       ~~individual development accounts may be eligible for the tax~~  
4       ~~credit provided under section 235-5.6.~~

5       ~~(b) Individuals, organizations, and businesses seeking the~~  
6       ~~tax credit can contribute a matching share to designated~~  
7       ~~individuals or contribute to a fiduciary organization and permit~~  
8       ~~it to allocate the funds to all of its participants on a~~  
9       ~~proportionate basis.~~

10       ~~(c) The administrator of the fiduciary organization, with~~  
11       ~~the cooperation of the participating organizations, shall~~  
12       ~~maintain records of the names of contributors and the total~~  
13       ~~amount each contributor contributes to an individual development~~  
14       ~~account match fund for the taxable year. All contributions~~  
15       ~~shall be verified by the department of human services. The~~  
16       ~~department of human services shall total all contributions that~~  
17       ~~the department certifies. Upon each determination, the~~  
18       ~~department of human services shall issue a certificate to the~~  
19       ~~taxpayer. The taxpayer shall file the certificate with the~~  
20       ~~taxpayer's tax return with the department of taxation.~~



1       ~~When the total amount of certified contributions reaches~~  
2       ~~\$1,000,000, the department shall immediately discontinue~~  
3       ~~certifying contributions and notify the department of taxation.~~  
4       ~~In no instance, shall the total amount of certified~~  
5       ~~contributions exceed \$1,000,000 over the five-year period~~  
6       ~~between January 1, 2000, and December 31, 2004.~~

7       ~~(d) The State shall provide no more than \$1,000,000 in tax~~  
8       ~~credits for private individuals, businesses, and organizations~~  
9       ~~contributing funds to individual development account programs." ]~~

10                               PART IV

11       SECTION 39. Statutory material to be repealed is bracketed  
12       and stricken. New statutory material is underscored.

13       SECTION 40. This Act shall take effect upon its approval.



# S.B. NO. 1203 S.D. 1 H.D. 1

**Report Title:**

Taxation; Housekeeping Amendments

**Description:**

Amends title 14, Hawaii Revised Statutes, to make nonsubstantive changes for clarity and to delete obsolete provisions. (HD1)

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

2021-2380 SB1203 HD1 HMSO

