

S.B. NO. 3143

JAN 26 2022

A BILL FOR AN ACT

RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE.

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

SECTION 1. The purpose of this Act is to conform Hawaii income and estate and generation-skipping transfer tax laws to the Internal Revenue Code.

SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) For all taxable years beginning after December 31, ~~[2020-]~~ 2021, as used in this chapter, except as provided in this section and ~~[section]~~ sections 235-2.35, 235-2.4, and 235-2.45, "Internal Revenue Code" means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of December 31, ~~[2020-]~~ 2021, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code which, pursuant to this chapter, do not apply or are otherwise limited in application.

Sections 9672(1) (relating to tax treatment of targeted EIDL advances) and 9673(1) (relating to tax treatment of restaurant revitalization grants) of Public Law 117-2 shall be

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1 operative for purposes of this chapter. No amount received
2 under section 9601 (relating to 2021 recovery rebates to
3 individuals) of Public Law 117-2 shall be included in gross
4 income for purposes of this chapter.

5 Sections 276(b)(1) (relating to subsequent paycheck
6 protection program loans), 277 (relating to emergency financial
7 aid grants), 278(b)(1) (relating to emergency EIDL grants and
8 targeted EIDL advances), 278(c)(1) (relating to subsidy for
9 certain loan payments), and 278(d)(1) (relating to grants for
10 shuttered venue operators) of Division N of Public Law 116-260
11 shall be operative for purposes of this chapter. Sections 213
12 (relating to modification of limitations on charitable
13 contributions) and 214 (relating to temporary special rules for
14 health and dependent care flexible spending arrangements) of
15 Division EE of Public Law 116-260 shall be operative for
16 purposes of this chapter. Sections 301, 302, and 304 (relating
17 to disaster tax relief) of Division EE of Public Law 116-260
18 shall be operative for purposes of this chapter. No amount
19 received under section 272 (relating to additional 2020 recovery
20 rebates for individuals) of Division N of Public Law 116-260
21 shall be included in gross income for purposes of this chapter.

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Sections 1106(i) (relating to exclusion of loan forgiveness from gross income), 2202(b) (relating to loans from retirement plans), and 2205 (relating to charitable contributions) of Public Law 116-136 shall be operative for purposes of this chapter. No amount received under section 2201 (relating to recovery rebates) of Public Law 116-136 shall be included in gross income for purposes of this chapter.

Section 2202(a) (relating to tax-favored withdrawals from retirement plans) of Public Law 116-136 shall be operative for purposes of this chapter and shall apply to taxable years beginning after December 31, 2019.

Prior law shall continue to be used to determine:

- (1) The basis of property, if a taxpayer first determined the basis of property in a taxable year to which prior law applies; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which prior law applies."

SECTION 3. Section 236E-3, Hawaii Revised Statutes, is amended to read as follows:

"§236E-3 Conformance to the Internal Revenue Code; general application. For all decedents dying, or transfers occurring,

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1 after December 31, [~~2020~~] 2021, as used in this chapter,
2 "Internal Revenue Code" means subtitle B of the federal Internal
3 Revenue Code of 1986, as amended as of December 31, [~~2020~~]
4 2021, as it applies to the determination of gross estate,
5 adjusted gross estate, federal taxable estate, and generation-
6 skipping transfers, except those provisions of the Internal
7 Revenue Code and federal public laws that, pursuant to this
8 chapter, do not apply or are otherwise limited in application."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval;
12 provided that:

13 (1) Section 2 shall apply to taxable years beginning after
14 December 31, 2021; provided that section 2202(a)
15 (relating to tax-favored withdrawals from retirement
16 plans) of Public Law 116-136 shall apply to taxable
17 years beginning after December 31, 2019; and

18 (2) Section 3 shall apply to decedents dying or taxable
19 transfers occurring after December 31, 2021.

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INTRODUCED BY: 

BY REQUEST

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Report Title:

Conformity to the Internal Revenue Code for 2021; Income Tax;
Estate and Generation-skipping Transfer Tax

Description:

Conforms Hawaii income and estate and generation-skipping
transfer tax laws to the Internal Revenue Code of 1986, as
amended as of December 31, 2021.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE.

PURPOSE: To amend Hawaii's income and estate and generation-skipping transfer tax laws to conform to changes made to the Internal Revenue Code in calendar year 2021.

MEANS: Amend sections 235-2.3(a) and 236E-3, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Sections 235-2.5(c) and 236E-4(c), HRS, mandate that the Department of Taxation submit to each regular session of the Legislature a bill that amends Hawaii's income and estate and generation-skipping transfer tax laws to conform to changes in the Internal Revenue Code. This bill amends section 235-2.3(a), HRS, by changing the date as of which Hawaii adopts the Internal Revenue Code to December 31, 2021. This bill also amends section 236E-3, HRS, by changing the date as of which Hawaii adopts the Internal Revenue Code to December 31, 2021. These changes adopt income and estate and generation-skipping transfer tax law changes made in the 2021 calendar year.

Additionally, this bill will make one correction to conformity to Public Law 116-136 (the CARES Act). The correction will amend the treatment of certain loans made from retirement plans during 2020.

Impact on the public: Conformity to all amendments to operative provisions of the Internal Revenue Code will minimize the burden on taxpayers in complying with the requirements of Hawaii's income and estate and generation-skipping transfer tax laws.

Impact on the department and other agencies:
Conforming Hawaii's income and estate and generation-skipping transfer tax laws to those of the Internal Revenue Code will increase consistency between the state and federal jurisdictions.

GENERAL FUND: Indeterminate revenue loss.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval, income tax changes shall apply to taxable years beginning after December 31, 2021, and estate and generation-skipping transfer tax changes shall apply to decedents dying or taxable transfers occurring after December 31, 2021.