

JAN 20 2023

A BILL FOR AN ACT

RELATING TO CAPITAL GAINS.

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

1 SECTION 1. The legislature finds that Hawaii's taxation
2 system disproportionately impacts working families. According
3 to the Institute on Taxation and Economic Policy, Hawaii places
4 the second-highest tax burden on low-income households, with
5 Hawaii's lowest-income households paying approximately fifteen
6 per cent of their income in state and local taxes. In
7 comparison, Hawaii's highest earning households pay roughly nine
8 per cent of their income in state and local taxes.

9 The legislature further finds that Hawaii has a low capital
10 gains tax rate in comparison to other states. This tax break
11 primarily benefits wealthy individuals, including nonresidents
12 who invest in real estate in the State. According to the
13 department of taxation, taxing capital gains at the same rate as
14 ordinary income could generate over \$132,000,000 in the next
15 fiscal year, an amount that would rise to an estimated
16 \$187,000,000 within six years.



1 The legislature additionally finds that the revenue
2 generated by taxing capital gains at the same rate as ordinary
3 income could be used to strengthen basic government programs,
4 including public education affordable housing construction,
5 mental health services, public preschool programming, childcare
6 access, tax credits for working families, climate change
7 adaptation and mitigation, regenerative agriculture investment,
8 and homeless service programs.

9 The legislature further finds that because section 55(b)(3)
10 of the Internal Revenue Code, which covers the maximum rate of
11 tax on net capital gain of noncorporate taxpayers, is
12 inoperative for the state, a simple repeal of the applicable
13 provisions of Hawaii's tax laws will impose the ordinary rate to
14 capital gains income.

15 Accordingly, the purpose of this Act is to improve public
16 support for working families by taxing capital gains at the same
17 rate as ordinary income.

18 SECTION 2. Section 235-51, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§235-51 Tax imposed on individuals; rates.** (a) There is
21 hereby imposed on the taxable income of every:



1 (1) Taxpayer who files a joint return under section 235-
2 93; and

3 (2) Surviving spouse,
4 a tax determined in accordance with the following table:
5

6 In the case of any taxable year beginning after
7 December 31, 2017:

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



1	Over \$72,000 but	\$4,531.00 plus 7.90% of
2	not over \$96,000	excess over \$72,000
3	Over \$96,000 but	\$6,427.00 plus 8.25% of
4	not over \$300,000	excess over \$96,000
5	Over \$300,000 but	\$23,257.00 plus 9.00% of
6	not over \$350,000	excess over \$300,000
7	Over \$350,000 but	\$27,757.00 plus 10.00% of
8	not over \$400,000	excess over \$350,000
9	Over \$400,000	\$32,757.00 plus 11.00% of
10		excess over \$400,000.

11

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

15

16 In the case of any taxable year beginning after
17 December 31, 2017:

18	If the taxable income is:	The tax shall be:
19	Not over \$3,600	1.40% of taxable income
20	Over \$3,600 but	\$50.00 plus 3.20% of
21	not over \$7,200	excess over \$3,600



1	Over \$7,200 but	\$166.00 plus 5.50% of
2	not over \$14,400	excess over \$7,200
3	Over \$14,400 but	\$562.00 plus 6.40% of
4	not over \$21,600	excess over \$14,400
5	Over \$21,600 but	\$1,022.00 plus 6.80% of
6	not over \$28,800	excess over \$21,600
7	Over \$28,800 but	\$1,512.00 plus 7.20% of
8	not over \$36,000	excess over \$28,800
9	Over \$36,000 but	\$2,030.00 plus 7.60% of
10	not over \$54,000	excess over \$36,000
11	Over \$54,000 but	\$3,398.00 plus 7.90% of
12	not over \$72,000	excess over \$54,000
13	Over \$72,000 but	\$4,820.00 plus 8.25% of
14	not over \$225,000	excess over \$72,000
15	Over \$225,000 but	\$17,443.00 plus 9.00% of
16	not over \$262,500	excess over \$225,000
17	Over \$262,500 but	\$20,818.00 plus 10.00% of
18	not over \$300,000	excess over \$262,500
19	Over \$300,000	\$24,568.00 plus 11.00% of
20		excess over \$300,000.
21		



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

7

8 In the case of any taxable year beginning after
9 December 31, 2017:

10	If the taxable income is:	The tax shall be:
11	Not over \$2,400	1.40% of taxable income
12	Over \$2,400 but	\$34.00 plus 3.20% of
13	not over \$4,800	excess over \$2,400
14	Over \$4,800 but	\$110.00 plus 5.50% of
15	not over \$9,600	excess over \$4,800
16	Over \$9,600 but	\$374.00 plus 6.40% of
17	not over \$14,400	excess over \$9,600
18	Over \$14,400 but	\$682.00 plus 6.80% of
19	not over \$19,200	excess over \$14,400
20	Over \$19,200 but	\$1,008.00 plus 7.20% of
21	not over \$24,000	excess over \$19,200



1	Over \$24,000 but	\$1,354.00 plus 7.60% of
2	not over \$36,000	excess over \$24,000
3	Over \$36,000 but	\$2,266.00 plus 7.90% of
4	not over \$48,000	excess over \$36,000
5	Over \$48,000 but	\$3,214.00 plus 8.25% of
6	not over \$150,000	excess over \$48,000
7	Over \$150,000 but	\$11,629.00 plus 9.00% of
8	not over \$175,000	excess over \$150,000
9	Over \$175,000 but	\$13,879.00 plus 10.00% of
10	not over \$200,000	excess over \$175,000
11	Over \$200,000	\$16,379.00 plus 11.00% of
12		excess over \$200,000.

13

14 (d) The tax imposed by section 235-2.45 on estates and

15 trusts shall be determined in accordance with the following

16 table:

17

18 In the case of any taxable year beginning after

19 December 31, 2001:

20	If the taxable income is:	The tax shall be:
21	Not over \$2,000	1.40% of taxable income



1	Over \$2,000 but	\$28.00 plus 3.20% of
2	not over \$4,000	excess over \$2,000
3	Over \$4,000 but	\$92.00 plus 5.50% of
4	not over \$8,000	excess over \$4,000
5	Over \$8,000 but	\$312.00 plus 6.40% of
6	not over \$12,000	excess over \$8,000
7	Over \$12,000 but	\$568.00 plus 6.80% of
8	not over \$16,000	excess over \$12,000
9	Over \$16,000 but	\$840.00 plus 7.20% of
10	not over \$20,000	excess over \$16,000
11	Over \$20,000 but	\$1,128.00 plus 7.60% of
12	not over \$30,000	excess over \$20,000
13	Over \$30,000 but	\$1,888.00 plus 7.90% of
14	not over \$40,000	excess over \$30,000
15	Over \$40,000	\$2,678.00 plus 8.25% of
16		excess over \$40,000.

17

18 (e) Any taxpayer, other than a corporation, acting as a
 19 business entity in more than one state who is required by this
 20 chapter to file a return may elect to report and pay a tax of .5
 21 per cent of the taxpayer's annual gross sales if the:



1 (1) Taxpayer's only activities in this State consist of
2 sales;

3 (2) Taxpayer does not own or rent real estate or tangible
4 personal property; and

5 (3) Taxpayer's annual gross sales in or into this State
6 during the tax year is not in excess of \$100,000.

7 ~~[(f) If a taxpayer has a net capital gain for any taxable
8 year to which this subsection applies, then the tax imposed by
9 this section shall not exceed the sum of:~~

10 ~~(1) The tax computed at the rates and in the same manner
11 as if this subsection had not been enacted on the
12 greater of:~~

13 ~~(A) The taxable income reduced by the amount of net
14 capital gain, or~~

15 ~~(B) The amount of taxable income taxed at a rate
16 below 7.25 per cent, plus~~

17 ~~(2) A tax of 7.25 per cent of the amount of taxable income
18 in excess of the amount determined under paragraph~~

19 ~~(1).~~

20 ~~This subsection shall apply to individuals, estates, and
21 trusts for taxable years beginning after December 31, 1986.]"~~



S.B. NO. 358

Report Title:

Capital Gains Tax; Rate; Repeal

Description:

Taxes capital gains income at the same rate as ordinary income.

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