

**ACT 146**

A Bill for an Act Relating to Taxation, Amending Chapter 121 of the Revised Laws of Hawaii 1955, as Amended, to Incorporate Certain Amendments of the Internal Revenue Code of 1954.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 121-1.01 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding under column 1 and column 2 the following:

"Column 1	Column 2
Taxable year beginning on or after January 1, 1961, and subsequent taxable years.	Public Law 86-564, Title 111, section 302;
Taxable year beginning on or after January 1, 1962, and subsequent taxable years.	Public Law 87-834, sections 22 and 28;
Taxable years ending after December 31, 1962, but only in respect of periods after December 31, 1962.	Public Law 87-834, section 4;
Taxable year beginning on or after January 1, 1963, and subsequent taxable years.	Public Law 87-834, sections 13 and 21; Public Law 87-863, section 2."

SECTION 2. In the case of a taxpayer who shall have made for federal purposes the election allowed under subsection (c) of section 302 of Public Law 86-564, as amended by section 4 of Public Law 86-781, the taxpayer may also elect to have the amendments made by subsection (b) of section 302 of Public Law 86-564 effective and applicable to taxable years ending before January 1, 1961, which in whole or in part are governed by the Income Tax Law of 1957. The election may be exercised by the filing, on or before December 31, 1963, of a return or an amended return for each of such taxable years, and if exercised, may not be revoked.

SECTION 3. Section 121-24.1 of the Revised Laws of Hawaii 1955, as amended, is hereby amended:

(a) By amending the language in subsection (a) which reads "(as defined in section 1504 of the Internal Revenue Code, said section being applicable for this purpose though not generally applicable)" to read as follows:

"(as defined in section 1504 of the Internal Revenue Code, as amended by Sec. 2(c) of Public Law 86-376, said section 1504 being applicable for this purpose though not generally applicable)".

(b) By adding a new subsection to read as follows:

"(c) For purposes of subsection (a)(1), stock which is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common, shall be treated as owned by one shareholder."

SECTION 4. Section 121-5, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto the following new subsection:

"(..)(1). If the taxpayer exercises the election provided in this subsection, in the case of property which is 'section 38 property' (as defined in section 48 of the Internal Revenue Code) the amount of depreciation allowable under this chapter for the first taxable year in which depreciation is allowed as such property under the Internal Revenue Code shall be equal to the sum of (A) the amount of credit allowed under section 38 of the Internal Revenue Code and (B) the amount of depreciation allowed under the Internal Revenue Code with respect to such property for such year, and for any subsequent taxable year the amount of depreciation allowed under this chapter shall be the amount allowed for such property under the Internal Revenue Code for such year. However, if during any subsequent year the property ceases to be 'section 38 property' or the event stated in section 47(a)(2) of the Internal Revenue Code occurs, the adjustment in basis provided in section 48(g)(2) of the Internal Revenue Code shall not be allowed for the purpose of determining the amount of depreciation allowed under this chapter for such year and the years thereafter.

(2) The election to determine the amount of depreciation allowable each year in accordance with the provisions of paragraph (1) for any property described therein shall be exercised in such manner as the director shall prescribe and shall be, with respect to any such property, irrevocable.

(3) The Internal Revenue Code meant in paragraph (1) is the Internal Revenue Code as amended by section 2 of Public Law 87-834.

(4) Nothing in this subsection shall be deemed to allow an increase

in the total amount of depreciation allowed under this chapter for any property to which this subsection is applicable.”

SECTION 5. The amendment made by section 3 shall apply to taxable years beginning on or after January 1, 1963; the amendments made by section 4 shall apply to taxable years beginning on or after January 1, 1962; the provisions of subsection (c) of section 13 of Public Law 87-834 shall apply to taxable years beginning on or after January 1, 1962, and ending after October 16, 1962.

SECTION 6. This Act upon its approval shall apply to the taxable years stated in sections 1 and 5.

(Approved June 3, 1963.) **H.B. 56.**

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