

**ACT 201**

A Bill for an Act Relating to Taxation.

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

Part I

SECTION 1. Chapter 116, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new section to be appropriately designated and to read as follows:

“**Sec. 116-** . **Second appeal.** In every case in which a taxpayer appeals a real property tax assessment to a board of review or to a tax appeal court and there is pending an appeal of such assessment, the taxpayer shall not be required to file a notice of the second appeal; provided the first appeal has not been decided prior to March 20 of the assessment year of the second appeal; and provided further the assessor gives notice that such tax assessment has not been changed from the assessment which is the subject of the appeal.”

SECTION 2. Part I shall take effect upon its approval and shall apply to real property tax assessment appeals for the 1965 taxable year.

Part II

SECTION 3. Section 117-21 (1) of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new subsection (1-1) thereto, to be numbered and to read as follows:

“(1-1) Amounts received by an organization enumerated under section 117-20 (f) to (i), from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop”.

SECTION 4. Part II shall take effect upon approval of this Act.

Part III

SECTION 5. Section 121-5(a) of the Revised Laws of Hawaii 1955, as amended, is hereby amended by renumbering subsection 7 as subsection (8) and by adding a new subsection (7) to read as follows:

“(7) All proceeds received by organizations enumerated under section 117-20 (f) to (i), resulting from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop.”

SECTION 6. (a) Subsection (a) of Section 121-23 of the Re-

vised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(a) A tax at the rates herein provided shall be assessed, levied, collected and paid for each taxable year on the taxable income of every corporation, including a corporation carrying on business in partnership, except that in the case of a regulated investment company the tax is as provided by subsection (b) and further that in the case of a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1954 the tax is as provided in subsection (d).”

(b) Section 121-23 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto the following subparagraph:

“(d) In the case of a real estate investment trust there is imposed on the taxable income, computed as provided in sections 857 and 858 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following:

Five per cent if the taxable income is not over \$25,000 and on all over \$25,000 five and one-half per cent.

Two and three-quarters per cent on the amount of capital gain which is taxed under section 857 (b) (3) (A) of the Internal Revenue Code.”

SECTION 7. Part III shall take effect upon approval; provided that if S.B. No. 656 is enacted into law\*, the tax rates in section 6 (b) of this Part shall be amended to conform with the changes in tax rates as provided for in said bill for regulated investment companies and regular corporations, which changes shall become effective at the same time and in the same manner.

#### Part IV

SECTION 8. Section 128-17, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the first sentence thereof to read as follows:

“**Section 128-17. Exemption, persons with impaired sight.** Any person who is blind, as defined in section 121-1 shall, so long as his sight is so impaired, be exempt from real property taxes on all real property owned by him up to, but not exceeding a taxable value of \$15,000.”

SECTION 9. Subsection 128-18(b) (6), Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By deleting the word “and” appearing immediately after the second semicolon of the first sentence thereof; and

(b) By deleting the period at the end of the first sentence and by adding the following semicolon, words and period:

“; property owned by any association or league of federal credit

\*S.B. 656 has been enacted into Act 155.

unions chartered by the United States, the sole purpose of which is to promote the development of federal credit unions in the State.”

**SECTION 10.** Section 128-18(c) is hereby amended to read as follows:

“(c) The provisions of this subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more, the lease or rental agreement being in force and recorded in the bureau of conveyances at the time the exemption is claimed, by either (i) a corporation, society, association or trust having a charter or other enabling act or governing instrument which contains a provision or has been construed by a court of competent jurisdiction as providing that in the event of dissolution or termination of the corporation, society, association, or trust, or other cessation of use of the property for the exempt purpose, the real property shall be applied for another charitable purpose or shall be dedicated to the public, or (ii) a corporation chartered by the United States under Title 36, United States Code, as a patriotic society. Exemption is allowed by this subsection for property used for charitable purposes which are of a community, character building, social service or educational nature, including museums, libraries and art academies.”

**SECTION 11.** Chapter 128 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new section to be appropriately numbered and to read as follows:

“**Sec. 128- . Imposition of real property taxes.** A portion of real property taxes shall be imposed upon and paid by the owner or owners thereof when:

(a) The property of the owner has been leased for a term of fifteen years or more; and

(b) The classification of the property has been changed to a classification of a higher use during the life of the lease; and

(c) The classification to a higher use has occurred without the lessee, who occupies the property, petitioning for such higher classification.

Taxes which are imposed upon the owners of property under the provisions of this section shall be paid by the owner of such property without being transferred to the lessee who occupies the property and such tax shall be the difference between the assessed valuation of the property after the classification change times the applicable tax rate less the assessed valuation of the property as it existed prior to the classification change times the applicable tax rate.”

**SECTION 12.** Section 128-13, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new subsection to read as follows:

“(d) A taxpayer who is over the age of sixty years shall be entitled to the following multiples of home exemption as provided for in subsection (a) (2) of this section:

If adjusted gross income as determined under the provisions of Chapter 121 is:

The multiple to be used in computing home exemption by the number of personal exemptions as provided for in Chapter 121 shall be:

	Number of personal exemptions			
	1	2	3	4 or more
Not over \$3,000	2	2	2	2
Over \$3,000, but not over \$3,500	1.8	2	2	2
Over \$3,500, but not over \$4,000	1.6	1.8	2	2
Over \$4,000, but not over \$4,500	1.4	1.6	1.8	2
Over \$4,500, but not over \$5,000	1.2	1.4	1.6	1.8
Over \$5,000	1	1.2	1.4	1.6

For the purpose of this subsection a taxpayer's adjusted gross income and personal exemptions shall be determined on the basis of his income tax return filed for the taxable year preceding the year in which the home exemption is being claimed. The director of taxation shall prescribe such necessary forms and rules and regulations to effectuate the purpose of this subsection."

SECTION 13. Chapter 128, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding new sections thereto to be appropriately numbered and to read as follows:

**"Sec. 128- ..... Exemption, dedicated lands in urban districts.**

"(a) Portions of taxable real property which are dedicated and approved by the director of taxation as provided for by this section shall be exempted in determining and assessing the value of such taxable real property.

"(b) Any owner of taxable real property, other than residential land, in an urban district desiring to dedicate a portion or portions thereof for landscaping, open spaces, public recreation and other similar uses shall petition the director of taxation stating the exact area of the land to be dedicated and that such land is not within the setback and open space requirements of applicable zoning and building code laws and ordinances, and that such land shall be used, improved and maintained in accordance with and for the sole purpose for which it was dedicated.

"The director of taxation shall make a finding as to whether the use to which such land will be dedicated has a benefit to the public at least equal to the value of the real property taxes for such land. Such finding shall be measured by the cost of improvements, the continuing maintenance thereof, and such other factors as the director may deem pertinent. If the director of taxation finds that the public benefit is at least equal to the value of real property taxes for such land, he shall approve the petition and declare such land to be dedicated land.

"(c) The approval of the petition by the director of taxation shall constitute a forfeiture on the part of the owner of any right to change the use of his land for a minimum period of ten years, automatically renewable indefinitely, subject to cancellation by either the

owner or the director of taxation upon five years' notice at any time after the end of the fifth year.

"(d) Failure of the owner to observe the restrictions on the use, improvement and maintenance of his land shall cancel the special tax exemption privilege retroactive to the date of the original petition, and all differences in the amount of taxes that were paid and those that would have been due from the assessment of the tax exempted portion of his land shall be payable together with interest of five per cent per annum from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over one calendar year to use, improve and maintain the land in the manner requested in the petition or any overt act changing the use for any period. Nothing in this paragraph shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land.

"(e) The director of taxation shall prescribe the form of the petition. The petition shall be filed with the director of taxation by September 1 of any calendar year and shall be approved or disapproved by December 15. If approved, the exemption based upon the use requested in the dedication shall be effective January 1, next.

"(f) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

"(g) The director of taxation shall make and adopt necessary rules and regulations including such rules and regulations governing minimum areas which may be dedicated for the improvement and maintenance of such areas.

"(h) 'Landscaping' means lands which are improved by landscape architecture, cultivated plantings or gardening.

"'Open spaces' means lands which are open to the public for pedestrian use and momentary repose, relaxation and contemplation.

"'Public recreation' refers to lands which may be used by the public as parks, playgrounds, historical sites, camp grounds, wild life refuges, scenic sites and other similar uses.

"'Owner' includes lessees of real property whose lease terms extends at least ten years from the date of the petition."

SECTION 14. Section 128-4, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting therefrom the second paragraph and substituting therefor the following:

"For the purposes of this chapter, life tenants, executors, administrators, trustees, guardians or other fiduciaries may be, and persons holding government property under an agreement for the conveyance of the same to such persons shall be considered as owners as to any real property held or controlled by them as such. Lessees holding under any government lease shall be considered as owners during the time any real property is held or controlled by them as such, as more fully provided in section 128-22; and further, notwithstanding any provision to the contrary in this chapter, any tenant occupying government land, whether such occupancy be on a permit, license, month to month tenancy, or otherwise, shall be consid-

ered as owner where such occupancy has continued for a period of one year or more, as more fully provided in section 128-22. Persons holding any real property under an agreement to purchase the same, shall be considered as owners during the time the real property is held or controlled by them as such; provided the agreement to purchase (1) shall have been recorded in the bureau of conveyances, and (2) shall provide that the purchasers shall pay the real property taxes levied on the property."

SECTION 15. Section 128-22, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding to subsection (a) thereof, immediately following paragraph (3), the following new paragraphs to be respectively identified as paragraphs (4) and (5) and to read as follows:

"(4) Such property where the occupancy by the tenant has continued for a period of one year or more, whether such occupancy has been on a permit, license, month to month tenancy, or otherwise, shall be fully taxable to the tenant after the first year of occupancy, and such property shall be assessed in the manner provided in paragraphs (2) and (3) of this subsection for the assessment of properties held under a government lease."

"(5) In any case of occupancy of a building or structure by two or more tenants, or by the government and a tenant, under a lease for a term of one year or more, the tax shall be assessed to the tenant upon so much of the value of the entire real property as the floor space occupied by the tenant proportionately bears to the total floor space of the structure or building."

SECTION 16. Section 128-22, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting therefrom the third sentence of the paragraph which begins with the clause "For the purposes of paragraphs (2) and (3) of this subsection:"

SECTION 17. Section 128-22.1, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting therefrom the third sentence of subsection (a) (2) thereof.

SECTION 18. Part IV shall take effect on January 1, 1966.

#### Part V

SECTION 19. Section 117-20, Revised Laws of Hawaii 1955, as amended, is hereby amended by changing the period at the end of paragraph (m) thereof to a semicolon and adding immediately after such semicolon the following paragraph:

"(n) Industrial loan companies taxable under the provisions of chapter 127, provided that the exemption shall apply only to the income from the 'engaging in the business of an industrial loan company' as defined in section 194-2."

SECTION 20. Sub-paragraph (1) of the paragraph (a) of section 121-6, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(1) Banks, building and loan associations and industrial loan companies taxable under the provisions of chapter 127; and insurance companies and agricultural cooperative associations, exclusively taxable under the provisions of other laws;”.

SECTION 21. Section 127-1, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new paragraph between the third and fourth paragraphs thereof to read as follows:

“‘Industrial loan company’ means any industrial loan company subject to the provisions of chapter 194.”

SECTION 22. Section 127-3, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**“Section 127-3. Imposition of tax on other banks, building and loan associations, industrial loan companies and financial corporations.** Every bank, other than a national banking association, and every building and loan association, every industrial loan company and financial corporation, located or doing business in the state, shall annually, as of January 1, pay a franchise tax measured as, and at the rate, provided in section 127-4.”

SECTION 23. Part V shall take effect on January 1, 1966; provided that if H.B. 192\* is enacted into law, this part shall not take effect.

#### Part VI

SECTION 24. Section 117-17.1, Revised Laws of Hawaii 1955, as amended, is hereby amended by changing the period to a comma at the end of the section thereof and by adding thereto the following to read as follows:

“or unless the reimbursed amounts constitute maintenance costs in a cooperative housing corporation as more fully set forth in section 117-21 (p)”.

SECTION 25. Section 117-21, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new subsection to be designated as subsection (p) and to read as follows:

“(p) Amounts received by a cooperative housing corporation from its shareholders or members thereof in reimbursement of funds paid out by such corporation for the maintenance and upkeep of the cooperative housing building and the premises thereon, provided however, that such cooperative housing corporation is a corporation:

“(1) having one and only one class of stock outstanding.

“(2) each of the stockholders of which is entitled solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation.

“(3) no stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation, and

\*H.B. 192 has been enacted as Act. 224.

“(4) 90 per cent or more of the gross income is derived from tenant-stockholders, and

“(5) which files with the department of taxation on a form provided by it and within 10 days of the last business day of each quarter a report on all apartments located in the cooperative housing project which have been occupied in any portion of the said quarter by persons other than the owner or his immediate family and which report shall contain the name of the owner, his address and an appropriate identification of the apartment.”

SECTION 26. Part VI shall take effect upon its approval.

#### Part VII

SECTION 27. Chapter 117 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section thereto to be designated as section 117-21.6 and to read as follows:

“**Sec. 117-21.6. Exemption of certain scientific contracts with the United States.** Any provision of law to the contrary notwithstanding, there shall be exempted from, and excluded from the measure of, the taxes imposed by Chapter 117, all of the gross proceeds arising from and all of the amount for tangible personal property furnished in conjunction with the performance of any contract with the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under Chapter 119) involving primarily the research and development for, or the design, manufacture, instrumentation, installation, maintenance, or operation of electronic, test range, aerospace, oceanographic, geophysical or other scientific facilities.”

SECTION 28. Any existing law or any act enacted during the general session of 1965, including specifically S. B. No. 656, to the contrary notwithstanding, no use tax or consumption tax shall be levied or collected on any property, or to any use or consumption of such property, required for the performance and fulfillment of any contract the proceeds of which are exempted under the provisions of section 117-21.6.

SECTION 29. Part VII shall take effect upon its approval.

#### Part VIII

SECTION 30. Section 126-5, subsection (a), Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By deleting therefrom the words “five and one-half percent”, and substituting therefor the words, “5.885 per cent”, wherever they appear.

(b) By deleting therefrom the words “one fourth of one per cent”, and substituting therefor the words “two thousand six hundred seventy five ten thousandth of one per cent (.2675%)”.

(c) By amending the paragraph immediately preceding the last paragraph thereof by amending the formula and the proviso therein



to read as follows: "X = (1.8725 + 26.75 R) %; provided, that in no case governed by the formula shall "X" be less than 5.885 per cent or more than 8.2 per cent."

SECTION 31. Section 126-5, subsection (b), Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting therefrom the words, "five per cent", and substituting therefor the words, "5.35 per cent".

SECTION 32. Part VIII shall take effect on January 1, 1966 so that the increased tax rate shall apply to the gross income received for the calendar year 1965 and for calendar years thereafter.

#### Part IX

SECTION 33. Section 128-9 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new paragraph to subsection (g) thereof to read as follows:

"In determining the value of buildings, consideration shall be given to any additions, alterations, remodeling, modifications or other new construction, improvement or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of said buildings, provided however, that any maintenance or repairs to buildings undertaken or made by the owner occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation or conservation project under the provisions of Part II of Chapter 143 of the Revised Laws of Hawaii 1955, as amended, shall not increase the assessable valuation of any such building for a period of seven (7) years from the effective date of this Part."

SECTION 34. Chapter 143, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be designated Section 143-60.1 to read as follows:

"**Sec. 143-60.1. Tax moratorium on maintenance and repair.** In the valuation of buildings for real property tax assessment purposes under the provisions of Section 128-9, Revised Laws of Hawaii 1955, as amended, the Director of Taxation shall grant a moratorium upon any increase in the assessable valuation of buildings resulting from maintenance and repair work undertaken by the owner or occupant of any building pursuant to the requirements of an urban redevelopment, rehabilitation or conservation project under the provisions of this chapter for a period of seven (7) years from the effective date of this Part."

SECTION 35. Part IX shall take effect upon its approval.

#### Part X

SECTION 36. Section 117-7, Revised Laws of Hawaii 1955, is hereby amended in the following respects:

- (a) By inserting the letter "a", enclosed in parenthesis, between the comma and the word "every", appearing in the first paragraph;
- (b) By deleting the period appearing at the end of the first paragraph and substituting therefor a semicolon; and

(c) By inserting the following at the end of the first paragraph: "and (b) every person engaging in the business of architecture and engineering, as defined in Sec. 166-1."

SECTION 37. Part X shall take effect on July 1, 1965.

#### Part XI

SECTION 38. Section 117-20, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new subsection to be appropriately designated and to read as follows:

"( ) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry and which are solely supported by State funds."

SECTION 39. Part XI shall take effect upon its approval.

#### Part XII

SECTION 40. Section 119-1 of the Revised Laws of Hawaii 1955, as amended by S. B. No. 656, S.D. 2, H.D. 1, C.D. 1, is hereby amended by adding a new item or exception numbered (6) to the definition of "Use" as follows:

"(6) the leasing or renting of any aircraft or the keeping of any aircraft solely for leasing or renting to lessees or renters using such aircraft as a public utility as defined in chapter 104."

SECTION 41. Section 119-3 of the Revised Laws of Hawaii 1955, as amended by S. B. No. 656, S.D. 2, H.D. 1, C.D. 1, is hereby amended by adding a new subparagraph "(f)" as follows:

"(f) The tax imposed by this chapter shall not apply to any use or consumption of aircraft the transfer of which aircraft to, or the acquisition of which by, the person so using or consuming the same, or the rental for the use of such aircraft, has actually been or actually is taxed under chapter 117."

SECTION 42. Part XII shall take effect upon its approval.

#### Part XIII

SECTION 43. Section 178-39, Revised Laws of Hawaii 1955, as amended, to read as follows:

**"Sec. 178-39. Branch banks; procedure to open or maintain; application; fee.** No bank or any officer or director, agent or employee thereof, shall open or maintain any branch in the State, or receive deposits or pay checks other than at its principal place of business or its established branches or such subsidiary collection offices as the director of regulatory agencies may approve, except as hereinafter authorized; provided that this section shall not apply to branch banks existent on July 1, 1931, and authorized to do business in the State, and provided further, that nothing in this section shall authorize any bank to change the location of any branch bank except as authorized by the procedure hereinafter outlined for opening of branch banks.

“Any bank desiring to open and maintain a branch bank or change the location of an established branch shall file a petition in triplicate with the director of regulatory agencies in a form approved by him and shall state:

(a) The name of the bank;  
(b) The specific location of the proposed site of the branch bank office;

(c) Facts showing that there is a reasonable assurance of sufficient volume of business so that the proposed branch is warranted;

(d) Facts showing that the opening and maintenance of the proposed branch or change of location is justified; and

(e) Such other facts that the director of regulatory agencies may from time to time prescribe.

“Each petition to open and maintain a branch bank or change the location of an established branch shall be accompanied by a fee of \$500. The director of regulatory agencies shall deposit all such fees to the credit of the general fund of the State.

“Upon receipt by the director of regulatory agencies of such petition and fee he shall make an investigation of the conditions and facts contained in such petition pertinent thereto, and if in his judgment he is satisfied that the establishment of the proposed branch or change of location is justified he shall issue a certificate permitting the organization and maintenance of such branch or change of location of a branch.”

SECTION 44. Section 178-40, Revised Laws of Hawaii 1955, is hereby repealed.

SECTION 45. Part XIII shall take effect on its approval.

SECTION 46. If any Part, section, sentence, clause or phrase of this Act, or its application to any persons or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The Legislature hereby declares that it would have passed this Act and each Part, section, sentence, clause or phrase thereof irrespective of the fact that any one or more other Parts, sections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 47. Subject to the foregoing, this Act shall take effect upon its approval.

(Approved June 28, 1965.) **H.B. 1090.**