

ACT 47

H. B. 148.

A Bill for an Act Relating to the Net Income Tax and Amending Chapter 121, Revised Laws of Hawaii 1955, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

Presently, the rule governing divorced or separated parents, is that the parent who contributes more than one-half of the support of a child during the year is entitled to the personal exemption of that child. Very often, the parent who had custody of the child during a much greater portion of the year, tends to feel entitled to the exemption even though unable to prove greater contribution from a strictly accounting sense. Such parent almost invariably points to innumerable outlays which attend custody, but as to which a parent normally fails to keep minute accounting. On the other hand, the other parent very frequently challenges such claim, either in good faith, or sometimes out of simple animosity. Thus, the present law is unsatisfactory, as it tends, in many instances, to aggravate domestic strife, and also because it tends to render uncertain the equitable administration of the tax laws.

In an effort to solve this problem, Congress enacted Public Law 90-78 in 1967, which allows the personal exemption to the parent having custody for a greater portion of the calendar year, except—(1) when written agreement or court decree provides otherwise and the parent not having custody contributes at least \$600; or (2) when the parent not having custody contributes \$1,200 or more and the parent having custody is unable to clearly establish greater contribution.

Although under the rule established by Public Law 90-78, uncertainty will remain for those cases where both parents claim contributions of over \$1,200, it does set out guidelines for parents of less contributive capacity which will afford them definite predictability.

To enable divorced and separated parents of this State to have their rights to personal exemptions under the Hawaii income tax law resolved consonantly with Public Law 90-78, it is necessary to amend Chapter 121 of the Revised Laws of Hawaii 1955. Accordingly, this Act is considered an urgency measure deemed necessary in the public interest.

SECTION 2. Section 121-1.01 of the Revised Laws of Hawaii 1955, as amended, is further amended by respectively adding after the end of Column II (the right hand column) and correspondingly and in parallel in Column I (the left hand column), the following:

Taxable years beginning	Public Law 90-78
January 1, 1967	Section 1.

SECTION 3. This Act, upon its approval, shall apply for taxable years stated in Section 2.

(Approved May 8, 1968.)