

ACT 8

S. B. NO. 582

A Bill for an Act Relating to Inheritance and Estate Taxes.

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

SECTION 1. Section 236-1, Hawaii Revised Statutes, is amended to read:

“Sec. 236-1 Definitions. As used in this chapter:

‘Estate’ and ‘property’ mean the real and personal property or interest therein of the testator, intestate, grantor, bargainer, vendor, or donor passing or transferred to individuals, legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors and include all personal property within or without the State.

‘Transfer’ includes the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein described; provided that, where any transfer is made within two years prior to a decedent’s death, a rebuttable presumption shall exist that such transfer was made in contemplation of death.

‘Decedent’ includes the testator, intestate, grantor, bargainer, vendor, or donor.”

SECTION 2. Section 236-9.1, Hawaii Revised Statutes, is hereby amended to read:

“Sec. 236-9.1 Pensions exempt. The residual proceeds of pensions or other allowances or stipends made by an employer to a deceased employee’s surviving spouse, children, parents, brothers, or sisters in consideration of past services of a deceased person or of the surrender of rights or emoluments shall be exempt from all taxes imposed by this chapter; provided that the exemption allowed under this section shall not apply to amounts in excess of \$30,000 of the present value of the pension computed in accordance with section 236-26.”

SECTION 3. Section 236-13, Hawaii Revised Statutes, is amended to read:

“Sec. 236-13 Resident decedents; credits. Whenever the estate of any decedent who, at the time of death, was a resident of the State is subject to an estate tax under the federal estate tax law, the tax imposed by sections 236-2 to 236-6 shall be increased by the imposition of an additional tax, which shall be calculated as follows:

- (1) Where no constitutionally valid estate, inheritance, legacy, or succession taxes are payable to any other state or to any territory or to the District of Columbia in respect of property included in the gross estate, by deducting the tax imposed by sections 236-2 to 236-6 from the maximum credit for state death taxes allowed by the federal estate tax law.
- (2) Where constitutionally valid estate, inheritance, legacy, or succession taxes are actually paid to any other state or to any territory or to the District of Columbia in respect of property included in the gross estate, by adding such taxes to the tax imposed by sections 236-2 to 236-6 and deducting the total from the maximum credit for state death taxes allowed by the federal estate tax law; provided, that the deduction for such taxes actually paid to any other state or any territory of the United States or the District of Columbia shall only be allowed if the payment thereof and claim for credit therefor is made within three years after the date of the decedent’s death, but the department of taxation may, for good cause shown, extend the period for the payment of such taxes and the making of such claim.

For the purposes of this section and section 236-14 the term ‘gross estate’ shall be deemed to refer to the gross estate subject to federal estate tax.”

SECTION 4. Section 236-14, Hawaii Revised Statutes, is amended to read:

“Sec. 236-14 Nonresident decedents. An additional tax is imposed upon or in respect of the transfer of so much of the net estate of every person who, at the time of death, was a nonresident of the State as consists of real property situated and tangible personal property having an actual situs in the State, the amount of such additional tax to be calculated as follows:

- (1) Ascertain the portion of the maximum credit for state death taxes allowed by the federal estate tax law which is attributable to the real property situated and the tangible personal property having an actual situs in the State by multiplying the maximum credit for state death taxes by a fraction the denominator of which shall be the value, as determined for federal estate tax purposes, of the gross estate, and the numerator of which shall be the value, as determined for federal estate tax purposes, of the real property situated and the tangible personal property having an actual situs in the State.
- (2) From such portion of the maximum credit for state death taxes deduct the amount of the tax imposed by sections 236-2 to 236-6.”

SECTION 5. Section 236-24, Hawaii Revised Statutes, is amended to read:

“Sec. 236-24 Duties of safe deposit companies, trust companies, banks,

etc. No safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, having possession or control of any property of a decedent, or property standing in the name of a decedent and one or more persons as joint tenants or tenants by the entirety, shall deliver, transfer, or pay the property to the executors, administrators, or legal representatives of the decedent, or to the surviving joint tenants or tenant by the entirety, or to any other person, or upon the order or request of any of the foregoing, without retaining a sufficient portion or amount thereof to pay any tax and the interest thereon which may thereafter be assessed or become due on account of the property, unless the director of taxation consents thereto in writing; provided that, where the property consists of or includes jointly held savings or commercial checking accounts, such safe deposit company, trust company, bank, corporation, or other institution, partnership, or person may release up to fifty per cent of such jointly held savings or commercial checking accounts without the consent of the director of taxation upon notification to the director, in writing, stating the name of the decedent, the name of the surviving joint tenant or tenants or tenant by the entirety, to whom, or at whose order, the delivery, transfer, or payment was made, the date of same, and the amount of the delivery, transfer, or payment. When the decedent was at the time of his death a resident of the State, and the delivery, transfer, or payment is made to, or at the order of, the executor, administrator, or other legal representative of the decedent, and does not consist of the contents of a safe deposit box, or of property standing in the name of the decedent and one or more persons as joint tenants or tenants by the entirety, it shall not be necessary to so retain assets for the payment of taxes and interest, or to obtain the consent of the director, if the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, immediately upon the delivery, transfer, or payment, notifies the director thereof in writing, stating the name of the decedent, the name of the executor, administrator, or other legal representative of the decedent, to whom, or at whose order, the delivery, transfer, or payment was made, the date of same, and a description of the property. The word 'property' as used in this section means property of every kind and nature, including shares of the capital stock of, or other interests in, or claims against, the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, making the delivery, transfer, or payment.

The director, personally or by representative, may examine the property which is about to be or has been delivered, transferred, or paid. Failure to allow such examination or failure to conform to this section shall render the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, liable to a payment of twice the amount of the tax and interest due or thereafter to become due upon the property delivered, transferred, or paid in violation hereof, and the liability shall be enforced in an action brought in accordance with section 236-38."

SECTION 6. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

* Edited accordingly.

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SECTION 7. This Act shall take effect upon its approval.

(Approved March 23, 1971.)