

**ACT 42**

S.B. NO. 1601-74

A Bill for an Act Relating to the Hawaii Income Tax Law.

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

SECTION 1. The purpose of this Act is to broaden the definition of a “person totally disabled” as found in Section 235-1, Hawaii Revised Statutes, so that taxpayers afflicted with painful and disabling, but not totally disabling illness or sicknesses can qualify for income tax exemptions. The present law is very specific in its definition of a “person totally disabled” and makes no allowances for persons afflicted with such conditions as arthritis, rheumatism, heart ailments, emphysema and the like.

SECTION 2. Section 235-1, Hawaii Revised Statutes, is amended to read:

**“Sec. 235-1 Definitions.** ‘Blind’ means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. The impairment of sight shall be certified to by the state department of health or by any state, county, or city and county medical officer duly authorized by the state department of health for this purpose, on the basis of a written report on an examination performed by a qualified ophthalmologist or qualified optometrist duly authorized by the state department of health.

‘Corporation’ means the same as in the Internal Revenue Code. A ‘domestic corporation’ is one organized under the laws of the State. A ‘foreign corporation’ is any other corporation.

‘Deaf’ means a person whose average loss in the speech frequencies (500-2000 Hertz) in the better ear is 82 decibels, A.S.A., or worse. The impairment of deafness shall be certified to by the department of health or by any state, county, or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified otolaryngologist duly authorized by the department of health.

‘Dividend’ means any distribution by a corporation to its shareholders or holders of an interest therein which is treated as a dividend by the Internal Revenue Code.

‘Fiduciary’ means the same as in the Internal Revenue Code.

‘Fiscal year’ means the same as in the Internal Revenue Code.

‘Individual’ means a person other than a trust, estate, partnership, or corporation, as defined.

‘Gross income,’ ‘adjusted gross income,’ and ‘taxable income’ respectively mean the same as gross income, adjusted gross income, and taxable income as defined and determined under the Internal Revenue Code, except as otherwise provided in this chapter.

‘Head of household’ means any individual who qualifies as a head of household under the Internal Revenue Code.

‘Income tax law of 1901’ means the income tax law enacted by Act 20 of the Session Laws of 1901 as it read from time to time prior to the enactment of the income tax law of 1932.

‘Income tax law of 1932’ means the income tax law enacted by Act 44 of the Second Special Session Laws of 1932, as it read from time to time prior to the enactment of the income tax law of 1957.

‘Income tax law of 1957’ means the income tax law enacted by the Twenty-Ninth Legislature, as it reads from time to time.

‘Includes’ and ‘including’ when used in a definition shall not be deemed to exclude other things otherwise within the meaning of the term defined.

‘Person totally disabled’ means a person who is: totally and permanently disabled, either physically or mentally, which results in the person’s

inability to engage in any substantial gainful business or occupation.

The disability shall be certified to by the department of health or by any state, county or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified physician duly authorized by the department of health.

'Nonresident' means every individual other than a resident.

'Nonresident estate' or 'nonresident trust' means one other than resident.

'Partnership' has the meaning explained in section 235-60.

'Person' includes an individual, a trust, estate, partnership, association, company, or corporation.

'Regulated investment company' means a corporation which qualifies as such under sections 851 and 852 of the Internal Revenue Code.

'Resident' means (1) every individual domiciled in the State, and (2) every other individual whether domiciled in the State or not, who resides in the State. To 'reside' in the State means to be in the State for other than a temporary or transitory purpose. Every individual who is in the State more than two hundred days of the taxable year in the aggregate shall be presumed to be a resident of the State. This presumption may be overcome by evidence satisfactory to the department of taxation that the individual maintains a permanent place of abode outside of the State and is in the State for a temporary or transitory purpose. No person shall be deemed to have gained or lost a residence simply because of his presence or absence in compliance with military or naval orders of the United States, or while engaged in aviation or navigation, or while a student at any institution of learning.

'Resident estate' means an estate of a resident decedent the fiduciary of which was appointed by a court of this State and the administration of which is carried on in this State, and 'resident trust' means a trust of which the fiduciary is a resident of the State or the administration of which is carried on in the State.

'Taxable year' means the calendar year or the fiscal year ending during such calendar year upon the basis of which income is computed under this chapter. 'Taxable year' includes, in the case of a return made for a fractional part of a year under this chapter or under regulations prescribed by the department of taxation, the period for which such return is made, and in cases where the department terminates the taxable year in accordance with section 231-24 and levies a jeopardy assessment on income for such portion or period of a year under section 235-109, then the period or portion of the year for which the jeopardy assessment is made.

'Taxpayer' means a person subject to a tax imposed by this chapter.

'Trade or business' includes the performance of the functions of a public office.

'Uniformed services of the United States' means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term 'uniformed services of the United States'

applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training. †

SECTION 3. 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.\*

SECTION 4. This Act shall take effect for taxable years beginning on or after January 1, 1975.

(Approved May 24, 1974.)

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\*Edited accordingly.