

ACT 248

H.B. NO. 1807-84

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 236D-2, Hawaii Revised Statutes, is amended to read:

“~~[]~~§236D-2~~[]~~ Definitions. As used in this chapter:

“Decedent” means a deceased individual[;].

“Department” means the department of taxation[;].

“Federal credit” means the maximum amount of the credit for estate death taxes allowed by section 2011 for the decedent’s adjusted taxable estate[;].

“Gross estate” means gross estate as defined and used in sections 2031 to 2045 of the federal Internal Revenue Code of 1954, as amended or renumbered[;].

“Nonresident” means a decedent who was not domiciled in Hawaii at time of death[;].

“Person” means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof[;].

“Personal representative” means the personal representative of a decedent appointed under chapter 560, and includes an executor (as defined under section 2203 of the federal Internal Revenue Code of 1954), administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status[;].

“Property” means property included in the gross estate[;].

“Release” means a document issued by the department which certifies that all taxes have either been paid or which releases the estate from all taxes due under this chapter[;].

“Resident” means a decedent who was domiciled in Hawaii at time of death[;].

“Section 2011” means section 2011 of the federal Internal Revenue Code of 1954, as amended or renumbered[; and].

“Taxable estate” means taxable estate as defined in sections 2051 to 2056 of the federal Internal Revenue Code of 1954, as amended or renumbered[;].

“Transfer” means transfer as defined and used in section 2001 of the federal Internal Revenue Code of 1954, as amended or renumbered.”

SECTION 2. Section 236D-12, Hawaii Revised Statutes, is amended to read:

“[[]§236D-12[]] **Liability for failure to pay tax before distribution or delivery.** (a) Any personal representative who distributes any property without first paying, securing another’s payment of, or furnishing security for payment of the taxes due under this chapter is personally liable for the taxes due to the extent of the value of any property that may come or may have come into the possession of the personal representative. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property that is or has come into the possession of the personal representative, as of the time the security is furnished.

(b) Any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside Hawaii without first paying, securing another’s payment of, or furnishing security for payment of the taxes due under this chapter is liable for the taxes due under this chapter to the extent of the value of the property delivered. Security for payment of the taxes due under this

chapter shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside Hawaii by such a person.

(c) For the purpose of this section, persons [who] do not have control, custody, or possession of a decedent's property [include anyone,if they are not [primarily] responsible for paying the tax due under this section [or their], such as transferees, which term includes but is not limited to [mortgagees or pledgees,] stockbrokers or stock transfer agents, banks, and other depositories of checking and savings accounts, safe-deposit companies, and life insurance companies.

(d) For the purposes of this section, any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent may rely upon the release furnished by the department to the personal representative as evidence of compliance with the requirements of this chapter, and make such deliveries and transfers as the personal representative may direct without being liable for any taxes due under this chapter.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after June 30, 1983.

(Approved June 4, 1984.)