

## ACT 102

H.B. NO. 3512

A Bill for an Act Relating to Income Taxation.

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

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, [1986,] 1987, as used in this chapter “Internal Revenue Code” means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, [1986,] 1987, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter, this section, and sections 235-2.4 and 235-2.5 do not apply or are otherwise limited in application; provided that section 1202 (with respect to deductions for capital gains) of the Internal Revenue Code of 1954 as amended as of December 31, 1986, shall be operative for the purposes of this chapter until March 31, 1987, and shall apply to any capital gains properly taken before April 1, 1987, except that the deduction provided in section 1202(a) shall be [55] fifty-five per cent of the net capital gain.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.”

SECTION 2. Section 235-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle A, chapter 1 or 6, of the Internal Revenue Code operative in this chapter and any administrative provisions of the Internal Revenue Code (subtitle F, sections 6001 to [7852]) 7872 not in conflict with or similar to provisions contained in this chapter or chapter 231 or 232 either by reference or by setting them forth in full.”

SECTION 3. Section 235-51, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If a taxpayer has a net capital gain for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of:

- (1) The tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of:
  - (A) The taxable income reduced by the amount of net capital gain,  
or
  - (B) The amount of taxable income taxed at a rate below 7.25 per cent,  
plus
- (2) A tax of 7.25 per cent of the amount of taxable income in excess of the amount determined under paragraph (1)(A).

This subsection shall apply to individuals, estates, and trusts for taxable years beginning after December 31, 1986.”

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SECTION 4. Section 235-55.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Definitions of qualifying individual and employment-related expenses. For purposes of this section:

- (1) Qualifying individual. The term “qualifying individual” means:
  - (A) A dependent of the taxpayer who is under the age of fifteen and with respect to whom the taxpayer is entitled to a deduction under section 235-54(a),
  - (B) A dependent of the taxpayer who is physically or mentally incapable of caring for oneself, or
  - (C) The spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for oneself.
- (2) Employment-related expenses.
  - (A) In general. The term “employment-related expenses” means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:
    - (i) Expenses for household services, and
    - (ii) Expenses for the care of a qualifying individual.Such term shall not include any amount paid for services outside the taxpayer’s household at a camp where the qualifying individual stays overnight.
  - (B) Exception. Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer’s household shall be taken into account only if incurred for the care of:
    - (i) A qualifying individual described in paragraph (1)(A), or
    - (ii) A qualifying individual (not described in paragraph (1)(A)) who regularly spends at least eight hours each day in the taxpayer’s household.
  - (C) Dependent care centers. Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer’s household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if:
    - (i) Such center complies with all applicable laws, rules, and regulations of this State, and
    - (ii) The requirements of subparagraph (B) are met.
  - (D) Dependent care center defined. For purposes of this paragraph, the term “dependent care center” means any facility which:
    - (i) Provides care for more than six individuals (other than individuals who reside at the facility), and
    - (ii) Receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit).”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1987.

(Approved May 24, 1988.)