

ACT 49

S.B. NO. 2404

A Bill for an Act Relating to Income Taxation.

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

SECTION 1. Section 235-5.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For purposes of this section, the term “individual housing account” means a trust created or organized in Hawaii for the exclusive benefit of an individual, or, in the case of a married individual, for the exclusive benefit of the individual and spouse jointly, but only if the written governing instrument creating the trust meets the following requirements:

- (1) Contributions shall not be accepted for the taxable year in excess of \$5,000 (or \$10,000 in the case of a joint return) or in excess of \$25,000 for all taxable years, exclusive of interest paid or accrued;
- (2) The trustee is a bank, a savings and loan association, [or] a credit union, or a depository financial services loan company, chartered, licensed, or supervised under federal or state law, whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or any agency of this State or

- any federal agency established for the purpose of insuring accounts in these financial institutions. The financial institution must actively make residential real estate mortgage loans in Hawaii;
- (3) The assets of the trust shall be invested only in fully insured savings or time deposits. Funds held in the trust may be commingled for purposes of investment, but individual records shall be maintained by the trustee for each individual housing account holder which show all transactions in detail;
 - (4) The entire interest of an individual or married couple for whose benefit the trust is maintained shall be distributed to the individual or couple not later than one hundred twenty months after the date on which the first contribution is made to the trust;
 - (5) Except as provided in subsection (g), the trustee shall not distribute the funds in the account unless it (A) verifies that the money is to be used for the purchase of a first principal residence located in Hawaii, and provides that the instrument of payment is payable to the mortgagor, construction contractor, or other vendor of the property purchased; or (B) withholds an amount equal to ten per cent of the amount withdrawn from the account and remits this amount to the director within ten days after the date of the withdrawal. The amount so withheld shall be applied to the liability of the taxpayer under subsections (c) and (e); and
 - (6) If any amounts are distributed before the expiration of three hundred sixty-five days from the date on which a contribution is made to the account, the trustee shall so notify in writing the taxpayer and the director. If the trustee makes the verification required in paragraph (5)(A), then the department shall disallow the deduction under subsection (a) and subsections (c), (e), and (f) shall not apply to that amount. If the trustee withholds an amount under paragraph (5)(B), then the department shall disallow the deduction under subsection (a) and subsection (e) shall apply, but subsection (c) shall not apply.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1994.)