

ACT 110

H.B. NO. 957

A Bill for an Act Relating to Taxation.

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

SECTION 1. Hawaii's resurging economy and the positive economic trend forecast for both Hawaii and the nation has resulted in a substantial budget surplus, providing lawmakers the chance to offer tax relief after years of budget constraints.

In its most recent report, the tax review commission stated that the state income tax brackets are so compressed that people on public assistance pay income taxes, while the highest rate for married taxpayers filing jointly begins when their taxable income reaches just over \$80,000. Today, the median income of a family of four in Hawaii, with both parents working, is approximately \$70,000. This means that if this hypothetical middle class family earned only \$900 more each month, they would be taxed in the same bracket as a family with an annual income of \$900,000.

The legislature finds that the current Hawaii income taxation tables actually impose a financial penalty on most middle class families in Hawaii. Comparisons with the average income in other states are meaningless when the cost of housing, food and clothing, education, and transportation are factored in. In reality, a \$70,000 family income in Hawaii buys much less than a \$70,000 family income in most other cities in the United States. Hawaii's income tax brackets need to reflect this reality.

The purpose of this Act is to provide tax relief for Hawaii's residents by:

- (1) Increasing the standard income tax deduction for individuals filing single or joint returns or as a surviving spouse or head of household;
- (2) Expanding the state income tax brackets; and
- (3) Creating a tax credit for those affected by the flooding of the Manoa Stream in 2004 on Oahu, and the flooding in all counties in 2006 caused by the record rainstorms between February 20 and April 9.

These amendments will bring residents more in line with the economic realities of the high cost of living in Hawaii, bring long-term tax relief to low- and middle-income families, and provide a measure of relief to those facing losses due to unforeseen natural forces.

SECTION 2. Section 235-2.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that the standard deduction amount in section 63(c) of the Internal Revenue Code shall instead mean:

- (1) ~~[\$1,900]~~ \$4,000 in the case of:
 - (A) A joint return as provided by section 235-93; or
 - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code);
- (2) ~~[\$1,650]~~ \$2,920 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code);
- (3) ~~[\$1,500]~~ \$2,000 in the case of an individual who is not married and who is not a surviving spouse or head of household; or
- (4) ~~[\$950]~~ 2,000 in the case of a married individual filing a separate return.

Section 63(c)(4) shall not be operative in this State. Section 63(c)(5) shall be operative, except that the limitation on basic standard deduction in the case of certain dependents shall be the greater of \$500 or such individual's earned income. Section 63(f) shall not be operative in this State.

The standard deduction amount for nonresidents shall be calculated pursuant to section 235-5.”

SECTION 3. Section 235-51, Hawaii Revised Statutes, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

“(a) There is hereby imposed on the taxable income of (1) every taxpayer who files a joint return under section 235-93; and (2) every surviving spouse a tax determined in accordance with the following table:

~~[In the case of any taxable year beginning after December 31, 1998:~~

If the taxable income is:	The tax shall be:
Not over \$4,000	1.60% of taxable income
Over \$4,000 but not over \$8,000	\$64.00 plus 3.90% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$220.00 plus 6.80% of excess over \$8,000

Over \$16,000 but not over \$24,000	\$764.00 plus 7.20% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,340.00 plus 7.50% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,940.00 plus 7.80% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,564.00 plus 8.20% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$4,204.00 plus 8.50% of excess over \$60,000
Over \$80,000	\$5,904.00 plus 8.75% of excess over \$80,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.50% of taxable income
Over \$4,000 but not over \$8,000	\$60.00 plus 3.70% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$208.00 plus 6.40% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$720.00 plus 6.90% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,272.00 plus 7.30% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,856.00 plus 7.60% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,464.00 plus 7.90% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$4,044.00 plus 8.20% of excess over \$60,000
Over \$80,000	\$5,684.00 plus 8.50% of excess over \$80,000]

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,680.00 plus 7.20% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,256.00 plus 7.60% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$3,776.00 plus 7.90% of excess over \$60,000
Over \$80,000	\$5,356.00 plus 8.25% of excess over \$80,000.

In the case of any taxable year beginning after December 31, 2006:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$4,800</u>	<u>1.40% of taxable income</u>

<u>Over \$4,800 but not over \$9,600</u>	<u>\$67.00 plus 3.20% of excess over \$4,800</u>
<u>Over \$9,600 but not over \$19,200</u>	<u>\$221.00 plus 5.50% of excess over \$9,600</u>
<u>Over \$19,200 but not over \$28,800</u>	<u>\$749.00 plus 6.40% of excess over \$19,200</u>
<u>Over \$28,800 but not over \$38,400</u>	<u>\$1,363.00 plus 6.80% of excess over \$28,800</u>
<u>Over \$38,400 but not over \$48,000</u>	<u>\$2,016.00 plus 7.20% of excess over \$38,400</u>
<u>Over \$48,000 but not over \$72,000</u>	<u>\$2,707.00 plus 7.60% of excess over \$48,000</u>
<u>Over \$72,000 but not over \$96,000</u>	<u>\$4,531.00 plus 7.90% of excess over \$72,000</u>
<u>Over \$96,000</u>	<u>\$6,427.00 plus 8.25% of excess over \$96,000</u>

(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

[In the case of any taxable year beginning after December 31, 1998:

If the taxable income is:	The tax shall be:
Not over \$3,000	1.60% of taxable income
Over \$3,000 but not over \$6,000	\$48.00 plus 3.90% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$165.00 plus 6.80% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$573.00 plus 7.20% of excess over \$12,000
Over \$18,000 but not over \$24,000	\$1,005.00 plus 7.50% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,455.00 plus 7.80% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,923.00 plus 8.20% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$3,153.00 plus 8.50% of excess over \$45,000
Over \$60,000	\$4,428.00 plus 8.75% of excess over \$60,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$3,000	1.50% of taxable income
Over \$3,000 but not over \$6,000	\$45.00 plus 3.70% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$156.00 plus 6.40% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$540.00 plus 6.90% of excess over \$12,000
Over \$18,000 but not over \$24,000	\$954.00 plus 7.30% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,392.00 plus 7.60% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,848.00 plus 7.90% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$3,033.00 plus 8.20% of excess over \$45,000

Over \$60,000	\$4,263.00 plus 8.50% of excess over \$60,000]
In the case of any taxable year beginning after December 31, 2001:	
If the taxable income is:	The tax shall be:
Not over \$3,000	1.40% of taxable income
Over \$3,000 but not over \$6,000	\$42.00 plus 3.20% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$138.00 plus 5.50% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$468.00 plus 6.40% of excess over \$12,000
Over \$21,600 ¹ but not over \$24,000	\$852.00 plus 6.80% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,260.00 plus 7.20% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,692.00 plus 7.60% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$2,832.00 plus 7.90% of excess over \$45,000
Over \$60,000	\$4,017.00 plus 8.25% of excess over \$60,000.

In the case of any taxable year beginning after December 31, 2006:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$3,600</u>	<u>1.40% of taxable income</u>
<u>Over \$3,600 but not over \$7,200</u>	<u>\$50.00 plus 3.20% of excess over \$3,600</u>
<u>Over \$7,200 but not over \$14,400</u>	<u>\$166.00 plus 5.50% of excess over \$7,200</u>
<u>Over \$14,400 but not over \$21,600</u>	<u>\$562.00 plus 6.40% of excess over \$14,400</u>
<u>Over \$21,600 but not over \$28,800</u>	<u>\$1,022.00 plus 6.80% of excess over \$21,600</u>
<u>Over \$28,800 but not over \$36,000</u>	<u>\$1,512.00 plus 7.20% of excess over \$28,000</u>
<u>Over \$36,000 but not over \$54,000</u>	<u>\$2,030.00 plus 7.60% of excess over \$36,000</u>
<u>Over \$54,000 but not over \$72,000</u>	<u>\$3,398.00 plus 7.90% of excess over \$54,000</u>
<u>Over \$72,000</u>	<u>\$4,820.00 plus 8.25% of excess over \$72,000.</u>

(c) There is hereby imposed on the taxable income of (1) every unmarried individual (other than a surviving spouse, or the head of a household) and (2) on the taxable income of every married individual who does not make a single return jointly with the individual's spouse under section 235-93 a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 1998:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$2,000</u>	<u>1.60% of taxable income</u>
<u>Over \$2,000 but not over \$4,000</u>	<u>\$32.00 plus 3.90% of excess over \$2,000</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$110.00 plus 6.80% of excess over \$4,000</u>
<u>Over \$8,000 but not over \$12,000</u>	<u>\$382.00 plus 7.20% of excess over \$8,000</u>

Over \$12,000 but not over \$16,000	\$670.00 plus 7.50% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$970.00 plus 7.80% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,282.00 plus 8.20% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$2,102.00 plus 8.50% of excess over \$30,000
Over \$40,000	\$2,952.00 plus 8.75% of excess over \$40,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.50% of taxable income
Over \$2,000 but not over \$4,000	\$30.00 plus 3.70% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$104.00 plus 6.40% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$360.00 plus 6.90% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$636.00 plus 7.30% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$928.00 plus 7.60% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,232.00 plus 7.90% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$2,022.00 plus 8.20% of excess over \$30,000
Over \$40,000	\$2,842.00 plus 8.50% of excess over \$40,000]

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.40% of taxable income
Over \$2,000 but not over \$4,000	\$28.00 plus 3.20% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$92.00 plus 5.50% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$312.00 plus 6.40% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$568.00 plus 6.80% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$840.00 plus 7.20% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,128.00 plus 7.60% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$1,888.00 plus 7.90% of excess over \$30,000
Over \$40,000	\$2,678.00 plus 8.25% of excess over \$40,000.

In the case of any taxable year beginning after December 31, 2006:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$2,400</u>	<u>1.40% of taxable income</u>
<u>Over \$2,400 but not over \$4,800</u>	<u>\$34.00 plus 3.20% of excess over \$2,400</u>

<u>Over \$4,800 but not over \$9,600</u>	<u>\$110.00 plus 5.50% of excess over \$4,800</u>
<u>Over \$9,600 but not over \$14,400</u>	<u>\$374.00 plus 6.40% of excess over \$9,600</u>
<u>Over \$14,400 but not over \$19,200</u>	<u>\$682.00 plus 6.80% of excess over \$14,400</u>
<u>Over \$19,200 but not over \$24,000</u>	<u>\$1,008.00 plus 7.20% of excess over \$19,200</u>
<u>Over \$24,000 but not over \$36,000</u>	<u>\$1,354.00 plus 7.60% of excess over \$24,000</u>
<u>Over \$36,000 but not over \$48,000</u>	<u>\$2,266.00 plus 7.90% of excess over \$36,000</u>
<u>Over \$48,000</u>	<u>\$3,214.00 plus 8.25% of excess over \$48,000</u>

(d) The tax imposed by section 235-2.45 on estates and trusts shall be determined in accordance with the following table:

~~In the case of any taxable year beginning after December 31, 1998:~~

If the taxable income is:	The tax shall be:
Not over \$2,000	1.60% of taxable income
Over \$2,000 but not over \$4,000	\$32.00 plus 3.90% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$110.00 plus 6.80% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$382.00 plus 7.20% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$670.00 plus 7.50% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$970.00 plus 7.80% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,282.00 plus 8.20% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$2,102.00 plus 8.50% of excess over \$30,000
Over \$40,000	\$2,952.00 plus 8.75% of excess over \$40,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.50% of taxable income
Over \$2,000 but not over \$4,000	\$30.00 plus 3.70% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$104.00 plus 6.40% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$360.00 plus 6.90% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$636.00 plus 7.30% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$928.00 plus 7.60% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,232.00 plus 7.90% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$2,022.00 plus 8.20% of excess over \$30,000
Over \$40,000	\$2,842.00 plus 8.50% of excess over \$40,000]

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.40% of taxable income
Over \$2,000 but not over \$4,000	\$28.00 plus 3.20% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$92.00 plus 5.50% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$312.00 plus 6.40% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$568.00 plus 6.80% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$840.00 plus 7.20% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,128.00 plus 7.60% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$1,888.00 plus 7.90% of excess over \$30,000
Over \$40,000	\$2,678.00 plus 8.25% of excess over \$40,000.”

SECTION 4. (a) There shall be allowed to each taxpayer who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, who files a net income tax return for a taxable year, a one-time nonrefundable flood victim tax credit, except as otherwise provided in this Act. The tax credit shall be deductible from the taxpayer’s net income tax liability imposed by chapter 235.

(b) The amount of the tax credit shall be ten per cent of the amount expended by the taxpayer for costs directly related to the damage directly caused by heavy rain and flooding occurring on the dates specified in subsection (c) to the taxpayer’s real or personal property; provided that:

- (1) The expenses or costs are not reimbursable by insurance proceeds or disaster relief payments from government agencies or non-profit organizations;
- (2) The tax credit shall not exceed \$10,000 per taxpayer; and
- (3) No refund as provided in subsection (f) or payment on account of the tax credit allowed by this Act shall be made for amounts less than \$1.

(c) The tax credit shall apply to a taxpayer who suffered damage to the taxpayer’s real or personal property that is situated in the State, having occurred:

- (1) On October 30 of 2004 in Manoa, Oahu; or
- (2) During February 20 to April 9 of 2006 in Kauai, Hawaii, Maui and Honolulu counties.

(d) To qualify for the income tax credit, the taxpayer shall certify to the department of taxation that the taxpayer is in compliance with all applicable federal, state, and county statutes, rules, and regulations.

(e) To qualify for the income tax credit, the taxpayer shall sign a statement and provide information determined by the department of taxation as necessary to claim the credit under penalties of perjury.

(f) If the tax credit under this section exceeds the taxpayer’s net income tax liability, any excess of the tax credit may be used as a credit against the taxpayer’s income tax liability for the taxable year the credit is claimed; provided that tax credits properly claimed by a taxpayer shall be refunded to the taxpayer after being credited against the taxpayer’s income tax liability for the taxable year, if the taxpayer qualifies under one of the following tests:

(1) All of the taxpayer's income is exempt from taxation under section 235-7(a)(2) or section 235-7(a)(3); or

(2) The taxpayer's adjusted gross income is \$20,000 or less.

(g) In the case of a partnership, S corporation, estate, trust, or association of apartment owners, the tax credit allowable is for expenses incurred and paid for by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level.

(h) If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code of 1986, as amended, no tax credit shall be allowed for that portion of the expenses for which the deduction is taken.

The basis of property shall not be increased by any amount for which the credit is allowable and claimed. In the alternative, the taxpayer shall treat the amount of the credit allowable and claimed as a taxable income item for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income.

(i) No taxpayer who claims the tax credit under this section shall claim any other credit or deduction for the same losses or other expenses or costs.

(j) Every claim, including amended claims, for the tax credit under this section shall be filed on or before December 31, 2007. Failure to meet the filing requirements of this subsection shall constitute a waiver of the right to claim the tax credit.

(k) If at any time after claiming the tax credit, the taxpayer no longer qualifies for the credit because of subsequent recovery for expenses utilized to calculate the credit, the credits claimed shall be recaptured. The recapture shall be equal to one hundred per cent of the tax credits that were subsequently ineligible as a result of later recovery. The amount of the recaptured tax credits shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs.

(l) In the case of fraud, making of a false statement, or willful disregard for the facts, associated with making a return or otherwise claiming the tax credit, there shall be added to the amount wrongfully claimed on a return a penalty of 50 per cent of the amount of such credit claimed.

(m) The director of taxation shall prepare any forms as may be necessary to claim a tax credit under this section, may require proof of the claim for the tax credit, and may adopt rules without regard to chapter 91 to effectuate the purposes of this section.

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

SECTION 6. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2006; provided that section 4 shall apply to taxable years beginning after December 31, 2003, and ending before January 1, 2007.

(Approved May 19, 2006.)

Note

1. Prior to amendment "\$18,000" appeared here.