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# A BILL FOR AN ACT

RELATING TO TAXATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 235-2.4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§235-2.4 Operation of certain Internal Revenue Code**  
4 **provisions; sections 63 to 530.** (a) Section 63 (with respect  
5 to taxable income defined) of the Internal Revenue Code shall be  
6 operative for the purposes of this chapter, except that the  
7 standard deduction amount in section 63(c) of the Internal  
8 Revenue Code shall instead mean:

9           (1) \$4,000 in the case of:

10           (A) A joint return as provided by section 235-93; or

11           (B) A surviving spouse (as defined in section 2(a) of  
12 the Internal Revenue Code);

13           (2) \$2,920 in the case of a head of household (as defined  
14 in section 2(b) of the Internal Revenue Code);

15           (3) \$2,000 in the case of an individual who is not married  
16 and who is not a surviving spouse or head of  
17 household; or

1 (4) \$2,000 in the case of a married individual filing a  
2 separate return.

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

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

11 (b) Section 72 (with respect to annuities; certain  
12 proceeds of endowment and life insurance contracts) of the  
13 Internal Revenue Code shall be operative for purposes of this  
14 chapter and be interpreted with due regard to section 235-7(a),  
15 except that the ten per cent additional tax on early  
16 distributions from retirement plans in section 72(t) shall not  
17 be operative for purposes of this chapter.

18 (c) Section 121 (with respect to exclusion of gain from  
19 sale of principal residence) of the Internal Revenue Code shall  
20 be operative for purposes of this chapter, except that for the  
21 election under section 121(f), a reference to section 1034

1 treatment means a reference to section 235-2.4(n) in effect for  
2 taxable year 1997.

3 (d) Section 163 (with respect to interest) of the Internal  
4 Revenue Code shall be operative for the purposes of this  
5 chapter, except that provisions in section 163(d) (4) (B)  
6 (defining net investment income to exclude dividends) shall not  
7 be operative for the purposes of this chapter.

8 (e) Section 165 (with respect to losses) of the Internal  
9 Revenue Code shall be operative for purposes of this chapter.  
10 Section 165 as operative for this chapter shall also apply to  
11 losses sustained from the sale of stocks or other interests  
12 issued through the exercise of the stock options or warrants  
13 granted by a qualified high technology business as defined in  
14 section 235-7.3.

15 (f) Section 168 (with respect to the accelerated cost  
16 recovery system) of the Internal Revenue Code shall be operative  
17 for purposes of this chapter, except that provisions relating to  
18 property on Indian reservations in section 168(j) and special  
19 allowance for certain property acquired after September 10,  
20 2001, and before January 1, 2005 (including the extension of the  
21 qualifying aircraft placed in service before January 1, 2006),

1 in section 168(k) shall not be operative for purposes of this  
2 chapter.

3 (g) Section 179 (with respect to the election to expense  
4 certain depreciable business assets) of the Internal Revenue  
5 Code shall be operative for purposes of this chapter, except  
6 that provisions relating to:

7 (1) The increase of the maximum deduction to \$100,000 for  
8 taxable years beginning after 2002 and before 2008,  
9 and the increase of the maximum deduction to \$125,000  
10 for taxable years beginning after 2006 and before  
11 2011, in section 179(b)(1);

12 (2) The increase of the qualifying investment amount to  
13 \$400,000 for taxable years beginning after 2002 and  
14 before 2008, and the increase of the qualifying  
15 investment amount to \$500,000 for taxable years  
16 beginning after 2006 and before 2011, in section  
17 179(b)(2);

18 (3) Defining section 179 property to include computer  
19 software in section 179(d)(1);

20 (4) Inflation adjustments in section 179(b)(5); and

21 (5) Irrevocable election in section 179(c)(2);

22 shall not be operative for the purposes of this chapter.

1 (h) Section 219 (with respect to retirement savings) of  
2 the Internal Revenue Code shall be operative for the purpose of  
3 this chapter. For the purpose of computing the limitation on  
4 the deduction for active participants in certain pension plans  
5 for state income tax purposes, adjusted gross income as used in  
6 section 219 as operative for this chapter means federal adjusted  
7 gross income.

8 (i) Section 220 (with respect to medical savings accounts)  
9 of the Internal Revenue Code shall be operative for the purpose  
10 of this chapter, but only with respect to medical services  
11 accounts that have been approved by the Secretary of the  
12 Treasury of the United States.

13 (j) Section 265 (with respect to expenses and interest  
14 relating to tax-exempt income) of the Internal Revenue Code  
15 shall be operative for purposes of this chapter; except that it  
16 shall not apply to expenses for royalties and other income  
17 derived from any patents, copyrights, and trade secrets by an  
18 individual or a qualified high technology business as defined in  
19 section 235-7.3. Such expenses shall be deductible.

20 (k) Section 408A (with respect to Roth Individual  
21 Retirement Accounts) of the Internal Revenue Code shall be  
22 operative for the purposes of this chapter. For the purposes of

1 determining the aggregate amount of contributions to a Roth  
2 Individual Retirement Account or qualified rollover contribution  
3 to a Roth Individual Retirement Account from an individual  
4 retirement plan other than a Roth Individual Retirement Account,  
5 adjusted gross income as used in section 408A as operative for  
6 this chapter means federal adjusted gross income.

7 (1) In administering the provisions of sections 410 to 417  
8 (with respect to special rules relating to pensions, profit  
9 sharing, stock bonus plans, etc.), sections 418 to 418E (with  
10 respect to special rules for multiemployer plans), and sections  
11 419 and 419A (with respect to treatment of welfare benefit  
12 funds) of the Internal Revenue Code, the department of taxation  
13 shall adopt rules under chapter 91 relating to the specific  
14 requirements under such sections and to such other  
15 administrative requirements under those sections as may be  
16 necessary for the efficient administration of sections 410 to  
17 419A.

18 In administering sections 401 to 419A (with respect to  
19 deferred compensation) of the Internal Revenue Code, Public Law  
20 93-406, section 1017(i), shall be operative for the purposes of  
21 this chapter.

1 In administering section 402 (with respect to the  
2 taxability of beneficiary of employees' trust) of the Internal  
3 Revenue Code, the tax imposed on lump sum distributions by  
4 section 402(e) of the Internal Revenue Code shall be operative  
5 for the purposes of this chapter and the tax imposed therein is  
6 hereby imposed by this chapter at the rate determined under this  
7 chapter.

8 (m) In administering section 403 (with respect to taxation  
9 of employee annuities) of the Internal Revenue Code, section  
10 403(b) (8) (A) (ii) shall not be operative for the purposes of this  
11 chapter when funds are used solely to obtain retirement credits  
12 under the state employee retirement system.

13 (n) In administering section 457 (with respect to  
14 compensation plans of state and local governments and tax-exempt  
15 organizations) of the Internal Revenue Code, section  
16 457(e) (16) (A) (ii) shall not be operative for the purposes of  
17 this chapter when funds are used solely to obtain retirement  
18 credits under the state employee retirement system.

19 [~~m~~] (o) Section 468B (with respect to special rules for  
20 designated settlement funds) of the Internal Revenue Code shall  
21 be operative for the purposes of this chapter and the tax  
22 imposed therein is hereby imposed by this chapter at a rate

1 equal to the maximum rate in effect for the taxable year imposed  
2 on estates and trusts under section 235-51.

3       ~~(n)~~ (p) Section 469 (with respect to passive activities  
4 and credits limited) of the Internal Revenue Code shall be  
5 operative for the purposes of this chapter. For the purpose of  
6 computing the offset for rental real estate activities for state  
7 income tax purposes, adjusted gross income as used in section  
8 469 as operative for this chapter means federal adjusted gross  
9 income.

10       ~~(o)~~ (q) Sections 512 to 514 (with respect to taxation of  
11 business income of certain exempt organizations) of the Internal  
12 Revenue Code shall be operative for the purposes of this chapter  
13 as provided in this subsection.

14       "Unrelated business taxable income" means the same as in  
15 the Internal Revenue Code, except that in the computation  
16 thereof sections 235-3 to 235-5, and 235-7 (except subsection  
17 (c)), shall apply, and in the determination of the net operating  
18 loss deduction there shall not be taken into account any amount  
19 of income or deduction that is excluded in computing the  
20 unrelated business taxable income. Unrelated business taxable  
21 income shall not include any income from a prepaid legal service  
22 plan.

1 For a person described in section 401 or 501 of the  
2 Internal Revenue Code, as modified by section 235-2.3, the tax  
3 imposed by section 235-51 or 235-71 shall be imposed upon the  
4 person's unrelated business taxable income.

5 [~~(p)~~] (r) Section 521 (with respect to cooperatives) and  
6 subchapter T (sections 1381 to 1388, with respect to  
7 cooperatives and their patrons) of the Internal Revenue Code  
8 shall be operative for the purposes of this chapter as to any  
9 cooperative fully meeting the requirements of section 421-23,  
10 except that Internal Revenue Code section 521 cooperatives need  
11 not be organized in Hawaii.

12 [~~(q)~~] (s) Sections 527 (with respect to political  
13 organizations) and 528 (with respect to certain homeowners  
14 associations) of the Internal Revenue Code shall be operative  
15 for the purposes of this chapter and the taxes imposed in each  
16 such section are hereby imposed by this chapter at the rates  
17 determined under section 235-71.

18 [~~(r)~~] (t) Section 529 (with respect to qualified tuition  
19 programs) shall be operative for the purposes of this chapter,  
20 except that section 529(c)(6) shall not be operative.

21 [~~(s)~~] (u) Section 530 (with respect to education  
22 individual retirement accounts) of the Internal Revenue Code

1 shall be operative for the purposes of this chapter. For the  
2 purpose of determining the maximum amount that a contributor  
3 could make to an education individual retirement account for  
4 state income tax purposes, modified adjusted gross income as  
5 used in section 530 as operative for this chapter means federal  
6 modified adjusted gross income as defined in section 530."

7 SECTION 2. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 3. This Act shall take effect on July 1, 2090, and  
10 shall apply to taxable years beginning after December 31, 2008.

**Report Title:**

Taxation; Deferred Compensation Plans; Annuity Plans

**Description:**

Imposes the state income tax on rollovers made by employees of state and county agencies and tax-exempt organizations from qualifying annuity plans and qualifying deferred compensation plans, to eligible retirement plans or individual retirement accounts. Effective 7/1/2090. (SD1)