
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. The purpose of this Act is to address
3 taxation. More specifically, this Act:

4 (1) Provides for the taxation of the pension income of:

5 (A) An individual filer with a federal adjusted gross
6 income of \$100,000 or more;

7 (B) A joint or surviving spouse filer with a federal
8 adjusted gross income of \$200,000 or more; and

9 (C) A head of household with a federal adjusted gross
10 income of \$150,000 or more;

11 (2) Makes the deduction for state taxes paid, inoperative
12 for the same taxpayers;

13 (3) Limits the amount of itemized deductions that may be
14 claimed by the same taxpayers; and

15 (4) Delays the standard deduction and personal exemption
16 increases approved under Act 60, Session Laws of
17 Hawaii, 2009, and makes the increases permanent.



1 PART II

2 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

5 "**§235-A Taxation of pension income.** For taxable years
6 beginning after December 31, 2010, sections 88-91, 235-7(a)(2),
7 and 235-7(a)(3) shall apply only to taxpayers with federal
8 adjusted gross income of:

- 9 (1) Less than \$100,000 for a taxpayer filing a single
10 return or a married person filing separately;
11 (2) Less than \$150,000 for a taxpayer filing as a head of
12 household; or
13 (3) Less than \$200,000 for a taxpayer filing a joint
14 return or as a surviving spouse."

15 SECTION 3. Section 88-91, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§88-91 Exemption from taxation and execution.** The right
18 of a person to a pension, an annuity or a retirement allowance,
19 to the return of contributions, the pension, annuity or
20 retirement allowance itself, any optional benefit or death
21 benefit, any other right accrued or accruing to any person under
22 this part and the moneys in the various funds created under this



1 part are exempted from any tax of the State, subject to the
2 limitations established in section 235-A; and, except as
3 provided in section 88-92 [~~provided~~], shall not be subject to
4 execution, garnishment or any other process and shall be
5 unassignable except as specifically provided in this part
6 [~~specifically provided~~]."

7 SECTION 4. Section 235-7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) There shall be excluded from gross income, adjusted
10 gross income, and taxable income:

11 (1) Income not subject to taxation by the State under the
12 Constitution and laws of the United States;

13 (2) Rights, benefits, and other income exempted from
14 taxation by section 88-91, having to do with the state
15 retirement system, and the rights, benefits, and other
16 income, comparable to the rights, benefits, and other
17 income exempted by section 88-91, under any other
18 public retirement system[+], subject to the
19 limitations established in section 235-A;

20 (3) Any compensation received in the form of a pension for
21 past services[+], subject to the limitations
22 established in section 235-A;



- 1 (4) Compensation paid to a patient affected with Hansen's
2 disease employed by the State or the United States in
3 any hospital, settlement, or place for the treatment
4 of Hansen's disease;
- 5 (5) Except as otherwise expressly provided, payments made
6 by the United States or this State, under an act of
7 Congress or a law of this State, which by express
8 provision or administrative regulation or
9 interpretation are exempt from both the normal and
10 surtaxes of the United States, even though not so
11 exempted by the Internal Revenue Code itself;
- 12 (6) Any income expressly exempted or excluded from the
13 measure of the tax imposed by this chapter by any
14 other law of the State, it being the intent of this
15 chapter not to repeal or supersede any express
16 exemption or exclusion;
- 17 (7) Income received by each member of the reserve
18 components of the Army, Navy, Air Force, Marine Corps,
19 or Coast Guard of the United States of America, and
20 the Hawaii national guard as compensation for
21 performance of duty, equivalent to pay received for



1 forty-eight drills (equivalent of twelve weekends) and
2 fifteen days of annual duty, at an:

3 (A) E-1 pay grade after eight years of service;
4 provided that this subparagraph shall apply to
5 taxable years beginning after December 31, 2004;

6 (B) E-2 pay grade after eight years of service;
7 provided that this subparagraph shall apply to
8 taxable years beginning after December 31, 2005;

9 (C) E-3 pay grade after eight years of service;
10 provided that this subparagraph shall apply to
11 taxable years beginning after December 31, 2006;

12 (D) E-4 pay grade after eight years of service;
13 provided that this subparagraph shall apply to
14 taxable years beginning after December 31, 2007;

15 and

16 (E) E-5 pay grade after eight years of service;
17 provided that this subparagraph shall apply to
18 taxable years beginning after December 31, 2008;

19 (8) Income derived from the operation of ships or aircraft
20 if the income is exempt under the Internal Revenue
21 Code pursuant to the provisions of an income tax
22 treaty or agreement entered into by and between the



1 United States and a foreign country; provided that the
2 tax laws of the local governments of that country
3 reciprocally exempt from the application of all of
4 their net income taxes, the income derived from the
5 operation of ships or aircraft that are documented or
6 registered under the laws of the United States;

7 (9) The value of legal services provided by a prepaid
8 legal service plan to a taxpayer, the taxpayer's
9 spouse, and the taxpayer's dependents;

10 (10) Amounts paid, directly or indirectly, by a prepaid
11 legal service plan to a taxpayer as payment or
12 reimbursement for the provision of legal services to
13 the taxpayer, the taxpayer's spouse, and the
14 taxpayer's dependents;

15 (11) Contributions by an employer to a prepaid legal
16 service plan for compensation (through insurance or
17 otherwise) to the employer's employees for the costs
18 of legal services incurred by the employer's
19 employees, their spouses, and their dependents;

20 (12) Amounts received in the form of a monthly surcharge by
21 a utility acting on behalf of an affected utility
22 under section 269-16.3 shall not be gross income,



1 adjusted gross income, or taxable income for the
2 acting utility under this chapter. Any amounts
3 retained by the acting utility for collection or other
4 costs shall not be included in this exemption; and
5 (13) One hundred per cent of the gain realized by a fee
6 simple owner from the sale of a leased fee interest in
7 units within a condominium project, cooperative
8 project, or planned unit development to the
9 association of owners under chapter 514A or 514B, or
10 the residential cooperative corporation of the
11 leasehold units.

12 For purposes of this paragraph:

13 "Condominium project" and "cooperative project"
14 shall have the same meanings as provided under section
15 514C-1.

16 "Fee simple owner" shall have the same meaning as
17 provided under section 516-1; provided that it shall
18 include legal and equitable owners[+].

19 "Legal and equitable owner", and "leased fee
20 interest" shall have the same meanings as provided
21 under section 516-1[+and



1 ~~"Condominium project" and "cooperative project"~~
2 ~~shall have the same meanings as provided under section~~
3 ~~514C-1]."~~

PART III

5 SECTION 5. Section 235-2.4, Hawaii Revised Statutes, is
6 amended by amending subsection (h) to read as follows:

7 "(h) Section 164 (with respect to taxes) of the Internal
8 Revenue Code shall be operative for the purposes of this
9 chapter, except that [sections]:

10 (1) Sections 164(a)(6) and 164(b)(6) shall not be
11 operative for the purposes of this chapter[-]; and

12 (2) The deductions under sections 164(a)(3) and 164(b)(5)
13 shall not be operative for corporate taxpayers and
14 shall be operative only for the following individual
15 taxpayers:

16 (A) A taxpayer filing a single return or a married
17 person filing separately with a federal adjusted
18 gross income of less than \$100,000;

19 (B) A taxpayer filing as a head of household with a
20 federal adjusted gross income of less than
21 \$150,000; and



1 (C) A taxpayer filing a joint return or as a
2 surviving spouse with a federal adjusted gross
3 income of less than \$200,000."

PART IV

5 SECTION 6. Chapter 235, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§235-B Itemized deductions; limitations. Notwithstanding
9 any other law to the contrary, itemized tax deductions claimed
10 pursuant to this chapter shall not exceed the lesser of:

11 (1) The limitation on itemized deductions under section 68
12 of the Internal Revenue Code; or

13 (2) Any of the following that may be applicable:

14 (A) \$25,000 for a taxpayer filing a single return or
15 a married person filing separately with a federal
16 adjusted gross income of \$100,000 or more;

17 (B) \$37,500 for a taxpayer filing as a head of
18 household with a federal adjusted gross income of
19 \$150,000 or more; and

20 (C) \$50,000 for a taxpayer filing a joint return or
21 as a surviving spouse with a federal adjusted
22 gross income of \$200,000 or more."



1 PART V

2 SECTION 7. Act 60, Session Laws of Hawaii 2009, is amended
3 by amending section 6 to read as follows:

4 "SECTION 6. This Act shall take effect upon approval~~[7]~~;
5 provided that:

6 (1) Section 2 shall apply to taxable years beginning after
7 December 31, 2008;

8 (2) Sections 1 and 3 shall apply to taxable years
9 beginning after December 31, ~~[2010,]~~ 2012; and

10 (3) On December 31, 2015, ~~[this Act]~~ section 2 shall be
11 repealed and ~~[sections 235-2.4(a),]~~ section 235-51(a),
12 (b), and (c), ~~[and 235-54(a),]~~ Hawaii Revised
13 Statutes, shall be reenacted in the form in which
14 ~~[they]~~ it read on the day before the effective date of
15 this Act."

16 PART VI

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on July 1, 2011, and
20 shall apply to taxable years beginning after December 31, 2010;
21 provided that:



- 1 (1) The amendments made to section 235-7(a), Hawaii
2 Revised Statutes, by section 4 of this Act shall not
3 be repealed when that section is reenacted on January
4 1, 2013, pursuant to section 3 of Act 166, Session
5 Laws of Hawaii 2007;
- 6 (2) Section 235-B, Hawaii Revised Statutes, in section 6
7 of this Act shall be repealed on January 1, 2016, and
8 shall apply to taxable years beginning after December
9 31, 2010, but not to taxable years beginning after
10 December 31, 2015; and
- 11 (3) Part V shall take effect retroactively to December 30,
12 2010.



Report Title:

Taxation; Pension; Deductions; Personal Exemption

Description:

Provides for the taxation of certain pension incomes.
Eliminates the deduction for state taxes paid for taxpayers with income above specified thresholds. Places temporary limitations on claims for itemized tax deductions. Delays the standard deduction and personal exemption increases approved under Act 60, SLH 2009, while also making those increases permanent. Effective July 1, 2011. (SB570 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

