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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 236D-2, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending the definitions of "generation-skipping  
4 transfer", "Internal Revenue Code", and "taxable estate" to  
5 read:

6 "Generation-skipping transfer" means a generation-skipping  
7 transfer as defined and used in section 2611 of the Internal  
8 Revenue Code~~[-]~~ that occurs at the same time as, or as a result  
9 of, the death of an individual. A "generation-skipping  
10 transfer" does not include a direct skip described in section  
11 2612(c) of the Internal Revenue Code.

12 "Internal Revenue Code" means the Internal Revenue Code of  
13 1986, as amended and renumbered, as of December 31, 2009;  
14 provided that sections ~~[2011, 2102, and 2604 of the Internal~~  
15 ~~Revenue Code shall mean those sections as of December 31, 2000;~~  
16 ~~and provided further that section]~~ 2058 and 2106(a)(4) shall not  
17 be operative for purposes of this chapter. "Internal Revenue  
18 Code" includes the federal tax principles of alter ego, nominee,



1 sham transaction, substance over form, economic substance, or  
2 business purpose, as those principles are developed by statute  
3 or common law. The Internal Revenue Code, for purposes of this  
4 chapter, shall be applied using changes in nomenclature and  
5 other language, including the omission of inapplicable language  
6 or the insertion of interpretive language, where necessary to  
7 effectuate the intent of this chapter.

8 "Taxable estate" means taxable estate as defined in  
9 sections 2051 to ~~[2056]~~ 2056A of the Internal Revenue Code. For  
10 purposes of section 236D-4.5, "taxable estate" means a taxable  
11 estate as defined and used [in section 2106] pursuant to  
12 sections 2106(a)(1), (2), and (3), and 2106(b) of the Internal  
13 Revenue Code[, with situs in Hawaii]."

14 2. By repealing the definitions of "federal credit" and  
15 "section 2011".

16 [~~"Federal credit" means:~~

17 ~~(1) For a transfer, the maximum amount of the credit for~~  
18 ~~state death taxes allowed by section 2011 of the~~  
19 ~~Internal Revenue Code, as it existed on December 31,~~  
20 ~~2000, for the decedent's adjusted taxable estate;~~

21 ~~(2) For a generation skipping transfer, the maximum amount~~  
22 ~~of the credit for state taxes allowed by section 2604~~



1 ~~of the Internal Revenue Code as it existed on~~  
 2 ~~December 31, 2000; and~~  
 3 ~~(3) For a noncitizen transfer, the maximum amount of the~~  
 4 ~~credit for state death taxes allowed by section 2102~~  
 5 ~~of the Internal Revenue Code, as it existed on~~  
 6 ~~December 31, 2000, for the decedent's adjusted taxable~~  
 7 ~~estate.~~

8 ~~"Section 2011" means section 2011 of the Internal Revenue~~  
 9 ~~Code as it existed on December 31, 2000."]~~

10 SECTION 2. Section 236D-3, Hawaii Revised Statutes, is  
 11 amended to read as follows:

12 "~~[{]~~\$236D-3~~[}]~~ Residents; tax imposed; credit for tax paid  
 13 other state. (a) A tax in ~~[an amount equal to the federal~~  
 14 ~~credit]~~ accordance with the following table is imposed on the  
 15 transfer of the taxable estate of every resident~~[-]~~:

16 <u>If the taxable estate is:</u>	<u>The tax shall be:</u>
17 <u>Not over \$3,560,000</u>	<u>Zero</u>
18 <u>Over \$3,560,000 but not over</u>	
19 <u>\$3,600,000</u>	<u>9.6% of the amount by which</u>
20	<u>the taxable estate exceeds</u>
21	<u>\$3,560,000</u>



1	<u>Over \$3,600,000 but not over</u>	
2	<u>\$4,100,000</u>	<u>\$3,840 plus 10.4% of the</u>
3		<u>amount by which the taxable</u>
4		<u>estate exceeds \$3,600,000</u>
5	<u>Over \$4,100,000 but not over</u>	
6	<u>\$5,100,000</u>	<u>\$55,840 plus 11.2% of the</u>
7		<u>amount by which the taxable</u>
8		<u>estate exceeds \$4,100,000</u>
9	<u>Over \$5,100,000 but not over</u>	
10	<u>\$6,100,000</u>	<u>\$167,840 plus 12% of the</u>
11		<u>amount by which the taxable</u>
12		<u>estate exceeds \$5,100,000</u>
13	<u>Over \$6,100,000 but not over</u>	
14	<u>\$7,100,000</u>	<u>\$287,840 plus 12.8% of the</u>
15		<u>amount by which the taxable</u>
16		<u>estate exceeds \$6,100,000</u>
17	<u>Over \$7,100,000 but not over</u>	
18	<u>\$8,100,000</u>	<u>\$415,840 plus 13.6% of the</u>
19		<u>amount by which the taxable</u>
20		<u>estate exceeds \$7,100,000</u>



1 Over \$8,100,000 but not over

2 \$9,100,000 \$551,840 plus 14.4% of the  
3 amount by which the taxable  
4 estate exceeds \$8,100,000

5 Over \$9,100,000 but not over

6 \$10,100,000 \$695,840 plus 15.2% of the  
7 amount by which the taxable  
8 estate exceeds \$9,100,000

9 Over \$10,100,000

10 amount by which the taxable  
11 estate exceeds \$10,100,000

12 (b) If any property of a resident is subject to a death  
13 tax imposed by another state [~~for which a credit is allowed by~~  
14 ~~section 2011~~]; and, if the tax imposed by the other state is not  
15 qualified by a reciprocal provision allowing the property to be  
16 taxed in the state of decedent's domicile, the amount of the tax  
17 due under this section shall be credited with the lesser of:

18 (1) The amount of the death tax paid the other state [~~and~~  
19 ~~credited against the federal estate tax~~]; or

20 (2) An amount computed by multiplying the [~~federal credit~~]  
21 tax imposed under subsection (a) by a fraction, the  
22 numerator of which is the value of the property



1 subject to the death tax imposed by the other state,  
2 and the denominator of which is the value of the  
3 decedent's gross estate."

4 SECTION 3. Section 236D-3.5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[+]§236D-3.5[+] **Generation-skipping transfers; tax**  
7 **imposed; credit for tax paid other state.** (a) A tax in an  
8 amount equal to ~~[the federal credit]~~ two and 25/100 per cent is  
9 imposed on every generation-skipping transfer exceeding an  
10 aggregate exclusion of \$3,560,000 per decedent of:

11 (1) Property located in this State; and

12 (2) Property from a resident trust.

13 (b) If the generation-skipping transfer is subject in  
14 another state to a similar tax ~~[and qualifies for the federal~~  
15 ~~credit]~~, the amount of the tax due under this section shall be  
16 credited with the lesser of:

17 (1) The amount of the tax paid to the other state ~~[and~~  
18 ~~credited against the federal tax]~~; or

19 (2) An amount computed by multiplying the ~~[federal credit]~~  
20 tax imposed under subsection (a) by a fraction, the  
21 numerator of which is the value of the property  
22 subject to the generation-skipping transfer tax paid



1 to the other state, and the denominator of which is  
2 the value of all property subject to the federal  
3 generation-skipping transfer tax.

4 ~~[If paragraph (1) or (2) results in an amount less than the~~  
5 ~~total federal credit allowed being paid to all states which may~~  
6 ~~claim any part of the credit, then the interested states may~~  
7 ~~agree to a fair and equitable apportionment of the credit~~  
8 ~~without regard to the residence of the trust.] "~~

9 SECTION 4. Section 236D-4, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) The tax shall be computed by multiplying the [~~federal~~  
12 ~~credit~~] tax imposed on the transfer of the decedent's taxable  
13 estate under section 236D-3(a) by a fraction, the numerator of  
14 which is the value of the property located in Hawaii, and the  
15 denominator of which is the value of the decedent's gross  
16 estate."

17 SECTION 5. Section 236D-4.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19 "(b) The tax shall be computed by multiplying the [~~federal~~  
20 ~~credit~~] tax imposed on the transfer of the decedent's taxable  
21 estate in accordance with the following table by a fraction, the  
22 numerator of which is the value of the property with a situs in



1 Hawaii, and the denominator of which is the value of the  
2 decedent's gross estate [-] under section 2103 of the Internal  
3 Revenue Code.

4 If the taxable estate is:

The tax shall be:

5 Not over \$120,000

Zero

6 Over \$120,000 but not over

7 \$150,000

0.8% of the amount by which  
8 the taxable estate exceeds

9

\$120,000

10 Over \$150,000 but not over

11 \$200,000

\$240 plus 1.6% of the amount  
12 by which the taxable estate  
13 exceeds \$150,000

14 Over \$200,000 but not over

15 \$300,000

\$1,040 plus 2.4% of the  
16 amount by which the taxable  
17 estate exceeds \$200,000

18 Over \$300,000 but not over

19 \$500,000

\$3,440 plus 3.2% of the  
20 amount by which the taxable  
21 estate exceeds \$300,000





1 Over \$500,000 but not over  
2       \$700,000                               \$9,840 plus 4% of the amount  
3   by which the taxable estate  
4   exceeds \$500,000

5 Over \$700,000 but not over  
6       \$900,000                               \$17,840 plus 4.8% of the  
7   amount by which the taxable  
8   estate exceeds \$700,000

9 Over \$900,000 but not over  
10       \$1,100,000                               \$27,440 plus 5.6% of the  
11   amount by which the taxable  
12   estate exceeds \$900,000

13 Over \$1,100,000 but not over  
14       \$1,600,000                               \$38,640 plus 6.4% of the  
15   amount by which the taxable  
16   estate exceeds \$1,100,000

17 Over \$1,600,000 but not over  
18       \$2,100,000                               \$70,640 plus 7.2% of the  
19   amount by which the taxable  
20   estate exceeds \$1,600,000



1	<u>Over \$2,100,000 but not over</u>	
2	<u>\$2,600,000</u>	<u>\$106,640 plus 8% of the</u>
3		<u>amount by which the taxable</u>
4		<u>estate exceeds \$2,100,000</u>
5	<u>Over \$2,600,000 but not over</u>	
6	<u>\$3,100,000</u>	<u>\$146,640 plus 8.8% of the</u>
7		<u>amount by which the taxable</u>
8		<u>estate exceeds \$2,600,000</u>
9	<u>Over \$3,100,000 but not over</u>	
10	<u>\$3,600,000</u>	<u>\$190,640 plus 9.6% of the</u>
11		<u>amount by which the taxable</u>
12		<u>estate exceeds \$3,100,000</u>
13	<u>Over \$3,600,000 but not over</u>	
14	<u>\$4,100,000</u>	<u>\$238,640 plus 10.4% of the</u>
15		<u>amount by which the taxable</u>
16		<u>estate exceeds \$3,600,000</u>
17	<u>Over \$4,100,000 but not over</u>	
18	<u>\$5,100,000</u>	<u>\$290,640 plus 11.2% of the</u>
19		<u>amount by which the taxable</u>
20		<u>estate exceeds \$4,100,000</u>



1	<u>Over \$5,100,000 but not over</u>	
2	<u>\$6,100,000</u>	<u>\$402,640 plus 12% of the</u>
3		<u>amount by which the taxable</u>
4		<u>estate exceeds \$5,100,000</u>
5	<u>Over \$6,100,000 but not over</u>	
6	<u>\$7,100,000</u>	<u>\$522,640 plus 12.8% of the</u>
7		<u>amount by which the taxable</u>
8		<u>estate exceeds \$6,100,000</u>
9	<u>Over \$7,100,000 but not over</u>	
10	<u>\$8,100,000</u>	<u>\$650,640 plus 13.6% of the</u>
11		<u>amount by which the taxable</u>
12		<u>estate exceeds \$7,100,000</u>
13	<u>Over \$8,100,000 but not over</u>	
14	<u>\$9,100,000</u>	<u>\$786,640 plus 14.4% of the</u>
15		<u>amount by which the taxable</u>
16		<u>estate exceeds \$8,100,000</u>
17	<u>Over \$9,100,000 but not over</u>	
18	<u>\$10,100,000</u>	<u>\$930,640 plus 15.2% of the</u>
19		<u>amount by which the taxable</u>
20		<u>estate exceeds \$9,100,000</u>



1 Over \$10,100,000 \$1,082,640 plus 16% of the  
 2 amount by which the taxable  
 3 estate exceeds \$10,100,000."

4 SECTION 6. Section 236D-2.5, Hawaii Revised Statutes, is  
 5 repealed.

6 ~~["~~§236D-2.5~~ Taxation under chapter 236D; applicable~~  
 7 ~~exclusion amount.~~ Notwithstanding any other law to the  
 8 ~~contrary, a decedent shall be entitled to all applicable~~  
 9 ~~exclusion or exemption amounts as determined under the Internal~~  
 10 ~~Revenue Code as of December 31, 2009, before being subject to~~  
 11 ~~any taxes imposed under this chapter, including up to a~~  
 12 ~~\$3,500,000 applicable exclusion amount allowed by section 2010~~  
 13 ~~of the Internal Revenue Code on December 31, 2009, as further~~  
 14 ~~adjusted by law."]~~

15 SECTION 7. If any provision of this Act, or the  
 16 application thereof to any person or circumstance is held  
 17 invalid, the invalidity does not affect other provisions or  
 18 applications of the Act, which can be given effect without the  
 19 invalid provision or application, and to this end the provisions  
 20 of this Act are severable.

21 SECTION 8. Statutory material to be repealed is bracketed  
 22



1 and stricken. New statutory material is underscored.

2 SECTION 9. This Act shall take effect on July 1, 2030.

3



**Report Title:**

Estate and Transfer Tax

**Description:**

Amends the method of computing the estate and transfer tax, generation-skipping transfer tax, and the estate tax for noncitizens. Effective July 1, 2030. (SD1)

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