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# A BILL FOR AN ACT

RELATING TO THE ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.

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

1 SECTION 1. Act 220, Session Laws of Hawaii 2012, enacted  
2 the Estate and Generation-Skipping Transfer Tax Reform Act,  
3 designated as chapter 236E, Hawaii Revised Statutes, which  
4 established the estate and generation-skipping transfer taxes  
5 based on the valuations, deduction, and expenses allowed for  
6 federal transfer tax purposes but with tax rates independent of  
7 the federal transfer taxes. The purposes of this Act are to:

- 8 (1) Fulfill the requirement to make annual conforming  
9 amendments to chapter 236E; and  
10 (2) Amend the definition of "applicable exclusion amount"  
11 to close a loophole that allows a decedent to  
12 completely or substantially avoid the estate and  
13 generation-skipping transfer taxes by gifting away  
14 property prior to death, even on the eve of death.

15 SECTION 2. Section 236E-3, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§236E-3 Conformance to the Internal Revenue Code;  
18 general application. For all decedents dying after January 25,



1 2012, as used in this chapter, "Internal Revenue Code" means  
2 subtitle B of the federal Internal Revenue Code of 1986, as  
3 amended as of [~~January 2, 2013,~~] December 31, 2013, as it  
4 applies to the determination of gross estate, adjusted gross  
5 estate, federal taxable estate, and generation-skipping  
6 transfers, except those provisions of the Internal Revenue Code  
7 and federal public laws that, pursuant to this chapter, do not  
8 apply or are otherwise limited in application."

9 SECTION 3. Section 236E-6, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) An exclusion from a Hawaii taxable estate shall be  
12 allowed to the estate of every decedent against the tax imposed  
13 by section 236E-8. For the purpose of this section, the  
14 applicable exclusion amount is the same as the federal  
15 applicable exclusion amount, [~~or~~] the exemption equivalent of  
16 the unified credit [~~, without reduction for taxable gifts,~~]  
17 reduced by the amount of taxable gifts made by the decedent that  
18 reduces the amount of the federal applicable exclusion amount,  
19 or the exemption equivalent of the unified credit on the  
20 decedent's federal estate tax return, as set forth for the  
21 decedent in chapter 11 of the Internal Revenue Code as further  
22 adjusted below:



- 1 (1) For residents, 100 per cent of the applicable  
2 exclusion amount;
- 3 (2) For nonresidents, an amount computed by multiplying  
4 the applicable exclusion amount by a fraction, the  
5 numerator of which is the value of the property in the  
6 State subject to tax under this chapter, and the  
7 denominator of which is the federal gross estate; and
- 8 (3) For nonresidents not citizens, an amount computed by  
9 multiplying the exemption equivalent of the unified  
10 credit by a fraction, the numerator of which is the  
11 value of the property in the State subject to tax  
12 under this chapter, and the denominator of which is  
13 the federal gross estate."

14 SECTION 4. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval  
17 and shall apply to decedents dying or taxable transfers  
18 occurring after December 31, 2013.



**Report Title:**

Estate and Generation-Skipping Transfer Tax Reform Act

**Description:**

Conforms the State's estate and generation-skipping transfer tax law to the Internal Revenue Code of 1986, as amended as of December 31, 2013; and amends the definition of the applicable exclusion amount to close an existing loophole. (SD1)

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