May 20, 2015

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 210
Honolulu, Hawai‘i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai‘i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on May 20, 2015, the following bill was signed into law:

SB1133 SD1 HD1 RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE
ACT 052 (15)

Sincerely,

David Y. Ige
Governor, State of Hawai‘i
A BILL FOR AN ACT

RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE.

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

SECTION 1. The purpose of this Act is to conform Hawaii income tax law to the Internal Revenue Code.

SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) For all taxable years beginning after December 31, [2013], 2014, as used in this chapter, except as provided in section 235-2.35, "Internal Revenue Code" means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of December 31, [2013], 2014, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal public laws which, pursuant to this chapter, do not apply or are otherwise limited in application and except for the provisions of Public Law 109-001, which apply to section 170 of the Internal Revenue Code. The provisions of Public Law 109-001 to accelerate the deduction
for charitable cash contributions for the relief of victims of
the 2004 Indian Ocean tsunami are applicable for the calendar
year that ended December 31, 2004, and the calendar year ending
December 31, 2005.
Sections 235-2, 235-2.1, and 235-2.2 shall continue to be
used to determine:
(1) The basis of property, if a taxpayer first determined
the basis of property in a taxable year to which these
sections apply, and if the determination was made
before January 1, 1978; and
(2) Gross income, adjusted gross income, ordinary income
and loss, and taxable income for a taxable year to
which these sections apply where the taxable year
begins before January 1, 1978."
SECTION 3. Section 235-2.4, Hawaii Revised Statutes, is
amended to read as follows:
"§235-2.4 Operation of certain Internal Revenue Code
provisions; sections 63 to 530. (a) Section 63 (with respect
to taxable income defined) of the Internal Revenue Code shall be
operative for the purposes of this chapter, subject to the
following:
(1) Section 63(c)(1)(B) (relating to the additional
standard deduction), 63(c)(1)(C) (relating to the real
property tax deduction), 63(c)(1)(D) (relating to the
disaster loss deduction), 63(c)(1)(E) (relating to the
motor vehicle sales tax deduction), 63(c)(4) (relating
to inflation adjustments), 63(c)(7) (defining the real
property tax deduction), 63(c)(8) (defining the
disaster loss deduction), 63(c)(9) (defining the motor
vehicle sales tax deduction), and 63(f) (relating to
additional amounts for the aged or blind) of the
Internal Revenue Code shall not be operative for
purposes of this chapter;

(2) Section 63(c)(2) (relating to the basic standard
deduction) of the Internal Revenue Code shall be
operative, except that the standard deduction amounts
provided therein shall instead mean:

(A) $4,400 in the case of:

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

(ii) A surviving spouse (as defined in section
2(a) of the Internal Revenue Code);
1 (B) $3,212 in the case of a head of household (as
2 defined in section 2(b) of the Internal Revenue
3 Code);
4 (C) $2,200 in the case of an individual who is not
5 married and who is not a surviving spouse or head
6 of household; or
7 (D) $2,200 in the case of a married individual filing
8 a separate return;
9 (3) Section 63(c)(5) (limiting the basic standard
10 deduction in the case of certain dependents) of the
11 Internal Revenue Code shall be operative, except that
12 the limitation shall be the greater of $500 or the
13 individual's earned income; and
14 (4) The standard deduction amount for nonresidents shall
15 be calculated pursuant to section 235-5.
16 (b) Section 68 (with respect to the overall limitation on
17 itemized deductions) of the Internal Revenue Code shall be
18 operative; provided that the thresholds shall be those that were
19 operative for federal tax year 2009.
20 (c) Section 72 (with respect to annuities; certain
21 proceeds of endowment and life insurance contracts) of the
Internal Revenue Code shall be operative for purposes of this chapter and be interpreted with due regard to section 235-7(a), except that the ten per cent additional tax on early distributions from retirement plans in section 72(t) shall not be operative for purposes of this chapter.

(d) Section 85 (with respect to unemployment compensation) of the Internal Revenue Code shall be operative for purposes of this chapter, except that section 85(c) shall not be operative for purposes of this chapter.

(e) Section 108 (with respect to income from discharge of indebtedness) of the Internal Revenue Code shall be operative for purposes of this chapter, except that section 108(i) (relating to deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument) shall not be operative for purposes of this chapter.

(f) Section 121 (with respect to exclusion of gain from sale of principal residence) of the Internal Revenue Code shall be operative for purposes of this chapter, except that for the election under section 121(f), a reference to section 1034
treatment means a reference to section 235-2.4(s) in effect for taxable year 1997.

(g) Section 132 (with respect to certain fringe benefits) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the provision in section 132(f)(2) that equalizes the dollar amounts for sections 132(f)(2)(A) and (B) shall not be operative and except that section 132(n) shall not apply to United States Department of Defense Homeowners Assistance Program payments authorized by the American Recovery and Reinvestment Act of 2009.

(h) Section 163 (with respect to interest) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that provisions in section 163(d)(4)(B) (defining net investment income to exclude dividends), section 163(e)(5)(F) (suspension of applicable high-yield discount obligation (AHYDO) rules) and section 163(i)(1) as it applies to debt instruments issued after January 1, 2010, (defining AHYDO) shall not be operative for the purposes of this chapter.

(i) Section 164 (with respect to taxes) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that:
(1) Section 164(a)(6) and (b)(6) shall not be operative for the purposes of this chapter;

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

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

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

(C) A taxpayer filing a joint return or as a surviving spouse with a federal adjusted gross income of less than $200,000; and

(3) Section 164(a)(3) shall not be operative for any amounts for which the credit under section 235-55 has been claimed.

(j) Section 165 (with respect to losses) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the amount prescribed by sections 165(h)(1)
(relating to the limitation per casualty) of the Internal Revenue Code shall be a $100 limitation per casualty, and section 165(h)(3)(A) and (B) (both of which relate to special rules for personal casualty gains and losses in federally declared disasters) of the Internal Revenue Code shall not be operative for the purposes of this chapter. Section 165 as operative for this chapter shall also apply to losses sustained from the sale of stocks or other interests issued through the exercise of the stock options or warrants granted by a qualified high technology business as defined in section 235-7.3.

(k) Section 168 (with respect to the accelerated cost recovery system) of the Internal Revenue Code shall be operative for purposes of this chapter, except that sections 168(j) (relating to property on Indian reservations), 168(k) (relating to the special allowance for certain property acquired during the period specified therein), 168(m) (relating to the special allowance for certain reuse and recycling property), and 168(n) (relating to the special allowance for qualified disaster assistance property) of the Internal Revenue Code shall not be operative for purposes of this chapter.
Section 172 (with respect to net operating loss deductions) of the Internal Revenue Code shall be operative for purposes of this chapter, as further provided in section 235-7(d), except that section 172(b)(1)(J) and (j) (both of which relate to qualified disaster losses) of the Internal Revenue Code shall not be operative for purposes of this chapter.

Section 179 (with respect to the election to expense certain depreciable business assets) of the Internal Revenue Code shall be operative for purposes of this chapter, except as provided in this subsection:

1. The aggregate cost provided in section 179(b)(1) which may be taken into account under section 179(a) for any taxable year shall not exceed $25,000;
2. The amount at which the reduction in limitation provided in section 179(b)(2) begins shall exceed $200,000 for any taxable year; and
3. The following shall not be operative for purposes of this chapter:
   A. Defining section 179 property to include computer software in section 179(d)(1);
   B. Inflation adjustments in section 179(b)(5);
(C) Irrevocable election in section 179(c)(2); and
(D) Special rules for qualified disaster assistance property in section 179(e).

(n) Section 198A (with respect to the expensing of qualified disaster assistance expenses) of the Internal Revenue Code shall not be operative for purposes of this chapter.

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

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

(q) Section 265 (with respect to expenses and interest relating to tax-exempt income) of the Internal Revenue Code shall be operative for purposes of this chapter; except that
section 265(b)(3)(G) and (7) shall not be operative and section
265 shall not apply to expenses for royalties and other income
derived from any patents, copyrights, and trade secrets by an
individual or a qualified high technology business as defined in
section 235-7.3. Such expenses shall be deductible.

(r) Section 382 (with respect to limitation on net
operating loss carryforwards and certain built-in losses
following ownership change) of the Internal Revenue Code shall
be operative for the purposes of this chapter, except that
section 382(n) shall not be operative for purposes of this
chapter.

(s) Section 408A (with respect to Roth Individual
Retirement Accounts) of the Internal Revenue Code shall be
operative for the purposes of this chapter, except that section
408A(d)(3)(A)(iii) shall not be operative for purposes of this
chapter. For the purposes of determining the aggregate amount
of contributions to a Roth Individual Retirement Account or
qualified rollover contribution to a Roth Individual Retirement
Account from an individual retirement plan other than a Roth
Individual Retirement Account, adjusted gross income as used in
section 408A as operative for this chapter means federal
adjusted gross income.

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

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

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

(u) In administering section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code, any funds that represent pre-tax employee deferrals or contributions that are distributed from the annuity and used solely to obtain retirement credits under the state employees' retirement system shall not be treated as a rollover for purposes of section 403(b)(8)(A) of the Internal Revenue Code, and those funds shall be subject to income tax under this chapter.

(v) Section 451 (which provides general rules for taxable year of inclusion) of the Internal Revenue Code shall be operative, except that the provisions of sections 451(i)(3) and 451(i)(6), as they relate to a qualified electric utility, shall not be operative for purposes of this chapter.

(w) In administering section 457 (with respect to compensation plans of state and local governments and tax-exempt organizations) of the Internal Revenue Code, any funds that represent pre-tax employee deferrals or contributions that are distributed from the deferred compensation plan and used solely to obtain retirement credits under the state employees'
retirement system shall not be treated as a rollover for purposes of section 457(e)(16)(A) of the Internal Revenue Code and those funds shall be subject to income tax under this chapter.

(x) Section 468B (with respect to special rules for designated settlement funds) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at a rate equal to the maximum rate in effect for the taxable year imposed on estates and trusts under section 235-51.

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

(z) Sections 512 to 514 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.
"Unrelated business taxable income" means the same as in
the Internal Revenue Code, except that in the computation
thereof sections 235-3 to 235-5, and 235-7 (except subsection
(c)), shall apply, and in the determination of the net operating
loss deduction there shall not be taken into account any amount
of income or deduction that is excluded in computing the
unrelated business taxable income. Unrelated business taxable
income shall not include any income from a legal service plan.

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

(aa) Section 521 (with respect to cooperatives) and
subchapter T (sections 1381 to 1388, with respect to
cooperatives and their patrons) of the Internal Revenue Code
shall be operative for the purposes of this chapter as to any
cooperative fully meeting the requirements of section 421-23,
except that Internal Revenue Code section 521 cooperatives need
not be organized in Hawaii.

(bb) Sections 527 (with respect to political
organizations) and 528 (with respect to certain homeowners
associations) of the Internal Revenue Code shall be operative
for the purposes of this chapter and the taxes imposed in each
section are hereby imposed by this chapter at the rates
determined under section 235-71.

(cc) Section 529 (with respect to qualified tuition
programs) shall be operative for the purposes of this chapter,
except that sections 529(c)(6) and 529(e)(3)(A)(iii) shall not
be operative.

(dd) Section 529A (with respect to qualified ABLE
programs) shall be operative for the purposes of this chapter,
except that section 529A(c)(3) (with respect to additional tax
for distributions not used for disability expenses) shall not be
operative.

[(-dd-) (ee) Section 530 (with respect to Coverdell
education savings accounts) of the Internal Revenue Code shall
be operative for the purposes of this chapter. For the purpose
of determining the maximum amount that a contributor could make
to an education individual retirement account for state income
tax purposes, modified adjusted gross income as used in section
530 as operative for this chapter means federal modified
adjusted gross income as defined in section 530."
SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2014.