



GOV. MSG. NO. 1152

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

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

Approved by the Governor

on MAY 20 2015
THE SENATE
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

ACT 052
S.B. NO. 1133
S.D. 1
H.D. 1

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:

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

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

5 "(a) For all taxable years beginning after December 31,
6 [~~2013~~] 2014, as used in this chapter, except as provided in
7 section 235-2.35, "Internal Revenue Code" means subtitle A,
8 chapter 1, of the federal Internal Revenue Code of 1986, as
9 amended as of December 31, [~~2013~~] 2014, as it applies to the
10 determination of gross income, adjusted gross income, ordinary
11 income and loss, and taxable income, except those provisions of
12 the Internal Revenue Code and federal public laws which,
13 pursuant to this chapter, do not apply or are otherwise limited
14 in application and except for the provisions of Public Law 109-
15 001, which apply to section 170 of the Internal Revenue Code.
16 The provisions of Public Law 109-001 to accelerate the deduction



1 for charitable cash contributions for the relief of victims of
2 the 2004 Indian Ocean tsunami are applicable for the calendar
3 year that ended December 31, 2004, and the calendar year ending
4 December 31, 2005.

5 Sections 235-2, 235-2.1, and 235-2.2 shall continue to be
6 used to determine:

7 (1) The basis of property, if a taxpayer first determined
8 the basis of property in a taxable year to which these
9 sections apply, and if the determination was made
10 before January 1, 1978; and

11 (2) Gross income, adjusted gross income, ordinary income
12 and loss, and taxable income for a taxable year to
13 which these sections apply where the taxable year
14 begins before January 1, 1978."

15 SECTION 3. Section 235-2.4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§235-2.4 Operation of certain Internal Revenue Code**
18 **provisions; sections 63 to 530.** (a) Section 63 (with respect
19 to taxable income defined) of the Internal Revenue Code shall be
20 operative for the purposes of this chapter, subject to the
21 following:



1 (1) Section 63(c)(1)(B) (relating to the additional
2 standard deduction), 63(c)(1)(C) (relating to the real
3 property tax deduction), 63(c)(1)(D) (relating to the
4 disaster loss deduction), 63(c)(1)(E) (relating to the
5 motor vehicle sales tax deduction), 63(c)(4) (relating
6 to inflation adjustments), 63(c)(7) (defining the real
7 property tax deduction), 63(c)(8) (defining the
8 disaster loss deduction), 63(c)(9) (defining the motor
9 vehicle sales tax deduction), and 63(f) (relating to
10 additional amounts for the aged or blind) of the
11 Internal Revenue Code shall not be operative for
12 purposes of this chapter;

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

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

18 (i) A joint return as provided by section 235-
19 93; or

20 (ii) A surviving spouse (as defined in section
21 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



1 Internal Revenue Code shall be operative for purposes of this
2 chapter and be interpreted with due regard to section 235-7(a),
3 except that the ten per cent additional tax on early
4 distributions from retirement plans in section 72(t) shall not
5 be operative for purposes of this chapter.

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

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

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



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

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

11 (h) Section 163 (with respect to interest) of the Internal
12 Revenue Code shall be operative for the purposes of this
13 chapter, except that provisions in section 163(d)(4)(B)
14 (defining net investment income to exclude dividends), section
15 163(e)(5)(F) (suspension of applicable high-yield discount
16 obligation (AHYDO) rules) and section 163(i)(1) as it applies to
17 debt instruments issued after January 1, 2010, (defining AHYDO)
18 shall not be operative for the purposes of this chapter.

19 (i) Section 164 (with respect to taxes) of the Internal
20 Revenue Code shall be operative for the purposes of this
21 chapter, except that:



- 1 (1) Section 164(a)(6) and (b)(6) shall not be operative
2 for the purposes of this chapter;
- 3 (2) The deductions under section 164(a)(3) and (b)(5)
4 shall not be operative for corporate taxpayers and
5 shall be operative only for the following individual
6 taxpayers:
- 7 (A) A taxpayer filing a single return or a married
8 person filing separately with a federal adjusted
9 gross income of less than \$100,000;
- 10 (B) A taxpayer filing as a head of household with a
11 federal adjusted gross income of less than
12 \$150,000; and
- 13 (C) A taxpayer filing a joint return or as a
14 surviving spouse with a federal adjusted gross
15 income of less than \$200,000; and
- 16 (3) Section 164(a)(3) shall not be operative for any
17 amounts for which the credit under section 235-55 has
18 been claimed.
- 19 (j) Section 165 (with respect to losses) of the Internal
20 Revenue Code shall be operative for purposes of this chapter,
21 except that the amount prescribed by sections 165(h)(1)



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

11 (k) Section 168 (with respect to the accelerated cost
12 recovery system) of the Internal Revenue Code shall be operative
13 for purposes of this chapter, except that sections 168(j)
14 (relating to property on Indian reservations), 168(k) (relating
15 to the special allowance for certain property acquired during
16 the period specified therein), 168(m) (relating to the special
17 allowance for certain reuse and recycling property), and 168(n)
18 (relating to the special allowance for qualified disaster
19 assistance property) of the Internal Revenue Code shall not be
20 operative for purposes of this chapter.



1 (1) Section 172 (with respect to net operating loss
2 deductions) of the Internal Revenue Code shall be operative for
3 purposes of this chapter, as further provided in section 235-
4 7(d), except that section 172(b)(1)(J) and (j) (both of which
5 relate to qualified disaster losses) of the Internal Revenue
6 Code shall not be operative for purposes of this chapter.

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

11 (1) The aggregate cost provided in section 179(b)(1) which
12 may be taken into account under section 179(a) for any
13 taxable year shall not exceed \$25,000;

14 (2) The amount at which the reduction in limitation
15 provided in section 179(b)(2) begins shall exceed
16 \$200,000 for any taxable year; and

17 (3) The following shall not be operative for purposes of
18 this chapter:

19 (A) Defining section 179 property to include computer
20 software in section 179(d)(1);

21 (B) Inflation adjustments in section 179(b)(5);



1 (C) Irrevocable election in section 179(c)(2); and

2 (D) Special rules for qualified disaster assistance
3 property in section 179(e).

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

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

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

19 (q) Section 265 (with respect to expenses and interest
20 relating to tax-exempt income) of the Internal Revenue Code
21 shall be operative for purposes of this chapter; except that



1 section 265(b)(3)(G) and (7) shall not be operative and section
2 265 shall not apply to expenses for royalties and other income
3 derived from any patents, copyrights, and trade secrets by an
4 individual or a qualified high technology business as defined in
5 section 235-7.3. Such expenses shall be deductible.

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

12 (s) Section 408A (with respect to Roth Individual
13 Retirement Accounts) of the Internal Revenue Code shall be
14 operative for the purposes of this chapter, except that section
15 408A(d)(3)(A)(iii) shall not be operative for purposes of this
16 chapter. For the purposes of determining the aggregate amount
17 of contributions to a Roth Individual Retirement Account or
18 qualified rollover contribution to a Roth Individual Retirement
19 Account from an individual retirement plan other than a Roth
20 Individual Retirement Account, adjusted gross income as used in



1 section 408A as operative for this chapter means federal
2 adjusted gross income.

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

13 In administering sections 401 to 419A (with respect to
14 deferred compensation) of the Internal Revenue Code, Public Law
15 93-406, section 1017(i), shall be operative for the purposes of
16 this chapter.

17 In administering section 402 (with respect to the
18 taxability of beneficiary of employees' trust) of the Internal
19 Revenue Code, the tax imposed on lump sum distributions by
20 section 402(e) of the Internal Revenue Code shall be operative
21 for the purposes of this chapter and the tax imposed therein is



1 hereby imposed by this chapter at the rate determined under this
2 chapter.

3 (u) In administering section 403 (with respect to taxation
4 of employee annuities) of the Internal Revenue Code, any funds
5 that represent pre-tax employee deferrals or contributions that
6 are distributed from the annuity and used solely to obtain
7 retirement credits under the state employees' retirement system
8 shall not be treated as a rollover for purposes of section
9 403(b)(8)(A) of the Internal Revenue Code, and those funds shall
10 be subject to income tax under this chapter.

11 (v) Section 451 (which provides general rules for taxable
12 year of inclusion) of the Internal Revenue Code shall be
13 operative, except that the provisions of sections 451(i)(3) and
14 451(i)(6), as they relate to a qualified electric utility, shall
15 not be operative for purposes of this chapter.

16 (w) In administering section 457 (with respect to
17 compensation plans of state and local governments and tax-exempt
18 organizations) of the Internal Revenue Code, any funds that
19 represent pre-tax employee deferrals or contributions that are
20 distributed from the deferred compensation plan and used solely
21 to obtain retirement credits under the state employees'



1 retirement system shall not be treated as a rollover for
2 purposes of section 457(e)(16)(A) of the Internal Revenue Code
3 and those funds shall be subject to income tax under this
4 chapter.

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

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

17 (z) Sections 512 to 514 (with respect to taxation of
18 business income of certain exempt organizations) of the Internal
19 Revenue Code shall be operative for the purposes of this chapter
20 as provided in this subsection.



1 "Unrelated business taxable income" means the same as in
2 the Internal Revenue Code, except that in the computation
3 thereof sections 235-3 to 235-5, and 235-7 (except subsection
4 (c)), shall apply, and in the determination of the net operating
5 loss deduction there shall not be taken into account any amount
6 of income or deduction that is excluded in computing the
7 unrelated business taxable income. Unrelated business taxable
8 income shall not include any income from a legal service plan.

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

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

20 (bb) Sections 527 (with respect to political
21 organizations) and 528 (with respect to certain homeowners



1 associations) of the Internal Revenue Code shall be operative
2 for the purposes of this chapter and the taxes imposed in each
3 section are hereby imposed by this chapter at the rates
4 determined under section 235-71.

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

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

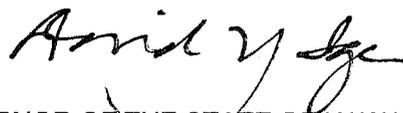
14 [~~(dd)~~] (ee) Section 530 (with respect to Coverdell
15 education savings accounts) of the Internal Revenue Code shall
16 be operative for the purposes of this chapter. For the purpose
17 of determining the maximum amount that a contributor could make
18 to an education individual retirement account for state income
19 tax purposes, modified adjusted gross income as used in section
20 530 as operative for this chapter means federal modified
21 adjusted gross income as defined in section 530."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

APPROVED this 20 day of MAY, 2015



GOVERNOR OF THE STATE OF HAWAII